

HQUSACE
441 G Street NW
Washington, DC 20314
251400R September 2015

Initial Planning for USACE Operations in the Absence of Appropriations

Time Zone Used Throughout the OPLAN/OPORD: Eastern Standard (ROME0) Time.

1. **SITUATION.**

a. **Background.** The continuation of USACE Operations into Fiscal Year 2016 at current levels of staffing and spending depends on U.S. Congress enacting appropriations or a Continuing Resolution Authority (CRA). When a lapse in appropriations occurs, financial obligations are allowed only to conduct an orderly shutdown of operations or to continue those activities that are determined to be "excepted" based upon guidance set out in paragraph 3.d.(3) of the Coordinating Instructions in this Order. In the absence of appropriations, the USACE Organization must shut down all non-excepted activities until Congress passes a new CRA or enacts an appropriation bill to fund the USACE Organization. Those USACE operations that are lawfully funded with prior year available funds are "exempt" and can continue to operate until those funds are exhausted. When the funds are exhausted, a determination must be made of whether the activities are excepted or non-excepted activities based upon guidance set out in paragraph 3.d.(3) of the Coordinating Instructions in this Order.

b. **Definitions.** All USACE Operations will fall into three broad categories: Exempted, Excepted, and Non-Excepted.

(1) Exempted Activities. Exempted activities are those lawfully funded through multi-year, non-expiring funds, non-appropriated or non-U.S. funds that are not affected by a lack of appropriations for FY 2016.

(2) Excepted Activities. HQDA has identified excepted activities which are defined in the HQDA Contingency Plan Guidance for Continuation of Essential Operations in the Absence of Available Appropriations, FY 2013. Among other functions, these categories are essential to safety, protection of persons and property, and national security. See coordinating instruction para 3.d.(3) for elaboration on Excepted Activities.

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(3) Non-excepted Activities. Activities that do not fit into either an exempted or excepted activity as defined above.

2. **MISSION.** USACE prepares for a **potential** orderly shutdown of all activities other than excepted or exempted activities NLT 30 SEP 15.

3. **EXECUTION.**

a. **Commander's Intent.**

(1) **Purpose.** **This is a Warning Order. Commanders/Directors will not implement any phase of this order without specific direction through command channels from HQUSACE.** The purpose of this order is to provide guidance - and full transparency - for USACE operations in the absence of enacted appropriations or Continuing Resolution Authority (CRA).

(2) **Key Tasks.**

(a) For all USACE activities identify, by position, exempted activities based on the guidance in 3.d.(1) and the minimum work force necessary to support excepted activities based upon guidance set out in paragraph 3.d.(3) of this Order.

(b) USACE Commanders and HQs Principals (or a designated representative) will **BE PREPARED** to direct the execution of the shutdown plan at each level.

(c) All commands and HQs staff principals must verify local phone tree rosters are accurate in order to keep the work force informed and/or to recall personnel in case of emergencies.

(d) Leaders communicate current, accurate, and consistent status and information to their respective employees.

(3) **Endstate.** All USACE Organizations **PREPARED** to execute an orderly shutdown of non-excepted activities with affected employees identified and notified in a timely and respectful manner.

b. **Concept of Operations.** Prior to the beginning of a period of a lapse in appropriations, USACE will receive notification

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from higher headquarters to execute preparations for an orderly shutdown. The USACE plan will be conducted in four phases:

(1) Phase 1, Planning and Preparation. Commanders must review activities to determine their funding source. Exempted employees, funded by prior year appropriations may remain in a duty status until available funds are exhausted. Non-Exempted Activities not funded from prior year appropriations must be reviewed to determine if their missions meet the "excepted" requirement based upon guidance set out in paragraph 3.d.(3) of the Coordinating Instructions in this Order. Once this identification is complete, subordinate units and HQs Principals will identify by position the personnel funded with prior year appropriation and the minimum workforce necessary to adequately support or maintain mission for excepted activities based upon guidance set in paragraph 3.d.(3) of this Order.

(2) Phase 2, Notification. On [DD September YYYY], HQs Human Resources/Civilian Personnel Advisory Center (CPAC) will engage with unions and provide written notice that USACE may conduct shutdown. Union notice regarding potential furlough matters is not to be provided prior to notifying employees. Excepted Civilian employees and non-excepted Civilian employees will be identified in time to begin informal notifications by supervisors. Generic employee furlough letters for formal notification will be provided to subordinate commands and to HQ Principals by HQ Human Resources.

(3) Phase 3, Shutdown/Notification/Continuation of Excepted Activities. Upon direction from HQUSACE through command channels, all employees will report to work on the first work day after midnight 30 September 2015 (for most employees this will be 1 October 2015) in order to receive their written furlough notices and perform minimal duties required for an orderly shutdown. Written notification letters will be issued to both excepted and non-excepted employees by their supervisors. It is not expected that more than four hours will be required from the time the employee normally reports for duty to perform orderly shutdown. Non-excepted employees may not perform work other than for the period they report to duty. Typically, all employees performing similar duties will be released after working the same number of duty hours.

(a) As part of the notification process, supervisors will make every attempt to contact employees who are on TDY or on

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leave to advise them of their status as excepted or non-excepted by phone, text, email, FAX, or other means and will also notify such employees by certified mail, with return receipt to the employee's home address of record.

(b) If supervisors are unable to reach excepted employees, they will change the status of those employees to non-excepted and notify them that they are being furloughed and place them on furlough.

(c) Non-excepted employees who are scheduled to telework may perform these shutdown activities from their telework location provided an existing telework agreement is in place. Commanders and supervisors may at their discretion allow other employees to conduct shutdown activities from a remote location, even without an existing telework agreement; if the nature of the employee's shutdown activities is de minimus (i.e. can be completed in approximately 15 minutes).

(d) Employees will accrue pay for the time worked but will not be paid until such time as Congress makes appropriated funds available to compensate them for their period of service.

(e) Once shutdown activities are completed, non-excepted employees will be furloughed. Supervisory personnel at each USACE Command will ensure that all employees, both excepted and non-excepted, have been issued their individual notification letters prior to the end of their tour of duty. Further supervisory guidance will be provided by Human Resources.

(f) During the furlough period, non-excepted employees will be in a non-work, non-pay status and will not be permitted to serve as unpaid volunteers. They must remain away from the work place and may not perform any official duties unless and until recalled. They may not telework or otherwise perform work remotely such as via Citrix, blackberry or phone.

(4) Phase 4, Recall. During any potential funding hiatus, furloughed employees should regularly check the Office of Personnel Management (OPM) website (www.opm.gov) or local media as to whether an appropriation or CRA has been signed. Furloughed employees should report to work the next business day following enactment of a CRA or an appropriation related to USACE or request leave. The UOC will notify all activities to execute their local alert rosters once notification is received.

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c. Tasks to Subordinate Units.

(1) HQUSACE Directorates and Offices.

(a) Review all HQUSACE activities to determine excepted activities and to ensure they are minimally staffed throughout a potential shutdown. Provide excepted list of activities upon further guidance.

(b) Review HQUSACE positions and personnel associated with the excepted activities to ensure they are minimally staffed throughout the shutdown. Provide aggregate excepted and non-excepted personnel numbers upon further guidance.

(c) Provide guidance and oversight regarding the orderly shutdown of non-excepted activities across the USACE Organization.

(d) National organizations must coordinate all the above activities with affected subordinate commands.

(e) Document and track all impacts to operations as a result of the shutdown.

(f) Notify all civilian employees of excepted or non-excepted status NLT [XX September 2015].

(2) Major Subordinate Commands (MSC)/ Centers /Laboratories/Field Operating Activities/249th EN Bn.

(a) Review all activities to determine prior year funded activities and excepted activities. Ensure they are minimally staffed throughout the shutdown. Provide list of exempted and excepted activities upon further guidance.

(b) Provide guidance and oversight regarding the orderly shutdown of non-excepted activities across the region.

(c) Document and track all impacts to operations as a result of the shutdown.

(d) Notify all civilian employees of excepted or non-excepted status NLT [DD September YYYY].

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d. Coordinating Instructions.

(1) Exempted Activities. Civilian personnel working on activities funded with appropriations that have sufficient prior year funding authority will not be furloughed. Upon exhaustion of funds (that pay the employee's salary), employees will be furloughed unless the employee supports excepted activities based upon guidance set out in paragraph 3.d.(3) of the Coordinating Instructions of this Order. Exempted activities will include:

- (a) Multiyear or non-expiring direct appropriations that have sufficient lawfully available prior year funding.
- (b) Reimbursable orders funded prior to 30 September XXXX by multi-year or non expiring appropriations.
- (c) Non Appropriated Funded (NAF) employees.
- (d) Foreign Military Sales(FMS) cases and Host Nation Support begun prior to 30 September 2015.

(2) Active Duty Military. All active duty uniformed military personnel are exempt from shutdown procedures, and will report for duty.

(3) Excepted Activities. The following activities are considered "excepted" activities and will be performed using minimum staffing:

(a) Emergency Operation Center (EOC) watch desk activities.

(b) Reimbursable work, e.g., support for others for which the ordering agency has determined that the work is excepted based on their program authorities and appropriations.

(c) Other civil works activities that are to continue using minimal staffing without regard to available funding:

- 1. Operations and minimum required maintenance personnel of hydropower plants.
- 2. Operations and minimum required maintenance personnel of commercial locks.

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3. Operations of gates and other water control features at flood control projects.
4. USACE emergency response work (PL-84-99) to the extent necessary to protect life and property.
5. Emergency support to civil authorities in response to disasters or other immediate threats to life or property with respect to responsibilities to state and local governments.
6. Operation of the Washington Aqueduct assigned to the Baltimore District.
7. Any environmental remediation activity (includes FUSRAP) to the extent immediately necessary to protect life and property.
8. Activities necessary to effect the upward adjustment of obligations and the reallocation of prior-year unobligated funds in support of excepted activities. Activities necessary to control funds, record new obligations incurred in the performance of excepted activities, and manage revolving funds.
9. All other Commander/Director identified excepted activities to protect against imminent threats to life and property or to continue support to maintain national security.

(d) Other military activities that are to be continued without regard to available funding:

1. Operations of the 249th Engineer Battalion.
2. Excepted (emergency) activities involving reserve component personnel.
3. Operation of the Army Geospatial Center (AGC) to protect against imminent threats to life and property or to continue support to maintain national security.
4. Operation of the Engineering Research and Development Center (ERDC) to protect against imminent threats to life and property or to continue support to maintain national security.

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5. Operations of command and control systems, including computers, telecommunication centers, phone switches and secure conference capability to the extent necessary to support excepted activities. Minimum required cyber security personnel shall be considered excepted and present in the UOC to work through the shutdown in case of a cyber incident. Each of the ACE-IT and non ACE-IT managed sites will be directed to follow normal cyber incident reporting paths with a direct report to the UOC. If a cyber incident is detected the Cyber Advisory Response Panel (CARP) will be enacted regardless of membership status as required not required.

6. Operations of the following organizations: Far East (CEPOF); Japan (CEPOJ); Afghanistan (CETAA), Middle East (CEMED), Europe (CENAU) and Transatlantic Division (CETAD) to the minimum extent necessary to support excepted activities.

7. Forward deployed commands executing Chairman of Joint Chiefs of Staff or Combatant Commander operations/deployment orders and those activities required to support threats to national security and the protection of life and property. This includes Forward Engineer Support Teams (FEST).

(e) Litigation activities associated with imminent or ongoing legal action, to support excepted activities.

(f) Foreign national employees governed by country to country agreements that prohibit furloughs are excepted. Non Appropriated Fund (NAF) employees are excepted.

(g) Minimum USACE Logistics Activity ULA personnel required to operate and maintain USACE owned facilities that will be occupied during the shutdown period.

(h) ACTEDS interns will be furloughed unless otherwise excepted.

(4) Non-Excepted Activities. Any activity or civilian employees not specifically cited above in Coordinating Instruction 3.d.(1) or 3.d.(3) are considered non-excepted

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employees and must be furloughed until the enactment of an appropriation or a CR.

(5) Manning of Excepted Activities. Excepted activities must be minimally staffed to adequately support or maintain mission. Excepted activities will operate under a normal work schedule. Alternate work schedule and telework will not be used. Support staff (includes staff not charging time directly to excepted activities, i.e. General and Administrative or Consolidated Departmental Overhead) at all Districts, Field Operating Activities (FOAs), Centers (including Engineering, Research and Development Center (ERDC) and Army Geospatial Center (AGC), Major Subordinate Commands and Headquarters (including HECSA/IWR) directly supporting excepted activities are to be reduced to the minimum required level. As a general rule, support staff should not exceed 10% of the total authorized excepted staff plus exempted staff.

(6) Contracts.

(a) Contractors performing under a contract that was fully obligated upon contract execution (or renewal) prior to the expiration of appropriations may continue to provide contract services whether in support of excepted activities or not.

(b) For excepted activities, USACE may continue to enter into new contracts, or place task orders under existing contracts, to obtain supplies and services necessary to carry out or support excepted activities, even though there are no available appropriations. It is emphasized that this authority is to be exercised only when determined to be necessary where delay in contracting would endanger national security or create an imminent and unacceptably high-risk to life or property.

4. Sustainment.

a. Pay Status. Employees "excepted" from potential furloughs will not receive pay during the shutdown. Pay earned by personnel in an excepted status will be disbursed following an enacted CRA or an appropriation related to USACE. "Non-excepted" personnel will be furloughed and placed in a "non-pay" status. Exempted employees will continue to receive pay until funding is exhausted.

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b. Travel.

(1) Only travel related to exempted activities, deployment, excepted activities or on a declared emergency operation is authorized. All other personnel on TDY will return to home station as soon as practical.

(2) USACE sponsorship or participation in a conference must be postponed or canceled unless it is to protect against imminent threats to life and property or to continue support to maintain national security.

(3) Any USACE element hosting a conference and in charge of making the hotel arrangements must conduct an immediate review of the contract provisions regarding postponement, rescheduling, or termination to minimize liability to the government must take place. In turn, immediate engagement with the hotel/facility must take place. After negotiations with the hotel/facility, advise scheduled attendees of the conference status (postponement/cancellation) so they can cancel hotel, airline and any other travel/logistical reservations and avoid liability.

(4) All USACE Proponent-Sponsored Engineer Corps Training (PROPSECT) classes are cancelled.

(5) PCS moves and travel deemed necessary to maintain USACE command and control and related directly to excepted functions is authorized.

(6) TDY voucher submissions will take place only after the shutdown period.

5. Command and Control.

a. Command. HQ USACE, Washington, DC.

b. Control. This is an annual update that will be used in the event of an order for execution.

c. Signal. HQ USACE POC is COL Peter Helmlinger , Chief of Staff, peter.helmlinger@usace.army.mil, (202) 761-0761. UOC contact information (202) 761-1001, CE-UOC@USACE.Army.Mil

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ACKNOWLEDGE:

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Attachments: ANNEX A - Employee Estimates

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ANNEX A

Employee Estimates (All estimates are as of 22 August 2015.)

A total of 33,369 employees are expected to be on-board before implementation of the plan. Of these, 32,389 employees are expected to be exempted.

Direct DoD Appropriations (OMA & RDTE)

- 1,491 employees expected to be on-board before implementation of the plan, including:
 - 511 Research and Development Employees, and 980 Operations and Maintenance, Army Employees
 - 1,422 employees permanent, 46 temporary, and 23 term employees
- All 511 Research and Development employees expected to be retained because there is sufficient multi-year appropriations. (Compensation is financed by a resource other than annual appropriations.)
- 150 Operations and Maintenance employees expected to be retained to perform excepted activities. (They are necessary to protect life and property.)

Direct CW (Expenses)

- 903 employees expected to be on-board before implementation of the plan, including 853 permanent, 41 temporary, and 9 term employees.
- All 903 employees are exempted for activities funded through multi-year, non-expiring funds, or non-appropriated funds that are not affected by a lack of appropriations for FY16.

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Military Project Funded

- 8,226 employees expected to be on-board before implementation of the plan, including 7,388 permanent, 101 temporary, 216 term employees, and 521 host nation employees.
- All 8,226 employees are exempted for activities funded through multi-year, non-expiring funds, or non-appropriated funds that are not affected by a lack of appropriations for FY16.

Civil Works Funded Projects

- 22,527 employees expected to be on-board before implementation of the plan, including 20,921 permanent, 1,004 temporary, and 602 term employees.
- All 22,527 employees are exempted for activities funded through multi-year, non-expiring funds, or non-appropriated funds that are not affected by a lack of appropriations for FY16.

Contingency Operations (including deployed and CONUS assigned personnel)

- 222 employees expected to be on-board before implementation of the plan, including 178 permanent, 18 temporary, and 26 term employees.
- All 222 employees are excepted for activities funded through multi-year, non-expiring funds, or non-appropriated funds that are not affected by a lack of appropriations for FY16.