**DOD USE OF MILITARY PERSONNEL FOR CIVILIAN EMPLOYEE WORK.**

**SAMPLE LETTER – Less Formal, non-7114)**

THIS SAMPLE LETTER **DOES NOT** **MEET** THE STATUTORY REQUIREMENTS OF AN INFORMATION REQUEST ESTABLISHED BY THE FLRA AT 5 U.S.C. §7114(b)(4).

THIS SAMPLE REPRESENTS A LESS FORMAL APPROACH TO MANAGEMENT THAN THE ALTERNATIVE MORE FORMAL 7114 SAMPLE.  CONSIDER USING THIS LETTER IF YOU HAVE A GOOD RELATIONSHIP WITH MANAGEMENT OR IF YOU WANT TO ESTABLISH FACTS FOR A CONGRESSIONAL INQUIRY OR A HIGH LEVEL ADMINISTRATIVE INQUIRY.

IF YOU DO NOT RECEIVE THE REQUIRED INFORMATION IN RESPONSE TO THIS LETTER, REMEMBER TO **SUBMIT THE MORE FORMAL 7114 VERSION** OF THIS LETTER TO PRESERVE YOUR RIGHTS UNDER YOUR COLLECTIVE BARGAINING AGREEMENT.

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**USE OF MILITARY PERSONNEL FOR CIVILIAN EMPLOYEE WORK**

**SAMPLE LETTER – (Less Formal, non-7114)**

Date: \_\_\_\_\_\_\_\_\_\_

[Head of Installation]

[Title]

[Installation]

[Address]

[Email]

Subject: Use of Military Personnel to Perform Work Performed by/Designated for Civilian Employees

Dear \_\_\_\_\_\_\_\_\_\_\_\_: [name of agency official]

I write on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Local/Council and number] of the American Federation of Government Employees, AFL-CIO, which represents \_\_\_ [estimated number] civilian employees at \_\_\_\_\_\_\_\_\_\_\_\_\_ [DoD installation] in \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_ [city, state]. I am concerned that work normally performed by/designated for civilian employees, \_\_\_\_\_\_\_\_\_\_\_\_, [name of function] is or will be performed by military personnel. I urge you to ensure that such uses of military personnel are consistent with federal law and Department of Defense (DoD) guidance *(see attached summary of laws and guidance)*.

[Insert evidence here. For example: “Management official \_\_\_\_\_\_\_\_ stated on \_\_\_\_ (date) that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.] Currently, \_\_\_\_\_ [add number] civilian employees perform these functions.

Federal law prohibits DoD from using military personnel to perform work normally performed by/designated for civilian employees solely because of a cap on civilian personnel. DoD functions should be performed by civilian employees unless DoD can show that military personnel should perform them instead for reasons of military readiness, risk management, cost, or in other certain narrow exceptions (outlined below).

According to a **February 21, 2013 memo** from the USD P&R, there are only three occasions when military personnel can perform work designated for civilian employee performance, all of which must be documented and the cost of military performance calculated in accordance with the July 3, 2013 DOD Instruction 7041.04, “Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contract Support”, (<http://www.dtic.mil/whs/directives/corres/pdf/704104p.pdf>). (Before July 3, 2013, DTM 09-007 provided the cost comparison rules.)

1. **Military Essential per Operational Orders** (Limited and Temporary). Except in extraordinary, and typically temporary, circumstances, individual military personnel or units should not perform functions or work that is not military essential. During this period of budgetary uncertainty, military units may perform work previously performed by civilian employees or contracted support as part of a rotation base for an operational capability (if this has been reflected in Operational Orders), provided this is done on a limited and temporary basis.
2. **Extraordinary and Temporary Circumstances**. As noted in 1, military personnel may perform work that is not military essential and not reflected in Operational Orders only in extraordinary, and typically temporary, circumstances.
3. **Short-Term Emergency Basis During Sequestration**.In the event of sequestration, there may be instances where military personnel can be used on a short-term, emergency basis to satisfy a demand that is of mission critical importance."

**I ask that you provide me with answers to the questions listed below within 10 business days:**

1. Facts: Please describe the planned and actual use of military personnel for the work described above for FY2013 and FY2014, including the number of civilian employee positions/FTEs/labor hours that will be performed by military personnel.
2. Decision Factors:
   1. Was the decision to use military personnel for this work based to any extent on an unavailability of civilian employees due to the cap on civilian personnel, hiring freezes, furloughs, or any other reason? If so, please explain.
   2. What other factors contributed to the decision to use military personnel?
3. DoD Guidance: Is the use of military manpower consistent with the relevant DoD guidance? Please explain.
4. Military Essential: Is the work “military essential” so that it meets exception 1 summarized above? If so, please provide documentation of this characterization (such as the relevant Operational Orders).
5. Mission Critical Importance: Is the work of “mission critical importance” so that it meets Exception 3 summarized above? If so, please provide the documentation of this characterization.
6. Cost:
   1. Is performance of this work by military personnel more cost effective than civilian employee performance?
   2. Was that determination made in accordance with DoD policies regarding the full cost of manpower in DODI 7041.04 (formerly DTM 09-007)? Please provide the analysis.
7. Ending Use of Borrowed Military Manpower:
   1. What actions are being taken to ensure that civilian performance is being pursued and that military performance is temporary in nature? Please provide documentation.
   2. Did the installation seek an exemption from the hiring freeze to fill the position? Please provide documentation.
   3. Was the exemption from the hiring freeze granted? Please provide documentation.
   4. When does the agency intend to return this work to civilian employee performance? Please provide documentation.
   5. Is the agency currently undergoing the hiring process to fill the position?  Please provide documentation.
8. Benefit to Military:
   1. How do the functions support the military members’ career development and occupation specialty requirements?
   2. Do they support their training, operational unit readiness, or overseas rotational requirements?
   3. Do the functions require military unique skills or knowledge?
   4. Based on these criteria, how is military member performance of these functions consistent with DoD policies regarding appropriate military member utilization?

I request that the agency respond to this inquiry within 10 business days and rectify any use of borrowed military manpower in violation of federal law and DoD guidance. I look forward to working on this issue together.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_

President

AFGE Local/Council \_\_\_\_\_\_\_\_

Enclosure

Cc: Head of Component or DoD Agency

Amy Parker, Office of the Under Secretary for Personnel & Readiness

Thomas Hessel, Office of the Under Secretary for Personnel & Readiness

The Honorable \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Senator’s Name)

The Honorable \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Senator’s Name)

The Honorable\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Member of US House of Representative’s Name)

The Honorable\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Member of US House of Representative’s Name)

The Honorable\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Member of US House of Representative’s Name)

J. David Cox, AFGE National President