



PERSONNEL CAPS IN DOD

- Charts from Defense Business Board Study, “Fully Burdened and Life Cycle Costs of the Workforce,” dated December 6, 2017 show the Department as spending twice as much on “service contracts” as it does on the DoD civilian workforce for roughly the same number of people.
- DoD will claim it does not constrain the civilian workforce to personnel caps because it interprets statutory prohibitions against caps as applying only once funds are made available in annual appropriations and do not apply across the FYDP.
- When the civilian workforce is arbitrarily constrained or reduced in programmatic “wedges”, this adversely affects the length of the hiring process, workload and mission requirements, readiness and costs. When a civilian position is not filled or is cut, and the requirement remains, the work shifts to more expensive contractors or military. “Predictably, for example, even though Congress directed the Defense Department to cut \$10 billion through administrative efficiencies between 2015 and 2019, the Pentagon failed to substantiate that it had achieved those savings. The reason these efforts rarely succeed is that they merely shift the work being done by civilians to others, such as military personnel or defense contractors.” DepSecDef Kathleen Hicks, “Getting To Less: The Truth About Defense Spending,” Foreign Affairs (March 2020). P. 56.
- These bad business practices result in excessive levels of under-execution documented by the Government Accountability Office for the Fiscal Year 2015-2019 timeframe where civilian pay under-execution averaged \$1.8B overall.
- The DoD IG has documented this under-execution as being used to pay contractors instead.
- During its Program Objective Memorandum and Defense Wide Reviews, most funding reductions or offsets are levied exclusively on the DoD civilian workforce, most recently about \$5B taken primarily out of Defense Agencies and Field Activities, Medical Activities and Installation Support functions (including first responders) to pay for more platforms.
- Contract services largely evade these programmatic drills because the so-called Service Requirements Review Boards overseen by the ASD (Acquisition and Sustainment) focus more on procurement planning for individual contract actions rather than challenging the requirement or competing it in these programmatic reviews led by the DepSecDef and Director, Cost and Program Evaluation (CAPE). (H.R. 6395, Report 116-442, p. 167-8 (Jul. 9, 2020)).
- The use of personnel caps and arbitrary programmatic “savings wedges” against the civilian workforce also adversely affect readiness. The National Commission on Military Aviation Safety final report identified the effect of arbitrary civilian reductions on reduced military aviator training and flying hours leading to more accidents as military aviators take on the duties formerly performed by civilian employees.
- Hearings before the House Armed Services Committee documented realignments of downsized Military Medical Treatment workload to oversaturated TRICARE markets adversely affecting beneficiary quality of care and wait times,

- Both section 912 of the FY2021 NDAA and the FY2021 Omnibus Appropriation Section 8012 have clarified longstanding prohibitions against the use of appropriated funds with personnel caps by applying these restrictions to the program years of the FYDP and requiring analyses of the impact of reductions on workload, fully burdened costs, military force structure, readiness, lethality, stress on the force and operational effectiveness. There is also language in both the NDAA and OMNIBUS limiting expenditures of appropriated funds to downsize military medical treatment facilities until there is a report including Surgeon General input on readiness, quality and capacity of private markets' reimbursement rates for TRICARE.
- Structural incentives for using civilian workforce as programmatic “wedges” will remain until greater transparency on adverse effects during the planning, programming and budgeting process and in reports to Congress is required:
 - Prioritize and validate contractor requirements in programming and budgeting processes with program lines over FYDP led by DepSecDef, CAPE and Comptroller supported by comprehensive contractor inventories.
 - Ensure new requirements in the programming process are sourced with civilians for inherently governmental, closely associated with inherently governmental, critical functions or where more cost-effective.
 - Ensure military structure is limited to military essential requirements and require Defense Readiness Reporting System to re-establish reporting for borrowed military manpower or conversions of civilian functions to military pulled from units, training or outside their military occupational specialty.
 - Require manpower estimate report before each milestone decision point for major weapon system acquisitions on the mix of military, civilian workforce and contract support to operate, train and sustain the weapon system.
 - Ensure Military Department force development processes specifically address the requirements of section 912 of the FY2021 NDAA

