**Civilian to Military Conversions**

**Summary of Federal Law and DoD Guidance**

### Quick Summary

### DoD must manage civilian employees based on workload requirements, not personnel ceilings.

### DoD must establish policies that ensure that the workforce mix (military, civilian, and contractor) is based on cost and risk mitigation.

### DoD must calculate the fully burdened cost of using military personnel vs. civilian employees for a specific function.

### DoD cannot use military personnel to perform functions that are not “military essential” unless (1) there is a demonstrated and documented need to do so; or (2) extraordinary, and typically temporary, circumstances exist.

### Detailed Summary (see original documents cited for exact wording).

### 10 U.S.C. §129. No personnel ceilings.

* DoD shall manage civilian personnel solely on the basis of and consistent with total force management policy (10 U.S.C. §129a), workload requirements, and available funds. The management of civilian personnel shall not be subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.
* DoD shall employ the necessary number of civilian personnel, with the necessary combination of skills and qualifications, to carry out the functions in accordance with 10 U.S.C. §129a total force management policy.

###  10 U.S.C. §129a. Determining Workforce Mix (Military/Civilian/Contractor)

* DoD shall determine the most appropriate and cost efficient mix of military, civilian, and contractor personnel. Carrying out DoD missions takes precedence over cost. No civilian hiring freeze is authorized if it may inhibit this law.

**DOD Instruction (DODI) 7041.04 (July 3, 2013), “Estimating and Comparing the Full Costs of Civilian and Active Duty Military Manpower and Contract Support”**

* This DoD guidance requires DoD officials to be aware of the full costs of manpower and establishes rules for estimating the full costs of military, civilian employee, and/or contract performance of a particular function.

**February 21, 2013 Memo from the Under Secretary of Defense, Personnel & Readiness**

* Consistent with the March 2, 2012 memo from the Under Secretary of Defense, Personnel & Readiness, and DoD Instruction 1100.22 (both described below): except in extraordinary, and typically temporary, circumstances, individual military personnel or units should not perform functions or work that is not military essential.
* 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.

**March 2, 2012 Memo from Under Secretary of Defense, Personnel & Readiness**

* Tasks that are not military essential must be designated for civilian personnel (or contract) performance where appropriate, consistent with DODI 1100.22 (see excerpt below)
* Exceptions must be based upon a demonstrated and documented military need (e.g., to provide a reasonable overseas rotation or career progression base).
* Decisions to utilize military manpower to perform non-military essential functions must consider the fully burdened cost in accordance with DODI 7041.04 (see summary above).

**DoD Instruction 1100.22, "Policy and Procedures/or Determining Workforce Mix.” (April 2010)**

* Manpower shall be designated as civilian, not military, except when one or more of the following conditions apply:
	+ Military-unique knowledge and skills are required for performance of the duties;
	+ Military incumbency is required by law, Executive order, treaty, or international agreement;
	+ Military performance is required for command and control, risk mitigation, or esprit de corps;
	+ Military manpower is needed to provide for overseas and sea-to-shore rotation, career development, or wartime assignments; or
	+ Unusual working conditions or costs are not conducive to civilian employment.
* DoD may use military personnel for functions that are not “military essential” provided that there is sufficient justification and appropriate documentation to support the decision.