

# 10 U.S. Code § 129a. General policy for total force management

## **(a) POLICIES AND PROCEDURES.—**

The Secretary of Defense shall establish policies and procedures for determining the most appropriate and [cost](#) efficient mix of military, civilian, and [contractor](#) personnel to perform the mission of the Department of Defense.

## **(b) RISK MITIGATION OVER COST.—**

In establishing the policies and procedures under subsection (a), the Secretary shall clearly provide that attainment of a Department of Defense workforce sufficiently sized and comprised of the appropriate mix of personnel necessary to carry out the mission of the [Department](#) and the core mission areas of the [armed forces](#) takes precedence over [cost](#).

**(c) DELEGATION OF RESPONSIBILITIES.—**The Secretary shall delegate responsibility for implementation of the policies and procedures established under subsection (a) as follows:

### **(1)**

The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for guidance to implement such policies and procedures.

### **(2)**

The Secretaries of the [military departments](#) and the heads of the Defense Agencies shall have overall responsibility for the requirements determination, planning, programming, and budgeting for such policies and procedures.

### **(3)**

The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for ensuring that the defense acquisition system, as defined in [section 2545 of this title](#), is consistent with such policies and procedures and with implementation pursuant to paragraph (1).

### **(4)**

The Under Secretary of Defense (Comptroller) shall be responsible for ensuring that the [budget](#) for the Department of Defense is consistent with such policies and procedures. The Under Secretary shall notify the [congressional defense committees](#) of any deviations from such policies and procedures that are recommended in the [budget](#).

**(d) USE OF PLAN, INVENTORY, AND LIST.**—The policies and procedures established by the Secretary under subsection (a) shall specifically require the Department of Defense to use the following when making determinations regarding the appropriate workforce mix necessary to perform its mission:

**(1)**

The inventory of contracts for services required by [section 2330a\(c\) of this title](#).

**(2)**

The list of activities required by the [Federal Activities Inventory Reform Act of 1998](#) ([Public Law 105–270](#); [31 U.S.C. 501](#) note).

**(e) CONSIDERATIONS IN CONVERTING PERFORMANCE OF FUNCTIONS.**— If conversion of functions to performance by either Department of Defense civilian personnel or [contractor](#) personnel is considered, the Under Secretary of Defense for Personnel and Readiness shall ensure compliance with—

**(1)**

[section 2463 of this title](#) (relating to guidelines and procedures for use of civilian employees to perform Department of Defense functions); and

**(2)**

[section 2461 of this title](#) (relating to public-private competition required before conversion to [contractor](#) performance).

**(f) CONSTRUCTION WITH OTHER REQUIREMENTS.**—Nothing in this title may be construed as authorizing—

**(1)**

a military [department](#) or [Defense Agency](#) to directly convert a function to [contractor](#) performance without complying with [section 2461 of this title](#);

**(2)**

the use of [contractor](#) personnel for functions that are inherently governmental even if there is a military or civilian personnel shortfall in the Department of Defense;

**(3)** restrictions on the use by a military [department](#) or [Defense Agency](#) of [contractor](#) personnel to perform functions closely associated with inherently governmental functions, provided that—

**(A)**

there are adequate resources to maintain sufficient capabilities within the [Department](#) in the functional area being considered for performance by [contractor](#) personnel; and

**(B)**

there is adequate Government oversight of [contractor](#) personnel performing such functions;

(4)

the establishment of numerical goals or budgetary savings targets for the conversion of functions to performance by either Department of Defense civilian personnel or for conversion to performance by [contractor](#) personnel; or

(5)

the imposition of a civilian hiring freeze that may inhibit the implementation of the policies and procedures established under subsection (a).

**(g) PERFORMANCE OF CIVILIAN FUNCTIONS BY MILITARY PERSONNEL.—**

**(1)** Functions performed by civilian personnel should not be performed by military personnel except—

**(A)**

if the Secretary of the military [department](#) concerned determines in writing based on mission requirements that the performance of such functions by military personnel is [cost](#)-effective, taking into account the fully-burdened [costs](#) of the civilian, military, and [contractor](#) workforces, including the impact of the performance of such functions on military career progression or when required by military necessity; or

**(B)**

if the performance of such functions by military personnel is required to address critical staffing needs resulting from a reduction in personnel or budgetary resources by reason of an Act of Congress, in which case such functions may not be performed by military personnel for a period in excess of one year.

**(2)**

In determining the workforce mix between civilian and military personnel, the [Secretary of a military department](#) shall [reserve](#) military personnel for the performance of the functions that, in the estimation of the Secretary, are required to be performed by military personnel in order to achieve national defense goals or in order to enable the proper functioning of the military [department](#). In making workforce decisions, the Secretary shall account for the relative budgetary impact of military versus civilian personnel in determining the functions required to be performed by military personnel.

(Added [Pub. L. 101–510, div. A, title XIV, § 1483\(b\)\(2\)](#), Nov. 5, 1990, [104 Stat. 1715](#); amended [Pub. L. 112–81, div. A, title IX, § 931\(a\)](#), Dec. 31, 2011, [125 Stat. 1541](#); [Pub. L. 114–328, div. A, title IX, § 914](#), Dec. 23, 2016, [130 Stat. 2350](#); [Pub. L. 115–91, div. A, title X, §§ 1051\(a\)\(6\)\(B\), 1081\(a\)\(5\)](#), Dec. 12, 2017, [131 Stat. 1560](#), 1594; [Pub. L. 115–232, div. A, title IX, § 933](#), Aug. 13, 2018, [132 Stat. 1938](#).)