

TITLE 10 - ARMED FORCES
SUBTITLE A - GENERAL MILITARY LAW
PART I - ORGANIZATION AND GENERAL MILITARY POWERS
CHAPTER 3 - GENERAL POWERS AND FUNCTIONS

§ 129a GENERAL POLICY FOR TOTAL FORCE MANAGEMENT
(AS AMENDED BY SEC 931 OF FY12 NDAA)

- (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 (as identified pursuant to section 118b of this title) 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 civilian strategic workforce plan (required by section 115b of this title).
 - (2) The civilian positions master plan (required by section 1597(c) of this title).
 - (3) The inventory of contracts for services required by section 2330a(c) of this title.
 - (4) 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).