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Defense Primer: Department of Defense Civilian Employees

Background

Federal employment evolved into a civil service system in the late 1800s. It replaced a *spoils system* that allowed each presidential administration to appoint its political supporters as federal employees. Congress established the current federal civil service system with the *Civil Service Reform Act of 1978* (P.L. 95-454). Its primary features are merit-based hiring and merit system principles.

Civil Service

The civil service consists of three subservices: competitive, excepted, and senior executive. The competitive service is the largest and the Office of Personnel Management (OPM) administers it. The excepted service is distinguishable by its agency-level administration and selection procedures. The senior executive service (SES) is less than one percent of the civil service. OPM centrally manages SES selections with its merit staffing procedure and qualifications review board (QRB). The QRB must verify and certify an SES aspirant's executive core qualifications (ECQs). While OPM generally oversees the civil service, the following entities have specific oversight responsibilities:

- Office of Special Counsel (OSC);
- Merit Systems Protection Board (MSPB); and
- Equal Employment Opportunity Commission (EEOC).

Just under a third of the civil service is in, or represented by, a union. Managers, supervisors, and servicemembers are excluded from unions, as are certain workforces. The Federal Labor Relations Authority (FLRA) oversees dealings between unions and federal employers.

Civil Service Data

There are two common ways to enumerate civil servants: the *full-time equivalent* (FTE) and the *on-board personnel* (OBP) methods. Federal agencies typically use FTE for budget data and OBP for employment data. An FTE unit is a 2,080 hour work year; an OBP unit is one employee. FTE quantifies employment as the number of hours worked at the end of a fiscal year (FY), irrespective of the number of employees. OBP quantifies employment as the number of employees working on the last day of a FY quarter. An FTE count can be less than an OBP count as more than one OBP unit can equal one FTE unit, such as part-time employees.

Defense Civilians

Civilians are employed as civil servants in the Department of Defense (DOD) consistent with its annual appropriations for direct hire employees. Around 80% of them are in the competitive service and all of them fill positions that do not require military personnel. Servicemembers and other defense civilians may supervise civilians. Likewise, defense

civilians may supervise servicemembers when authorized. DOD's defense civilian OBP data are in **Table 1**.

Table 1. Estimated Defense Civilian OBP

Component	FY20	FY21	FY22
Army	190,899	194,128	196,111
Navy	196,767	198,614	200,248
Marine Corps	22,206	22,553	22,653
Air Force	169,736	177,453	180,515
DOD	215,768	221,275	214,188
Total	795,376	814,023	813,715

Source: DOD, *Defense Manpower Profile Report – Fiscal Year 2022*, July 2021, p. 2.

Notes: Air Force includes Space Force civilians.

Defense Civilian Management

The Secretary of Defense must establish policies and procedures for determining the most appropriate and cost efficient categories of personnel to perform DOD's mission. These category determinations must prioritize the attainment of DOD's missions over considerations of costs (10 U.S.C. §129a).

The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) is the principal DOD official with responsibility for defense civilian policy and programs. The USD(P&R) also is the federal government's statutorily designated Chief Human Capital Officer (CHCO) for DOD. All DOD managers and supervisors of civilians must adhere to the federal civil service merit system principles and are prohibited from engaging in certain personnel practices (5 U.S.C. §§2301, 2302).

DOD may not reduce the projected FTE of the civilian workforce without conducting all required analyses of how the reduction will affect its "workload, military force structure, lethality, readiness, operational effectiveness, stress on the military force, and fully burdened costs" (10 U.S.C. §129a) (**Table 2**).

The legal framework governing defense civilians is included in Titles 5, 10, and 29 of the *U.S. Code*, as well as Title VII of the Civil Rights Act of 1964. These laws are implemented in general federal regulations and in specific DOD directives, regulations, and instructions that are to be issued only when necessary to meet DOD-unique needs or to supplement federal civil service policy. DOD policies, procedures, and programs for managing defense civilians apply to all DOD components.

Table 2. Projected Defense Civilians FTE

FTE	DA	DON	DAF	DOD	Total
FY21	194,128	221,843	171,141	254,761	841,873
FY22	196,111	223,113	172,744	249,284	841,252
FY23	197,107	223,279	176,434	250,609	847,429
FY24	197,181	223,440	176,529	251,580	848,730
FY25	197,222	222,083	176,626	251,749	847,680
FY26	196,949	221,941	177,292	251,755	847,937

Source: DOD, *Defense Manpower Profile Report – Fiscal Year 2022*, July 2021, pp. 91, 95, 102, 105, 107, and 108-168 (DOD elements).

Notes: DA denotes Department of the Army; DON, Navy; DAF, Air Force; DOD, Defense. DON includes Navy and Marine Corps civilians; DAF, includes Air Force and Space Force civilians.

Defense Civilian Workforces

Most civil service appointments in DOD are made under Title 5, *U.S. Code*. Other DOD appointments are made for positions or workforces managed under Title 10, *U.S. Code*. The largest specialized workforces cover areas such as acquisition functions, intelligence activities, and cyberspace operations

Acquisition Civilians

The Defense Acquisition Workforce is defined as any defense civilian in an acquisition career field fulfilling an acquisition role and performing an acquisition function (See Ch. 87, Title 10, *U.S. Code*). While some civilian acquisition positions are statutorily designated, most are classified as such based on policy and guidance for defense acquisition employment. Acquisition civilians must participate in workforce programs for defense acquisition training, education, experience, and career development. The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) is responsible for the policy, direction, and oversight of the Defense Acquisition Workforce. This includes appointing a Human Capital Initiatives (HCI) Executive Director to carry out all workforce statutory duties, powers, and functions of the Secretary of Defense.

Intelligence Civilians

The defense intelligence workforce is in the Defense Civilian Intelligence Personnel System (DCIPS) (See Ch. 83, Title 10, *U.S. Code*). It is an excepted service system. The DCIPS *rank-in-person* provision permits retention of pay level for any assigned role or position. Its *pay-banding* provision allows DCIPS employees to qualify for a pay level without having to satisfy requisite grade or service requirements, if applicable. All DCIPS employees serving in defense intelligence senior level (DISL) and defense intelligence senior executive service (DISES) positions also are in the excepted service. DISES positions are capped at 594 (10 U.S.C. §1606); there are no limits on the number of DISL positions. Salaries for DISES and DISL employees are based on the government-wide SES and senior level pay scales. Although managed and compensated within the defense intelligence workforce as executive equivalents, DISES employees are not part of the SES and do not qualify to serve in SES positions without completing

OPM's SES selection and qualification review process. The Under Secretary of Defense for Intelligence and Security (USD(I&S)), in coordination with the USD(P&R), is responsible for DCIPS policy and programs. The Director of National Intelligence (DNI) may prescribe intelligence community personnel policy and programs applicable to DCIPS after consulting with the USD(I&S) and the Secretary of Defense.

Cyber Civilians

The Cyber Excepted Service (CES) is a DOD cyber personnel system for certain defense civilians in the cyber workforce (10 U.S.C. §1599f). It was established to employ civil servants capable of performing functions related to cyber operations. CES includes *pay-banding* and *rank-in-person* provisions similar to those in DCIPS. The DOD Chief Information Officer (CIO) is responsible for developing CES policy and providing recommended policy issuances to the USD(P&R).

Defense Civilian Diversity

The purpose of DOD's diversity and inclusion management program is to promote a workforce reflecting the diversity of the United States (**Table 3**). Program goals include an inclusive culture that enables differences among personnel. DOD-wide equal employment opportunity (EEO) formal complaint data are in **Table 4**.

Table 3. Selected Defense Civilian Demographic Data

Category	DA	DON	DAF	DOD
Women	46%	29%	30%	25%
Black/African American	21%	14%	13%	11%
Hispanic	11%	6%	9%	4%
Asian/Pacific Islander	6%	11%	4%	3%
Amer. Indian/AK Native	1%	1%	1%	0.4%

Source: DOD, *ODEI Demographic Infographics*.

Notes: DA denotes Department of the Army; DON, Navy; DAF, Air Force; DOD, Defense.

Table 4. Selected DOD-wide FY20 EEO Complaints

Basis	Formal	Settled	Finding
Race	1,996	754	5
Color	868	277	0
Reprisal	2,327	983	20
Sex	1,867	777	4
Nat'l Origin	486	248	1
Age	1,353	483	3
Disability	2,085	875	22

Source: DOD FY 2020 *Notification and No FEAR Act Report*, pp. 8-10.

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