

HQ USACE  
441 G. Street N.W.  
Washington, DC  
261500RSEPT2013

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

(U) References:

- a. HQDA Alaract 241/2013 - Continuation Of Operations In The Potential Absence Of Available Appropriations

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

1. (U) **Situation.**

a. **Purpose** - To provide guidance for USACE operations in the absence of a FY14 enacted appropriations or a FY14 Continuing Resolution Authority (CRA).

b. **Background** - When neither an appropriation nor a continuing resolution has been enacted at the start of a fiscal year a "funding gap" exists. When this situation 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 3d(3) of the Coordinating Instructions of 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 funded with prior year available funds can continue to operate until those funds are exhausted. When the funds are exhausted, a determination of excepted and non-excepted activities must be made based upon guidance set out in paragraph 3d(3) of the Coordinating Instructions of this Order.

2. (U) **Mission.** USACE prepares for an orderly shutdown of all activities other than excepted activities or those funded with prior year funds. Excepted activities will be minimally staffed based upon guidance set out in paragraph 3d(3) of the Coordinating Instructions of this Order.

3. (U) **Execution.**

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

a. (U) **Commander's Intent**. Commanders/Directors will not implement Phase 3 of this order without specific direction from Commander, USACE. Prior to exhaustion of funding authorities, all USACE activities will identify, by position, activities funded by prior year appropriations and the minimum work force necessary to support excepted activities based upon guidance set out in paragraph 3d(3) of the Coordinating Instructions of this Order. USACE Commanders and HQs Principles or a designated representative will direct the execution of the shutdown plan at each level. Additionally all commands and HQs staff principles 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. Finally, it is critical that leaders communicate current, accurate, consistent status and information to their respective employees.

b. (U) **Concept of Operations**. Prior to enactment of the CRA, USACE will receive notification 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. Employees funded by prior year appropriations may remain in a duty status until available funds are exhausted. Activities not funded from prior year appropriations must be reviewed to determine if their mission meet the "excepted" requirement based upon guidance set out in paragraph 3d(3) of the Coordinating Instructions of 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 based upon guidance set in paragraph 3d(3) of the Coordinating Instructions of this Order.

(2) **Phase 2, Notification**. On 26 September 2013, HQ Human Resources/Civilian Personnel Advisory Center (CPAC) will engage with unions and provide written notice that USACE may conduct shutdown (sample union notification letter attached as Annex A). Union notice regarding furlough matters is to be provided prior to notifying employees. Excepted Civilian employees and non-excepted Civilian employees will be identified in time to begin informal notifications (verbal) by supervisors starting 26 September 2013. Informal notifications to these two groups of employees will be complete by 27 Sep. Generic employee furlough letters for formal notification will be

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

provided to subordinate commands and to HQs Principals by HQ Human Resources NLT 30 September 2013.

(3) **Phase 3, Shutdown/Notification/Continuation of Excepted Activities**. Upon direction from Commander USACE, all employees will report to work on the first work day after midnight 30 September 2013 (for most employees this will be Tuesday 1 October 2013), 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 order 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.

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

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.

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 shut down activities is de minimus (I.E. can be completed in approximately 15 minutes).

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.

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

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

employees, have been issued their individual notification letters prior to the end of their tour of duty. Further supervisory guidance will be provided.

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 funding hiatus, furloughed employees should regularly check the Office of Personnel Management (OPM) website ([www.opm.gov](http://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. USACE UOC will notify all activities to execute their local alert rosters once notification is received.

c. (U) **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 the shutdown. BPT 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. BPT 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 battle track and document all impacts to operations as a result of the shutdown.

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

(f) Notify all civilian employees of excepted or non-excepted status NLT 27 September 2013. This is informal notification should be verbal or email.

(2) **Major Subordinate Commands (MSC) / Districts / Centers / Laboratories**

(a) Review all activities to determine prior year funded activities and excepted activities. Ensure they are minimally staffed throughout the shutdown. BPT provide list of prior year funded 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 battle track all impacts to operations as a result of the shutdown.

(d) Notify all civilian employees of excepted or non-excepted status NLT 27 September 2013. This is informal notification should be verbal or email.

d. (U) **Coordinating Instructions.**

(1) 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 3d(3) of the Coordinating Instructions of this Order.

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

(3) The following "excepted" activities required based upon guidance set out in paragraph 3d(3) of the Coordinating Instructions of this Order are exempt from furlough and will be performed using minimum staffing:

- 1) Emergency Operation Center (EOC) watch desk activities.
- 2) Reimbursable work, e.g., support for others for which the ordering agency has provided funding authority and

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

determined that the work is excepted based on their program authorities and appropriations.

- 3) All full-time Sexual Assault Prevention and Response (SAPR)/Victim Advocates and Sexual Assault Response Coordinators.
- 4) Other civil works activities that are to be continued using minimal staffing without regard to available funding:
  - a) Operations and minimum required maintenance personnel of hydropower plants.
  - b) Operations and minimum required maintenance personnel of commercial locks.
  - c) Operations of gates and other water control features at flood control projects.
  - d) USACE emergency response work (PL-84-99).
  - e) 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.
  - f) Operation of the Washington Aqueduct assigned to the Baltimore District.
  - g) 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 working capital funds.
  - h) All other Commander/Director identified excepted activities to protect against imminent threats to life and property or to continue support to maintain national security.

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

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OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)

- a) Operation of the 249th Engineer Battalion.
- b) Excepted (emergency) activities involving reserve component personnel.
- c) Operation of the Army Geospatial Center (AGC) to protect against imminent threats to life and property or to continue support to maintain national security.
- d) 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.
- e) Operations of command and control systems, including computers, telecommunication centers, phone switches and secure conference capability to the extent necessary to support excepted activities.
- f) Operations of the following districts: Far East (CEPOF); Japan (CEPOJ); Afghanistan CETAA), Middle East (CEMED), Europe (CENAU) and Transatlantic Division (CETAD) and to the minimum extent necessary to support excepted activities.
- g) 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).
- h) Any environmental remediation activity (includes FUSRAP) to the extent necessary to protect life and property.
- i) Execution of all Foreign Military Sales (FMS) cases and Host Nation support begun prior to 30 September 2013.

(5) Employees "excepted" from furlough or working on prior year funds will not receive pay during the shutdown. Pay earned by personnel in an excepted status will be disbursed

**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

following an enacted CRA or an appropriation related to USACE. "Non-excepted" personnel will be furloughed and placed in a "non-pay" status. They cannot expect to be paid retroactively for the time during which they were furloughed unless legislative relief is enacted.

(6) Use of Annual Leave in Lieu of Furlough - Guidance TBD

(7) ACTEDS interns are not authorized to take leave and will be furloughed unless otherwise excepted.

(8) Excepted activities must be minimally staffed to adequately support or maintain mission based upon guidance set in paragraph 3(d)3 of the Coordinating Instruction of this Order. 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 ERDC and 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 staff funded with prior year appropriations.

(9) Travel.

a) Only travel related to prior year funded 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.

b) 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.

c) If an USACE element is hosting a conference and in charge of making the hotel arrangements, an immediate review of the contract provisions regarding postponement, rescheduling, or termination to minimize liability to the



**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

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.

- d) All USACE Proponent-Sponsored Engineer Corps Training (PROSPECT) classes are cancelled.
- e) PCS moves and travel deemed necessary to maintain USACE command and control and related directly to excepted activities is authorized.
- f) TDY voucher submissions will take place only after the shutdown period.

(10) 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 only (threats to national security and the protection of life and property), 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 a risk of life or property.

(11) Litigation activities associated with imminent or ongoing legal action, in forums inside or outside of DoD, to the extent required by law or necessary to support excepted activities or court order.

UNCLASSIFIED

OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)

(12) Foreign national employees paid with host country funds are excepted from furlough. Additionally, foreign national employees governed by country to country agreements that prohibit furloughs are excepted. Non Appropriated Fund (NAF) employees are excepted.

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

(14) Any activity or civilian employees not specifically cited above are considered non-excepted employees and must be furloughed until the enactment of a CR or an appropriation related to USACE.

4. (U) Sustainment. No change.

5. (U) Command and Control.

a. Command. HQ USACE, Washington, DC.

b. Control. To be published in the event of execution.

c. Signal.

(1) HQ USACE POC is COL Richard M. Toy, Chief of Staff, [Richard.M.Toy@usace.army.mil](mailto:Richard.M.Toy@usace.army.mil), (202) 761-0761.

(2) Human Resources POC is Phil Demarais, [Philip.demarais@usace.army.mil](mailto:Philip.demarais@usace.army.mil), (202)761-0334.

(3) Resource Management POC is Michael Walsh, [Michael.walsh2@usace.army.mil](mailto:Michael.walsh2@usace.army.mil), (202)761-1858.

(4) UOC contact information (202) 761-1001, [CE-UOC@USACE.Army.Mil](mailto:CE-UOC@USACE.Army.Mil) .

ACKNOWLEDGE:

THOMAS P. BOSTICK

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**OPERATION ORDER 2013-65 (USACE Operations in the Absence of Appropriations)**

Lieutenant General, USA  
Commanding

**OFFICIAL:**

ROEMHILDT  
COL, G-3

**Annexes:**

Annex A - Union Notification Letter

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