



August 2020

DEFENSE WORKFORCE

DOD Needs to Assess Its Use of Term and Temporary Appointments

GAO Highlights

Highlights of [GAO-20-532](#), a report to congressional committees

Why GAO Did This Study

DOD employs term and temporary personnel as a part of its overall civilian workforce. Recently, DOD extended the maximum duration of term appointments to 8 years with further extensions considered on a case-by-case basis, and temporary appointments to 3 years.

House Report 116-120 included a provision for GAO to review DOD's use of term and temporary hiring authorities. GAO's report (1) identifies changes in the number of DOD term and temporary personnel from fiscal years 2016 through 2019, and (2) assesses the extent to which DOD modified term and temporary appointments and completed and submitted a statutorily required report assessing those modifications.

GAO analyzed DOD personnel data from fiscal years 2016 through 2019 to identify any changes, DOD memoranda modifying term and temporary appointments, and relevant statutes; and interviewed DOD and Office of Personnel Management officials.

What GAO Recommends

GAO recommends that DOD report the results of the assessment of employee perceptions of modifications to term and temporary appointments to Congress and GAO. DOD concurred with the recommendation.

View [GAO-20-532](#). For more information, contact Elizabeth Field at (202) 512-2775 or fielde1@gao.gov.

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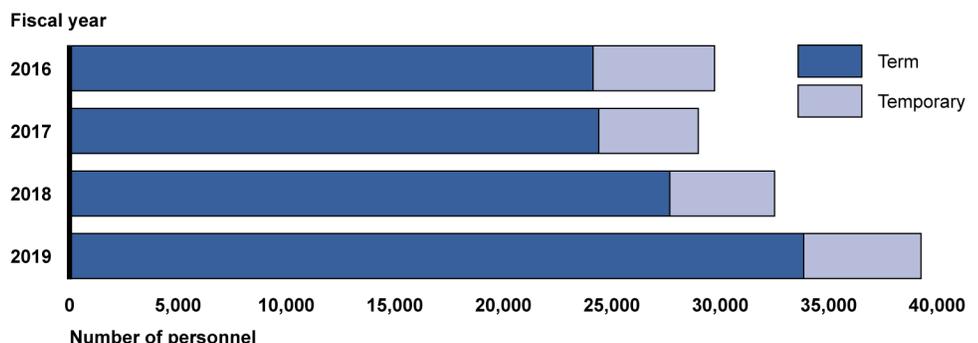
DEFENSE WORKFORCE

DOD Needs to Assess Its Use of Term and Temporary Appointments

What GAO Found

The Department of Defense (DOD) uses term and temporary appointments to hire personnel to non-permanent positions that have uncertain funding or workload. During fiscal years 2016 through 2019, DOD increased term personnel by 40 percent and decreased temporary personnel by 3 percent, according to GAO analysis.

Number of DOD Term and Temporary Personnel, Fiscal Years 2016—2019



Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

According to GAO analysis of DOD data, during fiscal years 2016 through 2019:

- Approximately 35 percent of DOD term and temporary personnel were converted to permanent civilian positions within the federal government.
- The Army employed 72 percent of DOD's term and temporary personnel.
- Two Army organizations—Army Tank-automotive and Armaments Command and the U.S. Army Corps of Engineers—employed 32 percent of DOD's term and temporary personnel. This large use was due to increases in ground combat equipment returning from overseas operations needing to be repaired at the Army depots, and U.S. Army Corps of Engineers work to support disaster relief, according to DOD officials.

DOD modified the procedures for making term appointments in June 2017 and August 2018, and temporary appointments in June 2017. These modifications extended the duration limit for term appointments from 4 years to 8 years, with further extensions considered on a case-by-case basis; allowed an option for certain term personnel to be non-competitively converted to permanent positions; and extended the duration limit for temporary appointments from 2 years to 3 years. However, DOD did not assess employee perceptions of the 2017 modifications and report the results of the assessment to Congress and GAO, as required by statute. In October 2019, DOD officials told GAO that they mistakenly believed Congress had waived this requirement, and that they plan to complete the assessment and report to Congress and GAO. In commenting on a draft of this report, DOD established a timeframe of May 2021 for completing a survey to assess employee perceptions. This is a positive step, but it will be important for DOD to provide the results of the assessment to Congress and GAO.

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Abbreviations

DCPAS	Defense Civilian Personnel Advisory Service
DCPDS	Defense Civilian Personnel Data System
DOD	Department of Defense
NDAA	National Defense Authorization Act
NSPS	National Security Personnel System
OPM	Office of Personnel Management
TACOM	Tank-automotive and Armaments Command

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August 6, 2020

Congressional Committees

The Department of Defense (DOD) uses term and temporary appointments to hire personnel to non-permanent positions that have uncertain funding or workload.¹ For example, a term or temporary appointment could be for a position on a shipbuilding project with a planned completion date, or a position located on an installation that is designated to close. In fiscal years 2017 and 2018, DOD used existing authorities to modify term and temporary appointments by extending the duration of the appointments and allowing for conversion of certain term personnel to permanent employees.

In August 2019, we reported on DOD's use of workforce and hiring flexibilities for its acquisition workforce.² We recommended that DOD regularly monitor usage of hiring, recruitment, and retention flexibilities for the civilian acquisition workforce—across the military departments and acquisition career fields—to help develop strategies or to inform efforts aimed at improving the usage of these flexibilities. DOD concurred with our recommendation and stated it would provide guidance to DOD components to monitor usage of flexibilities on a quarterly basis. As of May 2020, DOD began monitoring the hiring flexibilities by military department and career field.

House Report 116-120, accompanying a bill for the National Defense Authorization Act for Fiscal Year 2020, included a provision for us to review DOD's use of term and temporary hiring authorities.³ In this report, we (1) identify changes in the number of DOD term and temporary personnel from fiscal years 2016 through 2019, and (2) assess the extent to which DOD modified the procedures for making term and temporary appointments and completed and submitted a statutorily required report assessing those modifications.

¹5 C.F.R. §§ 316.301, 316.401 (2019).

²GAO, *Defense Acquisition Workforce: DOD Increased Use of Human Capital Flexibilities but Could Improve Monitoring*, [GAO-19-509](#) (Washington, D.C.: Aug. 15, 2019).

³H.R. Rep. No. 116-120, at 228-229 (2019).

To address our first objective, we collected personnel data on term and temporary appointments from the Defense Civilian Personnel Data System (DCPDS), DOD's central repository for civilian personnel transactions' data. We obtained data on term and temporary appointments for a complete set of records for personnel who worked in term or temporary positions for fiscal years 2016 through 2019. Specifically, we analyzed the number of term and temporary personnel for fiscal years 2016 through 2019, including identifying the components and units where the personnel worked, the type of work the personnel performed, and the number of the personnel who were converted to permanent positions. We also interviewed officials within DOD organizations that had the highest numbers of term and temporary personnel.⁴ To assess the reliability of the data we obtained, we reviewed existing information, such as a report on DCPDS; analyzed the data for inconsistencies; and interviewed DOD officials about the reliability of the data.⁵ We determined that the data were sufficiently reliable for our reporting purpose, which was to identify changes in the number of DOD term and temporary personnel from fiscal years 2016 through 2019.

To address our second objective, we reviewed statutory authorities available to DOD to make term and temporary appointments, reviewed the DOD memoranda modifying term and temporary appointments, reviewed DOD guidance regarding civilian personnel management, and met with DOD and Office of Personnel Management (OPM) officials to discuss the process used to modify term and temporary appointments.⁶ We compared the information we obtained with criteria regarding DOD's

⁴We met with officials at Navy headquarters and officials at the two units with the highest numbers of term and temporary personnel (Army Tank-automotive and Armaments Command and the U.S. Army Corps of Engineers). We were unable to meet with Army and Air Force headquarters officials due to the national emergency concerning Coronavirus Disease 2019 (COVID-19).

⁵Defense Human Resources Activity, *Report on the Defense Manpower Data Center's Description of Its System Supporting the Delivery of Defense Civilian Personnel Data System Administration and Operational Support Services and the Suitability of the Design and Operating Effectiveness of Its Controls* (Aug. 14, 2019).

⁶5 U.S.C. § 9902; Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, *Modification of Temporary and Term Appointments Within the Department of Defense* (June 12, 2017); and Deputy Secretary of Defense Memorandum, *Extensions of Term Appointments in the Competitive Service in the DOD* (Aug. 10, 2018); Department of Defense Instruction 1400.25, *Civilian Personnel Management*. The DOD instruction is composed of multiple volumes, focused on particular topics and with various issuance dates.

management of term and temporary appointments—specifically section 9902 of title 5 of the United States Code and section 1105 of the National Defense Authorization Act for Fiscal Year 2017.⁷

We conducted this performance audit from August 2019 to August 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Term and Temporary Appointments

DOD organizations employ term and temporary personnel as a part of their overall civilian workforce to staff positions that are not permanent, for example due to fluctuations in funding or workload. Temporary appointments are generally of a shorter duration than term appointments. Specifically, DOD's temporary appointments can have a maximum duration of 3 years and term appointments can have a maximum duration of 8 years, with an option to extend the appointment beyond 8 years on a case-by-case basis.⁸ Term and temporary personnel are civilian employees, and they staff a variety of positions across DOD, including heavy equipment mechanics, police and security guards, administration, information technology, and civil engineering.

Term and temporary personnel are generally eligible to earn the same benefits as permanent civilian employees, including annual and sick leave, and can be eligible for additional benefits depending on the length of their appointment.⁹ For example, temporary personnel on appointments greater than 1 year and term personnel are both eligible for

⁷5 U.S.C. § 9902 and Pub. L. No. 114-328, § 1105 (2016).

⁸Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, *Modification of Temporary and Term Appointments Within the Department of Defense* (June 12, 2017); and Deputy Secretary of Defense Memorandum, *Extensions of Term Appointments in the Competitive Service in the DOD* (Aug. 10, 2018).

⁹There are some situations in which temporary employees do not accrue annual or sick leave. For example, temporary employees hired solely for the purpose of work on a specific construction project and paid at an hourly rate do not accrue annual and sick leave. 5 C.F.R. § 630.201; 5 U.S.C. § 6301(2)(B)(ii).

the same health coverage under the Federal Employees Health Benefits Program as full-time civilian employees, including a government contribution.¹⁰

Civilian Personnel Management Roles and Responsibilities for DOD

U.S. Office of Personnel Management (OPM). OPM serves as the chief human resources agency and personnel policy manager for the federal government.¹¹ As part of that role, OPM directs human resources and employee management services, administers retirement benefits, manages healthcare and insurance programs, oversees merit-based and inclusive hiring into the civil service, and provides a secure employment process.

Defense Civilian Personnel Advisory Service (DCPAS). Unlike most executive branch agencies, DOD has specific legal authority to waive certain federal regulations relating to personnel hiring authorities, including for term and temporary appointments.¹² DCPAS develops, implements, and monitors DOD civilian human resources policies and programs.¹³ In this capacity, DCPAS supports the Deputy Assistant Secretary of Defense for Civilian Personnel Policy with personnel policy leadership.

DOD components. The heads of the DOD components are tasked with ensuring implementation and compliance with civilian personnel management policies.¹⁴ In addition, each of the military services has an office tasked with developing and implementing personnel policies for its respective service. These offices include the Army Deputy Chief of Staff for Personnel; Navy Bureau of Naval Personnel; Marine Corps Human

¹⁰5 C.F.R. § 890.102 (2016). Personnel on temporary appointments who are expected to work for less than 130 hours per month, or less than 90 days, are generally ineligible to enroll in the Federal Employees Health Benefits Program.

¹¹Office of Personnel Management, "About" (website), accessed March 30, 2020, <https://www.opm.gov/about-us>.

¹²5 U.S.C. § 9902.

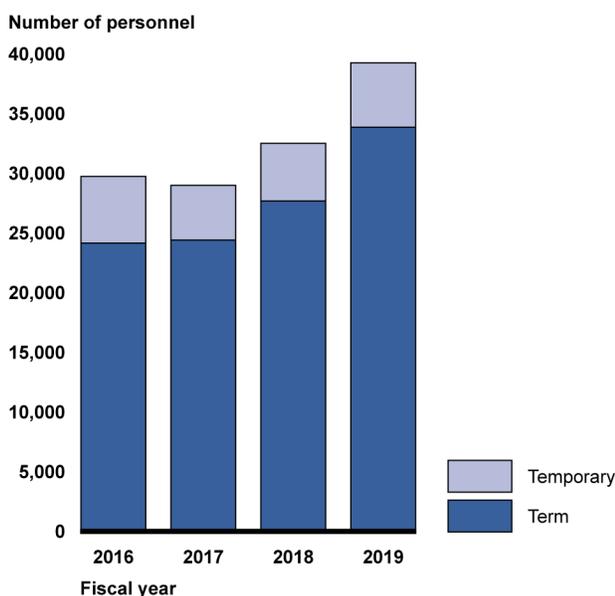
¹³Department of Defense, *FY 2020 - FY 2021 Department of Defense Civilian Human Capital Operating Plan*, p. 49 (October 2019).

¹⁴DOD collectively refers to the Office of the Secretary of Defense, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, Military Departments, Defense Agencies, DOD Field Activities, Combatant Commands, the Office of the Inspector General of the DOD, and all other organizational entities within DOD as the "DOD components." Department of Defense Directive 5100.01, *Functions of the Department of Defense and Its Major Components* (Dec. 21, 2010).

DOD Increased Term Personnel by 40 Percent and Decreased Temporary Personnel by 3 Percent from Fiscal Years 2016 through 2019

DOD increased the use of term personnel by 40 percent and decreased the use of temporary personnel by 3 percent from fiscal years 2016 through 2019, as shown in figure 1 and discussed below.

Figure 1: Changes in the Use of DOD Term and Temporary Personnel, Fiscal Years 2016—2019



Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: Term and temporary personnel are civilian employees appointed to positions that are not expected to have a continuing need. Totals include term or temporary personnel who were employed by DOD during any part of the fiscal year.

- **Changes in term personnel.** The number of DOD term personnel increased each year, from 24,141 in fiscal year 2016 to 33,849 in fiscal year 2019, for an overall increase of 40 percent, according to our analysis. The 40 percent growth in DOD’s term personnel was larger than the growth of the overall DOD civilian workforce (2 percent) during fiscal years 2016 through 2019.¹⁵ As a result, the percentage of DOD’s overall civilian workforce represented by term

¹⁵On March 31, 2016, DOD had an overall civilian workforce of 729,694, and on March 31, 2019, DOD had an overall civilian workforce of 744,529. See “DOD Personnel, Workforce Reports & Publications,” Defense Manpower Data Center (website), accessed March 31, 2020, https://www.dmdc.osd.mil/appj/dwp/dwp_reports.jsp.

personnel grew from 3.3 percent in fiscal year 2016 to 4.5 percent in fiscal year 2019.

- **Changes in temporary personnel.** The number of DOD temporary personnel decreased from a high of 5,599 in fiscal year 2016, to 4,585 in fiscal year 2017, and then increased to 5,408 in fiscal year 2019, for an overall decrease of 3 percent for fiscal years 2016 through 2019, according to our analysis.

We asked DOD officials for their perspectives of the reasons for the 40 percent increase in term personnel during fiscal years 2016 through 2019. They were not aware of any specific reasons, and suggested that more DOD components may have become familiar with the term and temporary appointment flexibilities, and proposed that the increase might be mission specific for the military services.

We also identified several aspects of DOD's term and temporary appointments during this time period related to (1) the percentage of these personnel converted to permanent civilian positions, and (2) the DOD organizations that employed the majority of term and temporary personnel.¹⁶

Conversion to permanent civilian positions. We determined that approximately 35 percent of DOD term and temporary personnel appointed during fiscal years 2016 through 2019 were converted to a permanent civilian position within the federal government, such as a career appointment or career-conditional appointment, according to our analysis.¹⁷

The Army employed the majority of term and temporary personnel. The Army employed 93,998, or 72 percent, of DOD's term and temporary personnel during fiscal years 2016 through 2019, according to our analysis.¹⁸ The other three services together accounted for approximately a quarter of all term and temporary personnel (18,801 for the Air Force, or 14 percent; 9,987 for the Navy, or 8 percent; and 3,630 for the Marine

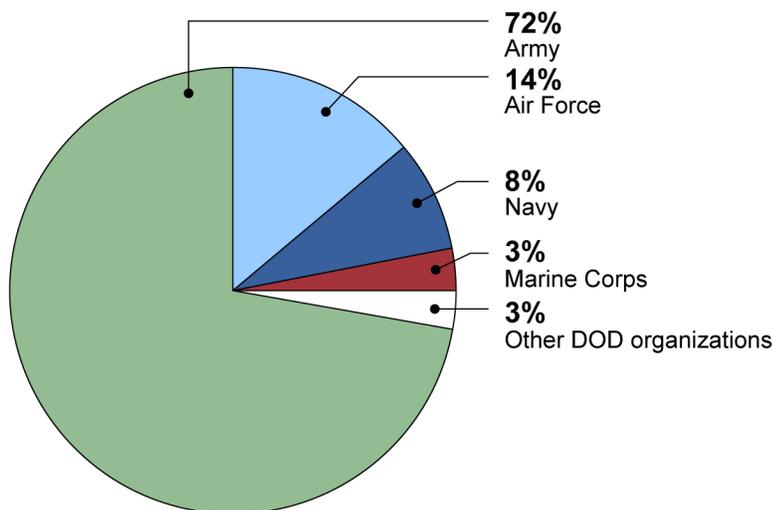
¹⁶We provide information on the occupational series filled by DOD's term and temporary personnel in appendix I.

¹⁷To determine the percent converted to permanent civilian positions, we did not include those personnel who were still employed in their temporary and/or term appointment at the end of fiscal year 2019.

¹⁸We provide information on Army obligations for term and temporary personnel in appendix II.

Corps, or 3 percent). The remaining 4,079, or 3 percent, of term and temporary personnel were employed by 28 other DOD organizations (See fig. 2.)

Figure 2: Term and Temporary Personnel, by DOD Organization (Percent), Fiscal Years 2016—2019



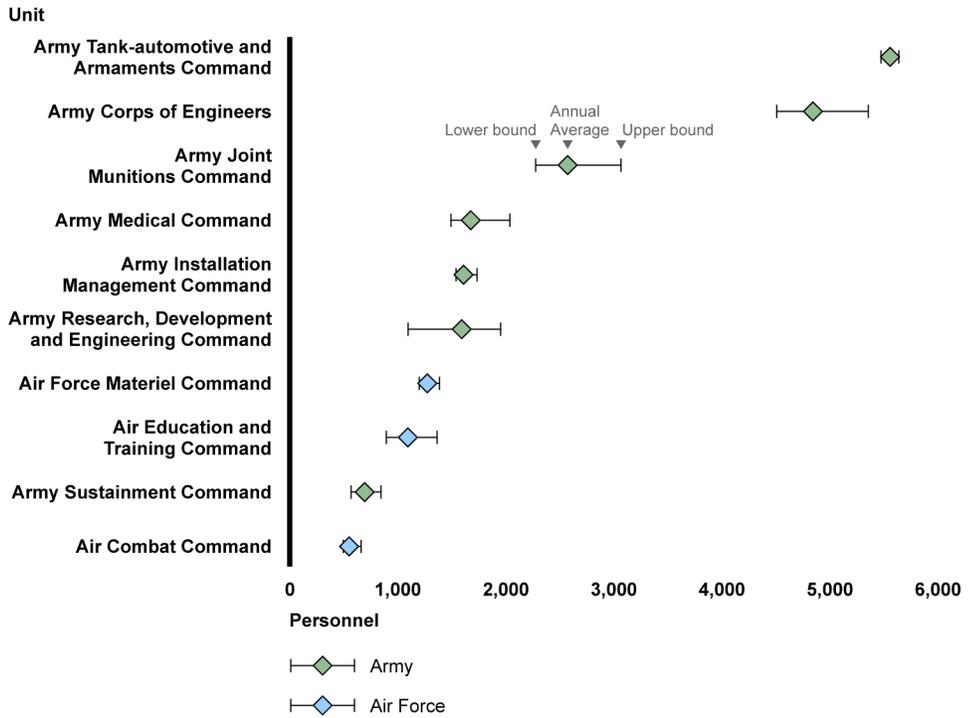
Total = 130,495

Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: Term and temporary personnel are civilian employees appointed to positions that are not expected to have a continuing need. Totals include term or temporary personnel who were employed by DOD during any part of the fiscal year. Defense Civilian Personnel Data System data identified a total of 146 major commands, direct reporting units, field activities and agencies, and other DOD organizations that employed term and temporary personnel. Other DOD organizations include, for example, Defense Logistics Agency and Defense Contract Management Agency.

Two Army units employed about one-third of DOD’s term and temporary personnel. The two largest users of term and temporary personnel—Army Tank-automotive and Armaments Command (TACOM) and the U.S. Army Corps of Engineers—accounted for 32 percent of DOD’s term and temporary personnel during fiscal years 2016 through 2019, according to our analysis. Figure 3 identifies the 10 units in DOD with the largest annual average of term and temporary personnel during fiscal years 2016 through 2019.

Figure 3: Units in DOD with the Largest Annual Average of Term and Temporary Personnel, Fiscal Years 2016—2019



Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: Lower bound indicates the lowest total of the 4 fiscal years. Annual average indicates the average of the 4 fiscal years. Upper bound indicates the highest total of the 4 fiscal years. Term and temporary personnel are civilian employees appointed to positions that are not expected to have a continuing need. Totals include term or temporary personnel who were employed by DOD during any part of the fiscal year.

Specifically, TACOM officials stated that the command frequently used term and temporary personnel because of 1) surges of equipment requiring maintenance and repair from combat operations, and 2) the command’s reliance on reimbursable funds.¹⁹ According to TACOM officials, overseas contingency operations cause increased wear and tear on ground combat equipment and require additional maintenance personnel to be hired at Army depots on term or temporary

¹⁹Reimbursable funding refers to a practice whereby a DOD organization receives funding from another organization to furnish services, supplies, material, or equipment. As an example, DOD officials pointed out that TACOM may receive funding from U.S. Army Central Command for completing maintenance work on its vehicles, such as tanks.

appointments.²⁰ TACOM officials also explained that maintenance schedules, and the reimbursable funding associated with such maintenance, are both difficult to predict—leading to increased risk for the command in terms of ensuring sufficient funding and workload to support a permanent workforce. As such, TACOM officials explained it is important to have increased flexibility to employ personnel as workload and funding fluctuates over time. According to U.S. Army Corps of Engineers officials, the command frequently uses term and temporary personnel since its missions are project funded—for example to respond to specific hurricane or flooding disasters and to support construction of military facilities for overseas contingency operations.

DOD Modified Term and Temporary Appointments, but Did Not Assess Employee Perceptions of 2017 Changes and Report Results to Congress as Required by Statute

DOD modified term and temporary appointments in June 2017, and term appointments in August 2018.²¹ These modifications extended the duration limit for term appointments from 4 years to 8 years, with further extensions considered on a case-by-case basis; extended the duration limit for temporary appointments from 2 years to 3 years; and allowed an option for term personnel to be non-competitively converted to permanent

²⁰DOD's Financial Management Regulation defines "contingency operations" as small, medium, or large-scale military operations, including but not limited to support for peacekeeping operations, foreign disaster relief efforts, noncombatant evacuation operations, and international disaster relief efforts. This definition is more encompassing than the definition set forth in 10 U.S.C. § 101(a)(13). Department of Defense Financial Management Regulation 7000.14-R, vol. 12, ch. 23, *Contingency Operations* (Dec. 2017).

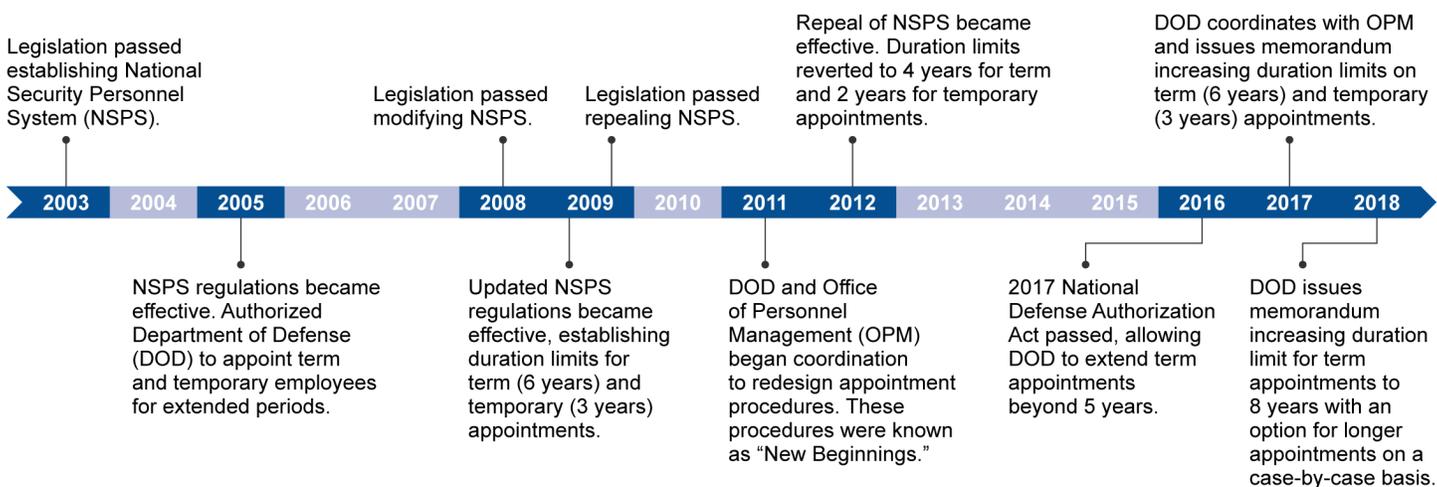
²¹Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, *Modification of Temporary and Term Appointments Within the Department of Defense* (June 12, 2017) and Deputy Secretary of Defense Memorandum, *Extensions of Term Appointments in the Competitive Service in the DOD* (Aug. 10, 2018).

positions under certain conditions.²² However, DOD did not assess employee perceptions of the 2017 modification and report to Congress and GAO on the results of the assessment, as required by statute. In commenting on a draft of this report, DOD stated that it plans to conduct a survey to assess employee perceptions of the 2017 modification, with a deadline of May 2021, and subsequently report the assessment results to Congress and GAO.

DOD Extended the Duration Limits for Term and Temporary Appointments and Allowed for Noncompetitive Conversion of Term Personnel to Permanent Employees

DOD’s authority to make term and temporary appointments has varied over time—in particular the duration limits for the appointments. According to OPM officials, DOD was first provided with the authority to appoint term and temporary personnel for extended periods with the implementation of the National Security Personnel System (NSPS) in 2005, and there have been a number of changes to its authority through 2018 as shown in figure 4.

Figure 4: Timeline of DOD Term and Temporary Appointment Authorities



Source: GAO analysis of DOD and OPM information. | GAO-20-532

²²These conditions are that the individual was competitively placed to the term appointment, the announcement for the term appointment stated that there was potential for subsequent conversion to a permanent position, the individual had completed at least 2 years of current continuous service under a term appointment, the employee’s performance was at least fully successful or equivalent, outplacement program requirements have been met, and similarly situated employees have been considered under internal competition procedures.

In 2011, DOD began coordinating with OPM to redesign appointment procedures. The redesigned procedures were called New Beginnings, which according to the program's purpose statement was designed, in part, to better position DOD to compete for and retain top talent.²³ According to OPM officials, DOD also coordinated with OPM in 2014, 2016, and 2017. This coordination effort resulted in the June 2017 DOD memorandum modifying the duration limits of term and temporary appointments.²⁴

DOD's 2017 modification to term and temporary appointments.

DOD's June 2017 modification to term and temporary appointments extended the duration limits for term appointments from 4 to 6 years and temporary appointments from 2 to 3 years, as well as allowed for noncompetitive conversion of certain term personnel to permanent personnel.²⁵ As part of implementing the modification, DOD coordinated with OPM regarding the changes. DOD officials told us, and OPM officials confirmed, that the changes DOD made in the 2017 modification were intended to restore the appointment parameters that had already been approved by OPM as part of the formulation of NSPS in 2003, which were subsequently repealed by Congress in 2012.²⁶ Specifically, the duration limits under NSPS were 6 years for term appointments and 3 years for temporary appointments. When NSPS was repealed by Congress in 2012, the maximum appointment lengths reverted to those in place for the

²³"Purpose," New Beginnings, Defense Civilian Personnel Advisory Service (website), accessed March 24, 2020, <https://www.dcpas.osd.mil/OD/NewBeginnings>.

²⁴Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, *Modification of Temporary and Term Appointments Within the Department of Defense* (June 12, 2017).

²⁵Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, *Modification of Temporary and Term Appointments Within the Department of Defense* (June 12, 2017).

²⁶The National Security Personnel System was established by section 1101 of Public Law 108-36. Final regulations for the system became effective on March 17, 2009, and set duration limits of 3 years for temporary appointments and 6 years for term appointments. Section 1113 of Public Law 111-84 repealed the system, effective Jan. 1, 2012.

executive branch in general, specifically 4 years for term appointments and 2 years for temporary appointments.²⁷

DOD's 2018 modification to term appointments. DOD's August 2018 modification extended the duration limit on term appointments from 6 to 8 years, with an option to extend the appointment beyond 8 years on a case-by-case basis.²⁸ Specifically, the August 2018 memorandum announcing the modification stated that DOD components may extend term appointments beyond 6 years, up to 8 years.²⁹ The memorandum added that DOD components could request approval for extensions beyond the 8 year limit from the Deputy Assistant Secretary of Defense for Civilian Personnel Policy, and that such extensions would be made in up to 1 year increments and considered based on extraordinary circumstances. DOD officials told us that the intent of the approval procedures included in the 2018 modification was to add accountability for extensions that were made beyond 6 years using new authority provided by Congress in the National Defense Authorization Act (NDAA) for Fiscal Year 2017.³⁰ DOD officials also told us they had not received any requests for extensions to term appointments beyond 8 years.

Implementing guidance for the 2017 and 2018 modifications to term and temporary appointments is planned, but not completed. The June 2017 and August 2018 memoranda modifying term and temporary appointments specified that implementing guidance would be issued within 180 days and 18 months, respectively (i.e., by December 9, 2017, and by February 10, 2020). While DOD did not meet these original deadlines, officials told us they plan to incorporate implementing guidance regarding term and temporary appointments into a new volume of the

²⁷The 2 year maximum duration for temporary appointments includes a 1 year appointment and a 1 year extension. For term appointments, OPM may authorize exceptions beyond the 4 year limit when the extension is clearly justified and is consistent with applicable statutory provisions.

²⁸Deputy Secretary of Defense Memorandum, *Extensions of Term Appointments in the Competitive Service in the DOD* (Aug. 10, 2018).

²⁹DOD collectively refers to the Office of the Secretary of Defense, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, Military Departments, Defense Agencies, DOD Field Activities, Combatant Commands, the Office of the Inspector General of the DOD, and all other organizational entities within DOD as the "DOD components." Department of Defense Directive 5100.01, *Functions of the Department of Defense and Its Major Components* (Dec. 21, 2010).

³⁰Pub. L. No. 114-328, § 1105 (2016).

DOD instruction regarding civilian personnel management.³¹ DOD officials told us that the original expected timeframe for issuing the implementing guidance was difficult to achieve based on DOD's guidelines for promulgating DOD instructions. They added that their intention is for components to use the June 2017 and August 2018 memoranda as interim guidance for implementing term and temporary appointments until the new volume is issued. The DOD components we interviewed were generally aware of the June 2017 and August 2018 memoranda, and told us that these memoranda provided sufficient information to allow them to implement the modifications to term and temporary appointments within their respective components.

DOD Plans to Assess 2017 Modifications to Term and Temporary Appointments and Report Results to Congress as Required by Statute, but Has Not Yet Done So

DOD did not assess employee perceptions of the June 2017 modification of term and temporary appointments and did not report the results of the assessment to Congress and GAO, as required by statute. DOD officials said they plan to assess employee perceptions of the 2017 modifications to term and temporary appointments and report results to Congress and to GAO as required by statute, but have not yet done so. We have previously reported on weaknesses in DOD's efforts to assess employee perceptions when modifying personnel management systems.³²

DOD has specific statutory authority to modify procedures for making appointments to positions within the competitive service, including term and temporary appointments, in order to better meet mission needs, respond to managers' and applicants' needs, and produce high-quality applicants, among other things.³³ DOD cited this authority when modifying term and temporary appointments in June 2017. According to this statutory authority, not later than 1 year after the implementation of these modified procedures, DOD is required to 1) conduct statistically valid internal assessments or employee surveys to assess employee perceptions of modifications to the appointments, and 2) report the results

³¹Specifically, DOD officials stated that they planned to issue a new volume of Department of Defense Instruction 1400.25, *Civilian Personnel Management*.

³²GAO, *Human Capital: DOD Needs to Improve Implementation of and Address Employee Concerns about Its National Security Personnel System* [GAO-08-773](#) (Washington, D.C.: Sept. 10, 2008). Specifically, we found that DOD had not developed an action plan to address the generally negative employee perceptions of NSPS. We recommended that DOD develop and implement an action plan to address the employee concerns. DOD did not take action to address this recommendation.

³³5 U.S.C. § 9902(b)(1).

of the assessments or surveys to the appropriate committees of Congress and GAO.³⁴ However, DOD did not complete the statutorily required assessment or survey assessing employee perceptions of the 2017 changes to term and temporary appointments, or submit a report with the results of such an assessment to Congress and GAO.

According to DOD officials, DOD did not complete the required assessment of the 2017 modification or the required report to Congress due to an internal misunderstanding regarding the applicability of Congressional waivers of reporting requirements. Specifically, in September 2019 we asked officials to provide a copy of the required report, but the officials responded that they believed the reporting requirement had been waived by Congress. We requested that DOD provide us with documentation of the waiver, and upon review of that documentation we determined that the waiver did not apply to the specific reporting requirement codified at 5 U.S.C. § 9902(h). We notified DOD of our conclusion in October 2019, at which time the officials explained that due to an internal misunderstanding they mistakenly believed Congress had waived the reporting requirement.³⁵ The officials added that they plan to develop a survey to gather this information and prepare the required report to Congress and GAO. However, as of October 2019, DOD had not established a timeline for completing the survey and reporting the results to Congress and GAO. Therefore, in the draft report provided to DOD for review and comment in June 2020, we included a recommendation that DOD establish a timeline for completing the survey. In its response to our

³⁴Upon receipt of DOD's report, GAO is required to review the assessments or surveys described in such report to determine if they were appropriately designed and statistically valid; and conduct a review of the extent to which the procedures are fair, credible, transparent, and otherwise in conformance with the statutory requirements of 5 U.S.C. § 9902.

³⁵Section 1080 of the NDAA for Fiscal Year 2016 (Pub. L. No. 114-92, § 1080 (2015)) and section 1061(k) of the NDAA for Fiscal Year 2017 (Pub. L. No. 114-328, § 1061(k) (2016)) permitted DOD to submit to Congress a list of statutory reporting requirements to be terminated. In this list, DOD included a reporting requirement from subsection (b) of section 1102 of the NDAA for Fiscal Year 2012 (Pub. L. No. 112-81, § 1102(b) (2011)). The requirement for DOD to complete an assessment or survey and report the results to Congress and GAO, codified at 5 U.S.C. § 9902(h), was originally enacted in subsection (a) of section 1102 of the NDAA for Fiscal Year 2012. DOD was unable to produce evidence that subsection (a) of section 1102 of the NDAA for Fiscal Year 2012 had been waived, and when prompted, provided us with the waiver for subsection (b) of section 1102. After revisiting the reporting requirement and waiver, DOD officials stated that there had been an internal misunderstanding, and they would begin taking steps to satisfy the reporting requirement codified at 5 U.S.C. § 9902(h).

draft report, DOD established a projected completion date of May 2021 for the survey.

For the August 2018 modification extending the duration limit for term appointments, DOD cited authority provided by Congress in the NDAA for Fiscal Year 2017.³⁶ Because DOD cited this authority, the department was not subject to the requirements of 5 U.S.C § 9902 when implementing this modification. Specifically, section 1105 of the National Defense Authorization Act for Fiscal Year 2017 provides the Secretary of Defense with the authority to make noncompetitive term and temporary appointments to address critical hiring needs, and to authorize extensions to competitive term appointments beyond 5 years.

DOD's planned survey to assess employee perceptions of changes to term and temporary appointments in 2017 should help DOD learn if the changes are meeting the program's stated goals, including improving the hiring experience for applicants and promoting fair and equitable treatment in the consideration and selection of individuals to positions. However, it will be important for DOD to report on the survey results so that both Congress and GAO obtain valuable information for conducting oversight of the use of term and temporary personnel.

Conclusions

DOD was provided with increased flexibilities by Congress to hire term and temporary personnel, and has leveraged this authority to manage risk associated with uncertain levels of funding and workload. DOD has taken advantage of these flexibilities to make additional changes to its hiring procedures, including by modifying term and temporary appointments by extending the duration of the appointments and allowing for conversion of term personnel to permanent employees. However, DOD has not assessed employee perceptions of changes made in 2017 and reported the results of the assessment to Congress and GAO, as required by statute. DOD plans to deploy a survey to complete this requirement, which is a positive step. The information garnered from the survey could provide DOD with insight into whether term and temporary appointments are providing the intended hiring flexibilities to its organizations, while also improving the hiring experience for applicants and promoting fair and equitable treatment in the consideration and selection of individuals to positions. However, it will be important that DOD report on this

³⁶Pub. L. No. 114-328 § 1105 (2016).

assessment, once completed, so that both Congress and GAO have valuable information for conducting their oversight responsibilities.

Recommendation for Executive Action

The Secretary of Defense should ensure that the Director of the Defense Civilian Personnel Advisory Service reports the results of the assessment of employee perceptions of modifications to term and temporary appointments to the Congress and GAO.

Agency Comments and Our Evaluation

We provided a draft of this report to DOD and OPM for comment. OPM told us that they had no comments on the draft report. DOD provided comments, which are reproduced in Appendix III.

In the draft product we provided to DOD for comment, we included an additional recommendation for DOD to establish a timeframe for completing the fielding and analysis of a planned survey to assess employee perceptions of modifications to term and temporary appointments. In its comments, DOD concurred with this draft recommendation and described ongoing and planned actions to address it. Specifically, DOD established a timeline for the fielding and analysis of a survey, with a projected completion date of May 2021. Because DOD's response addresses our draft recommendation, we have withdrawn that recommendation from our final report.

DOD concurred with our recommendation to report the results of the assessment of employee perceptions of modifications to term and temporary appointments to the Congress and GAO. In its comments, DOD did not describe any planned actions to address this recommendation or a timeframe for implementing it.

DOD also provided technical comments, which we incorporated in the report where appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the DOD Chief Management Officer, the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Personnel and Readiness, the Secretary of the Army, the Secretary of the Air Force, the Secretary of the Navy, the Commandant of the Marine Corps, the Chairman of the Joint Chiefs of Staff, the Director of the Defense Civilian Personnel Advisory Service, the Director of the Defense Manpower Data Center, and the Director of the Office of Personnel Management. In addition, the report is available at no charge on our website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2775 or fielde1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink, appearing to read "Elizabeth Field". The signature is fluid and cursive, with a large loop at the end.

Elizabeth Field
Director
Defense Capabilities and Management

List of Committees

The Honorable James M. Inhofe
Chairman
The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Richard C. Shelby
Chairman
The Honorable Dick Durbin
Ranking Member
Subcommittee on Defense
Committee on Appropriations
United States Senate

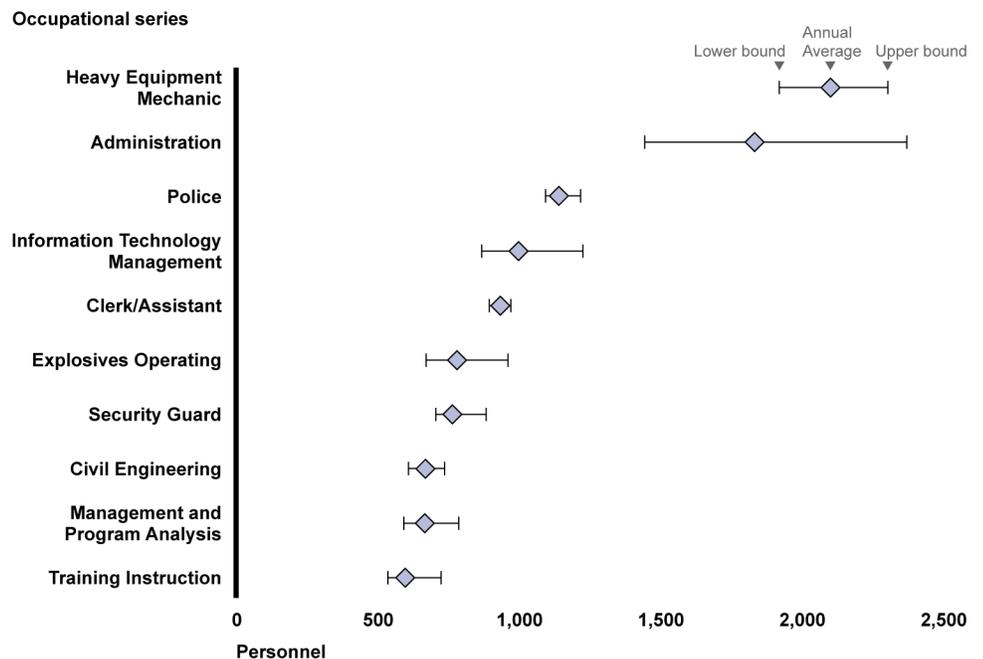
The Honorable Adam Smith
Chairman
The Honorable Mac Thornberry
Ranking Member
Committee on Armed Services
House of Representatives

The Honorable Pete Visclosky
Chairman
The Honorable Ken Calvert
Ranking Member
Subcommittee on Defense
Committee on Appropriations
House of Representatives

Appendix I: Occupational Series for Term and Temporary Personnel

Appendix I includes our analysis of the occupational series filled by the Department of Defense’s (DOD) term and temporary personnel from fiscal years 2016 through 2019.¹ DOD term and temporary personnel worked in 451 different occupational series during this time. As shown in figure 5, 10 occupational series accounted for about one-third of all term and temporary personnel during fiscal years 2016 through 2019 with heavy equipment mechanics (2,100 on average per year) and administration (1,831 on average per year) being the occupational series that relied the most on term and temporary personnel.

Figure 5: Occupational Series with the Largest Annual Average of Term and Temporary Personnel, Fiscal Years 2016—2019



Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: Lower bound indicates the lowest total of the 4 fiscal years. Annual average indicates the average of the 4 fiscal years. Upper bound indicates the highest total of the 4 fiscal years. Term and temporary personnel are civilian employees appointed to positions that are not expected to have a continuing need. Totals include term or temporary personnel who were employed by DOD during any part of the fiscal year.

¹The Office of Personnel Management defines occupational series as a subdivision of an occupational group or job family consisting of positions similar as to specialized line of work and qualification requirements. Series are designated by a title and number such as Heavy Mobile Equipment Mechanic, 5803; and Police Series, 0083.

DOD officials we interviewed provided several explanations for why certain occupational series would more frequently be filled using term and temporary personnel than others, including the following:

- A substantial amount of work occurs at depots, which rely on heavy equipment mechanics and other skilled trades.
- Term and temporary personnel, such as civil engineers, are often employed for technical projects that require science, technology, engineering, and mathematics skills (e.g., projects performed by the U.S. Army Corps of Engineers).
- When active duty military members are deployed to overseas contingency operations, term and temporary personnel are appointed to backfill those vacant positions with, for example, police and security guards.

Appendix II: Army Obligations for Term and Temporary Personnel

Appendix II contains information on the Army's obligations for term and temporary personnel including total obligations¹ incurred and an analysis of the obligations by type of amount—base amounts, overseas contingency operations amounts, and reimbursable amounts.² We also requested data from the Navy and the Air Force on financial obligations incurred for term and temporary personnel. However, complete obligations data were not readily available for the Navy and the Air Force because, according to officials, financial systems used by these services do not have the capability to identify obligations for term and/or temporary personnel. As a result, we limited our obligations' analysis to the Army.

To identify the total obligations incurred for term and temporary personnel for the Army, we obtained and examined data from five Army financial systems.³ Our analysis of Army data shows that obligations for Army term and temporary personnel have generally increased during fiscal years 2016 through 2019 as shown in figure 6.

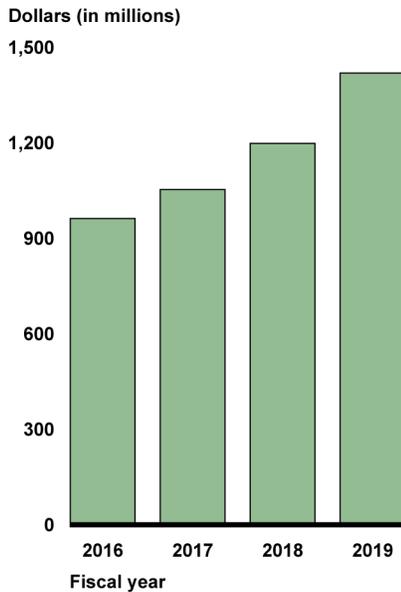
¹DOD's Financial Management Regulation defines financial obligations as amounts representing orders placed, contracts awarded, services received, and similar transactions during an accounting period that will require payment during the same, or a future, period. Department of Defense Financial Management Regulation 7000.14-R, *Glossary* (March 2019).

²Base amounts refer to funds appropriated for routine activities not associated with ongoing contingency operations, overseas contingency operations amounts refer to funds appropriated for overseas military operations, and reimbursable amounts refer to funds appropriated to one organization and then provided to another organization for property sold or services furnished.

³The Army systems we obtained obligations data from were General Fund Enterprise Business System, Corps of Engineers Financial Management System, Logistics Modernization Program, Standard Operation and Maintenance Army Research & Development System, and Standard Financial System.

Appendix II: Army Obligations for Term and Temporary Personnel

Figure 6: Obligations Incurred for Army Term and Temporary Personnel, Fiscal Years 2016—2019

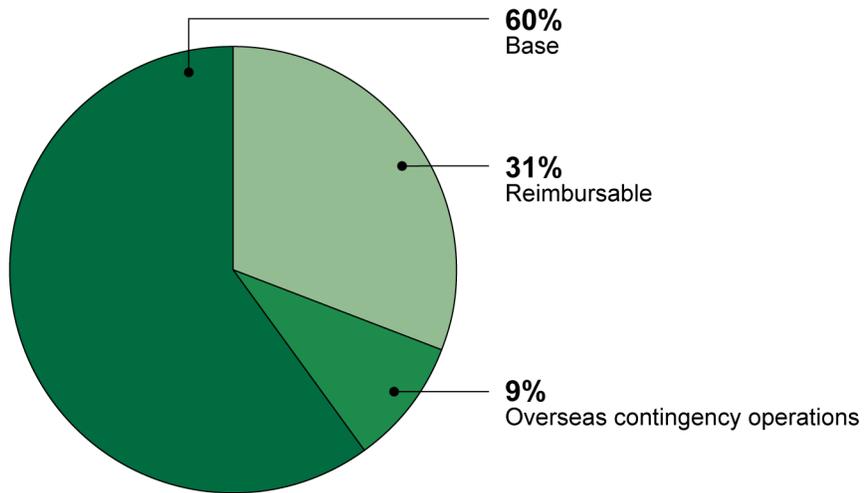


Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: DOD's Financial Management Regulation defines obligations as amounts representing orders placed, contracts awarded, services received, and similar transactions during an accounting period that will require payment during the same, or a future, period. Obligations' data came from the General Fund Enterprise Business System, U.S. Army Corps of Engineers Financial Management System, Logistics Modernization Program, Standard Operation and Maintenance Army Research & Development System, and Standard Financial System.

Data on obligations by type of amount were only available from the Army's General Fund Enterprise Business System. As a result, for our analysis of obligations by type of amount, we were only able to analyze data for approximately 75 percent of Army obligations for fiscal years 2016 through 2019. Our analysis of these data found that most term and temporary personnel were funded with base amounts totaling \$2,084 million, which are amounts used to pay for the Department of Defense's (DOD) normal activities (See fig. 7).

Figure 7: Obligations Incurred for Army Term and Temporary Personnel, by Type of Amount (Percent), Fiscal Years 2016—2019



Total = \$3.5 billion

Source: GAO analysis of Department of Defense (DOD) data. | GAO-20-532

Note: DOD's Financial Management Regulation defines obligations as amounts representing orders placed, contracts awarded, services received, and similar transactions during an accounting period that will require payment during the same, or a future, period. Obligations data came from the General Fund Enterprise Business System. Base amounts refer to funds appropriated for routine activities not associated with ongoing contingency operations. Overseas contingency operations amounts refer to funds appropriated for overseas military operations, and reimbursable amounts refer to funds appropriated to one organization and then provided to another organization for property sold or services furnished.

Of the data we analyzed, \$327 million, or about 9 percent, of term and temporary personnel obligations were tied to overseas contingency operations amounts (i.e., amounts to cover costs for small, medium and large-scale campaign level military contingency operations). Reimbursable amounts, which are amounts received for furnishing services, supplies, material, or equipment to another organization represent approximately 31 percent of term and temporary personnel obligations (i.e., \$1,067 million).⁴

⁴Reimbursable funds received from another organization could have been appropriated as either base or overseas contingency operations amounts. However, that information was not available in the Army's financial system.

Appendix III: Comments from the Department of Defense



MANPOWER AND
RESERVE AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

7/13/2020

Ms. Elizabeth Field
Director, Defense Capabilities and Management
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Ms. Field,

This is the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report, GAO-20-532, "DEFENSE WORKFORCE: DOD Needs to Assess Its Use of Term and Temporary Appointments," dated June 2, 2020 (GAO Code 103743).

Attached is DoD's proposed response to the subject report. My point of contact is Melissa Lalonde, who can be reached at melissa.a.lalonde.civ@mail.mil and phone (571) 372-1557.

Sincerely,

PENROD.VIRG Digitally signed by
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INIA.STRONG. DN: cn=INIA.STRONG,
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Attachment:
As stated

Attachment

**GOVERNMENT ACCOUNTABILITY OFFICE DRAFT REPORT DATED JUNE 2, 2020
GAO-20-532 (GAO CODE 103743)**

**“DEFENSE WORKFORCE: DOD NEEDS TO ASSESS ITS USE OF TERM AND
TEMPORARY APPOINTMENTS”**

**DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION**

RECOMMENDATION 1: The Government Accountability Office (GAO) recommends that the Secretary of Defense should ensure the Director of the Defense Civilian Personnel Advisory Service (DCPAS) establish a timeframe for completing the fielding and analysis of a planned survey to assess employee perceptions of modifications to term and temporary appointments.

DoD RESPONSE: The Department of Defense (DoD) concurs with the recommendation and has established a timeframe for completing the fielding and analysis of a survey to assess employee perceptions of modifications to term and temporary appointments. A survey has been developed and will be launched in conjunction with the FEVS survey, closing September 2020. Analysis will commence once the survey results have been received with a projected completion of May 2021.

RECOMMENDATION 2: The GAO recommends that the Secretary of Defense should ensure the Director of DCPAS reports the results of the employee perceptions of modifications to term and temporary appointments to the Congress and GAO.

DoD RESPONSE: DoD concurs with the recommendation to report the results of its assessment of employee perceptions concerning term and temporary appointments to Congress and GAO pursuant to section 9902 (h) of title 5, United State Code.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Elizabeth Field, (202) 512-2775 or fielde1@gao.gov

Staff Acknowledgments

In addition to the contact named above, Richard Geiger (Assistant Director), Foster Kerrison (Analyst-in-Charge), Michelle Bacon, Juliee Conde-Medina, Charles Culverwell, Erik Goepner, Alexandra Gonzalez, David Jones, Serena Lo, Clarice Ransom, and John Yee made key contributions to this report.

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