



OFFICE OF THE SECRETARY OF DEFENSE

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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES  
DIRECTOR, JOINT STAFF

SUBJECT: Military Conversions-Contracting for Services When Civilians Cannot  
Be Hired

This memorandum provides policy on steps DoD Components may take when converting from military to DoD civilian performance and the Director of the local Human Resources Office (HRO) determines that qualified individuals cannot be hired to fill the converted positions. When DoD civilians cannot be hired to perform the work, DoD Components may contract for the services in certain circumstances. This policy shall not apply to work that is inherently governmental or exempt from private sector performance.

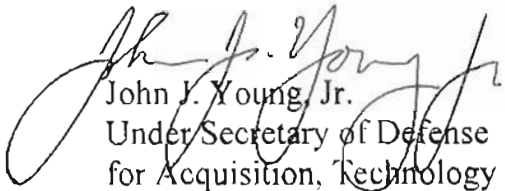
OMB Circular A-76, "Performance of Commercial Activities," normally requires a public-private competition prior to converting a commercial activity from military or federal civilian employee performance to private sector performance. However, when a decision is made to convert from military to DoD civilian performance, but the position cannot be filled and the local HRO Director concludes that a civilian cannot be hired to fill the converted position, a DoD Component may dispense with a public-private competition provided the following prerequisites are met.

The local HRO Director shall make the determination that the position cannot be filled based on: two prior unsuccessful attempts to fill the position; and a recent labor market analysis that indicates a scarcity of government labor for the targeted occupation. The local HRO Director shall certify in writing (separately for each converted position) that the position has not been filled and that a qualified DoD civilian cannot be hired to fill the position (based on the information described above). After certification, the requiring activity official may then contract for the services provided they are not inherently governmental and not (or no longer) exempt from private sector performance. If such is the case, the requiring activity official shall provide the contracting officer, concurrent with the transmittal of the statement of work, a written determination that none of the services to be performed are exempt from private sector performance or inherently governmental (as required by Section 207.503 of the Defense Federal Acquisition Regulation Supplement). These determinations shall be based on guidance in

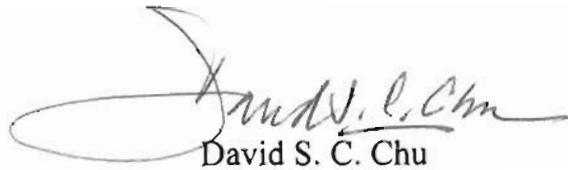
DoD Instruction 1100.22, "Guidance for Determining Workforce Mix." In addition, the requiring activity official shall retain a copy of the written determination and the local HRO Director's written certification for a period of four calendar years.

Consistent with manpower management policy, within four years of the HRO Director's certification, the requiring activity official shall reassess its workforce mix decision. This reassessment shall include a reexamination and, if necessary, recertification by the local HRO Director (following the procedures in the preceding paragraph) that a qualified DoD civilian cannot be hired. In addition, nothing contained in this memorandum relieves the Department from compliance with statutory requirements regarding the conversion of military medical positions to civilian performance.

The policy outlined above enables Defense officials to respond quickly when they are converting military billets and find that DoD civilians cannot be hired. We encourage you to disseminate this policy widely so that the conversion of military billets can be expedited and disruptions minimized.



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Under Secretary of Defense  
for Acquisition, Technology and Logistics



David S. C. Chu  
Under Secretary of Defense  
for Personnel and Readiness

cc:  
USD(C)  
DUSD(I&E)  
D, PA&E  
D, DPAP