



Defense Primer: Department of Defense Civilian Employees

Background

Congress established the current federal civil service, which is overseen by the Office of Personnel Management (OPM), with the Civil Service Reform Act of 1978 (P.L. 95-454). The civil service comprises all appointive positions in each branch of the U.S. government, other than positions in the uniformed services (5 U.S.C. §2101). Civil service hiring is intended to be merit-based, and all civil servants must adhere to merit system principles (5 U.S.C. §2301). Managers and supervisors of civil servants are prohibited from engaging in certain personnel practices (5 U.S.C. §2302). The civil service contains three subservices (5 U.S.C. §§2101a, 2102, 2103):

- the *competitive service*, which OPM administers and is the largest subservice;
- the *excepted service*, which is distinguishable by its agency-level oversight and administration; and
- the *senior executive service* (SES), which OPM manages and is less than 1% of the civil service.

SES hiring includes an OPM merit staffing procedure and qualifications review board (QRB) that are meant to verify and certify executive core qualifications (ECQs). Besides general oversight by OPM, the following entities have a specific civil service oversight function:

- 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 federal workforces. The Federal Labor Relations Authority (FLRA) oversees the labor agreement process between federal employers and federal employee unions.

Civil Service Data

The *full-time equivalent* (FTE) and *on-board personnel* (OBP) methods are the two common ways to enumerate civil service employees. 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, irrespective of the number of employees. OBP quantifies employment as the number of employees working on the last day of fiscal year 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

The Department of Defense (DOD) must employ defense civilians consistent with its annual appropriations for

civilian employees. Around 80% of these employees are in the competitive service. Servicemembers and other defense civilians may supervise civilians. Likewise, defense civilians may supervise servicemembers when authorized. The legal framework governing defense civilians primarily 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 specific DOD policies and general federal regulations. DOD civil service policy is supplemental to OPM policies and is to be issued only when necessary to meet DOD-unique requirements.

Table 1 lists civilian OBP data as reported to Congress in FY2022.

Table 1. Actual and Estimated Defense Civilian OBP

Component	FY2021 Actual	FY2022 Estimate	FY2023 Estimate
Army	199,472	195,590	196,897
Navy	200,872	201,810	203,222
Marine Corps	22,483	22,470	22,486
Air Force	175,162	177,816	179,690
Space Force	1,009	4,548	4,920
DOD Elements	217,235	221,785	223,474
Total	816,223	824,019	830,689

Source: Defense Manpower Profile Report, September 27, 2022, p. 2. See also 10 U.S.C. §115a.

Table 2 lists projected civilian FTE data as reported to Congress in FY2022.

Table 2. Projected Defense Civilian FTE

Component	FY2024	FY2025	FY2026
Army	197,318	197,754	197,790
Navy	202,016	199,972	199,640
Marine Corps	22,702	22,479	22,303
Air Force	171,957	172,732	172,943
Space Force	4,999	5,059	5,069
DOD Elements	247,096	247,646	247,788
Total	846,088	845,642	845,533

Source: Defense Manpower Profile Report, September 27, 2022, pp. 108, 111, 116, 121, 123, and 124-201. See also 10 U.S.C. §115a.

Defense Civilian Management

Defense civilians fill positions that do not require military personnel. DOD must determine the most appropriate and cost-efficient categories of personnel to perform its missions, but such determinations are to prioritize the attainment of these missions, even if military personnel

costs to perform a mission may exceed defense civilian costs (10 U.S.C. §129a). However, regardless of any personnel category determination, DOD may not reduce projected FTE for defense civilians without first conducting all required analyses of how such determination will affect “workload, military force structure, lethality, readiness, operational effectiveness, stress on the military force, and fully burdened costs” within DOD. The Under Secretary of Defense for Personnel and Readiness is the principal DOD official with responsibility for defense civilian policy and programs (10 U.S.C. §136).

Defense Civilian Specialized Workforces

Most civil service appointments in DOD are made under Title 5 of the *U.S. Code*. Other appointments are made under Title 10 of the *U.S. Code* for specialized workforces. The larger of these specialized workforces perform cyber, acquisition, and intelligence functions.

Cyber Excepted Service

The Cyber Excepted Service (CES) is a personnel system for certain civilians in DOD’s cyber workforce (10 U.S.C. §1599f). This system is designed to employ civil servants capable of supporting cyber operations. CES features *pay-banding*. This can allow one to qualify for a pay level without having to satisfy some prerequisites. CES also is a *rank-in-person* system. This permits retention of one’s highest pay level while assigned to any position. The Chief Information Officer of DOD is responsible for developing CES policy (10 U.S.C. §142).

Defense Acquisition Workforce

The civil service component of the defense acquisition workforce includes any defense civilian in an acquisition career field with an acquisition role and performing an acquisition function (10 U.S.C., chapter 87). While some civilian acquisition positions are statutorily designated, most are classified as such based on DOD policy and guidance. The acquisition workforce must participate in defense acquisition training, education, and career development programs. The Under Secretary of Defense for Acquisition and Sustainment is responsible for the policy, direction, and oversight of the acquisition workforce (10 U.S.C. §1702).

Defense Civilian Intelligence Personnel System

Most intelligence civilians in DOD are appointed in the Defense Civilian Intelligence Personnel System (DCIPS) and are part of the intelligence community (IC) workforce. DCIPS employees are in the excepted service (10 U.S.C. §1601). This includes *defense intelligence senior executive service* (DISES) appointees (10 U.S.C. §1606). Generally, civil servants appointed under IC personnel authorities are excluded from the SES and the competitive service; as such, they are covered by the definition of excepted service (5 U.S.C. §3132(a)(1)(B); see 5 U.S.C. §2103). Thus, *senior cryptologic executive service* (SCES) employees at the National Security Agency in DOD also are in the excepted service (50 U.S.C. §3610). Like the CES, DCIPS

has *pay-banding* and *rank-in-person* features. The Under Secretary of Defense for Intelligence and Security is responsible for intelligence civilian policy (10 U.S.C. §137). The Director of National Intelligence may issue IC policy that applies to intelligence civilians after consulting with the appropriate DOD officials (50 U.S.C. §3024).

Senior Intelligence Civilians
DOD uses the SES pay scale for SCES and DISES employees, but they usually are not eligible to serve in non-IC positions since they are not appointed under the SES provisions in Title 5 of the <i>U.S. Code</i> . This also is the case for members of the <i>senior intelligence service</i> (SIS) and the <i>senior national intelligence service</i> (SNIS), which both use the SES pay scale and are authorized at certain IC elements outside DOD.

Defense Civilian Workforce Diversity

The purpose of DOD’s diversity and inclusion management program is to promote a workforce reflecting the diversity of the United States (see **Table 3**).

Table 3. Selected Defense Civilian Demographic Data

Category	Army	Navy	Air Force	DOD
Women	36%	28%	30%	49%
Black/African American	16%	13%	13%	22%
Hispanic	11%	6%	9%	4%
Asian/Pacific Islander	5%	13%	5%	8%
American Indian/ Alaskan Native	1%	1%	1%	<1%

Source: DOD FY 2021 *ODEI Demographic Infographics*.

DOD-wide equal employment opportunity (EEO) formal complaint data are in **Table 4**.

Table 4. Selected DOD-Wide FY2020 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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