**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.

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 being 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 statutes 10 U.S.C. §129 and 10 U.S.C. §129a prohibit DoD from using military personnel to perform work normally performed by/designated for civilian employees due to a cap on the allowable number of civilian personnel. DoD cannot use military personnel to compensate for a shortage in civilian employees or civilian employee positions.

The Under Secretary of Defense, Personnel & Readiness, (memorandum dated February 21, 2013) requires military personnel to be used only to perform “military essential” functions. These functions are narrowly defined in DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix.”

There are two occasions when military personnel can perform work designated for civilian employee performance: (1) if there is a demonstrated and documented need to do so; or (2) if extraordinary, and typically temporary, circumstances exist. Under the first exception, DoD must determine that a function has become “military essential” and document that determination in Operational Orders. Under the second exception, DoD can only use military personnel for non-“military essential” functions if DoD can demonstrate and document extraordinary circumstances and show that the use of military personnel will be temporary. Under both exceptions, DoD must first calculate the full cost of military performance in accordance with DoD Instruction 7041.04, “Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contract Support.”

The following information is requested:

1. Facts: Please describe the planned and actual use of military personnel for the work described above for the previous, current, and next fiscal years, including the amount of work to be performed by military personnel (as expressed in civilian positions, FTEs, or labor hours). Please provide supporting material, such as manning documents.
2. Decision Factors: What factors contributed to the decision to use military personnel? Was the decision based to any extent on an unavailability of civilian employees? If so, please explain.
3. Federal Law and DoD Guidance: Is the use of military manpower consistent with federal law and 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. 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 calculation of the full cost of manpower in DODI 7041.04? Please provide any information gathered about the cost of civilian employee and/or military manpower performance of these functions, including information gathered to comply with DODI 7041.04 regarding the full cost of manpower.
6. Ending Use of Borrowed Military Manpower:
   1. Does the agency intend to return this work to civilian employee performance? If so, when? Please provide documentation.
   2. Is the agency in the process of securing enough civilian employees to perform this work in the future? For example, is the agency hiring new civilian employees to fill vacant positions? Is the agency funding additional positions if necessary? Please provide documentation.
   3. Did the installation or any entity in the chain of command seek an exemption from a civilian personnel cap or hiring freeze to avoid using military manpower? If so, was the exemption granted? Please provide documentation.
7. Benefit to Military:
   1. How do the functions support the military members’ career development and occupation specialty requirements?
   2. 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

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)