

DEPARTMENT OF THE ARMY  
U. S. Army Corps of Engineers  
Washington, DC 20314-1000

ER 37-1-28

CERM-B

Regulation  
No. 37-1-28

30 November 2001

Financial Administration  
CONTINUING RESOLUTION AUTHORITY (CRA)

1. Purpose. This regulation establishes the procedures by which the U.S. Army Corps of Engineers (USACE) activities will operate under and immediately following one or more Continuing Resolutions. This regulation is not intended to replace or duplicate the policy contained in higher headquarters regulations, rather, it provides guidance specifically applicable to the Corps of Engineers.

2. Applicability. This regulation applies to all HQUSACE elements and USACE Commands.

3. Distribution. Approved for public release; distribution is unlimited.

4. References.

a. Congressional Budget and Impoundment Control Act of 1974, *Public Law 94-344*.

b. Office of Management and Budget (OMB) Circular A-34, *Instructions on Budget Execution*.

c. DoD Financial Management Regulation (DoDFMR), *DoD 7000.14R*.

d. DFAS-IN 37-1, *Defense Financial and Account Service (DFAS), Finance and Accounting Policy Implementation*.

e. ER 37-1-24, *Operating Budgets*.

f. ER 37-2-10, *Accounting and Reporting - Civil Works Activities*.

5. General.

a. Continuing Resolution Authority (CRA) is a joint resolution signed by the President to provide interim appropriations for Federal agencies in the absence of annual initial appropriations. CRAs have fixed lives and specify formulas for determining funding available for continuing programs, projects, and activities (PPAs). Guidance for shutting down, in the event that USACE must close, is contained in Appendix A.

b. A CRA provides the authority necessary to allow operations to continue in the absence of annual initial appropriations. Policies provided in references 4c and 4d state that "operations will continue

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up to the amount contained in the President's budget, the previous year's rate of execution, or amount recommended by the House and Senate Appropriations Committees, whichever is the lowest or most restrictive." With this guidance, Headquarters (CERM-B) will provide temporary civil works funding authority (i.e., FADs and/or directives) to finance PPAs up to the previous fiscal years funding ceilings and the same conditions set-forth in the civil works appropriation acts. This guidance also provides that funding for terminated or significantly reduced PPA are to be continued at a lower percentage (i.e., 90%) of the current rates to preclude furloughs.

c. A "Hiatus" or funding gap, exists when neither an appropriation nor CRA is enacted. During this time, existing obligations may continue to be executed to the extent that they are limited to emergencies involving the safety of human life or the protection of property. Also, obligation of unexpired funds of multi-year appropriations and no-year funds may continue during a funding gap. Otherwise, obligations are permitted only to shut down the Corps.

d. This regulation provides the basic guidance and direction for all USACE activities for operation under and immediately following termination of CRAs.

(1) USACE receives most of its annual funding from the Military Construction Appropriations Act, Defense Appropriations Act and the Energy & Water Development Appropriations Act. Therefore, if the government is unable to pass any one of these appropriation acts by 1 October (the start of the fiscal year), it must enact a CRA immediately or Corps activities could shut down.

(2) New start construction projects are not permitted to begin under a CRA or during a funding gap. On the other hand, new start planning and design activities are permitted to begin under a CRA.

e. Reference 4c, chapter 8, paragraph 080402, states that unless higher headquarters provide other specific guidance, a CRA imposes the following restrictions:

(1) "Rate of execution generally will not exceed the amount contained in the President's budget, the previous year's rate of execution, or the amount recommended by the House and Senate Appropriations Committees, whichever is the lowest or most restrictive."

(2) "No new starts may be initiated. Operations & Maintenance, Army funded minor construction is not considered a new start."

(3) "No increase in scope of ongoing programs is permitted."

(4) "No new multiyear procurements are permitted."

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6. Procedures. During a CRA, use the following:

a. USACE activities receiving and executing work with military funds must comply with the guidance issued by higher headquarters. Specific instructions will be included in the "Remarks Section" of the Funding Authorization Document, issued through the Program Budgeting and Accounting System (PBAS). Military personnel will be reassigned to essential activities and duties.

b. HQUSACE will provide each Corps activity with its civil works apportionment by way of a FAD and the local RM distributes funding to the project level per the restrictions in paragraph 5e. Interim funding and Purchase Requests & Commitments (PRCs) guidance for CEFMS are described in Appendix B of this regulation.

(1) Unobligated balances of all carryover funds will be reapportioned.

(2) All PPAs funded in the prior fiscal year (before the CRA) and specifically budgeted for in the next fiscal year, or individually listed in the House or Senate bill/report, may continue. For the Operation and Maintenance, General appropriation, Corps activities must obtain HQUSACE approval, before bid advertisement, to award contracts for more than \$500,000. Also, Corps activities must obtain HQUSACE approval before signing any new feasibility study cost sharing agreements.

(3) Obligations for continuing contracts for all PPAs will be limited to amounts expected to be earned through the CRA period. Also, contractors should not submit exhaustion of funds letters during the CRA period. To avoid any misunderstanding, the following statement will be included in a separate memorandum addressed to each contractor:

*"Until the enactment of (specific FY) appropriations, it will be necessary to reserve funds for your contract on a periodic basis. The amount reserved through (CRA period) is \$XX,XXX,XXX. In planning your operations for (specific FY), you should base them on receiving \$XX,XXX,XXX for the entire year. After (specific FY) funds have been allocated, you will be advised in writing of the funds reserved for the entire fiscal year ending 30 September XXXX."*

c. Reimbursable work may proceed to the extent that activities have received valid reimbursable orders from customers.

d. Transfer appropriations under agency symbol 96 may be obligated to the extent that funds are available, unless otherwise advised by this headquarters or transferring agencies.

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e. During a shutdown, civilian employees being furloughed per Appendix A, may be authorized to use their annual leave instead of non-pay status. However, Corps activities maintaining less than 100% (not fully funded) accrued leave reserves at the end of the previous leave year, must obtain CERM-F approval before granting this authority.

FOR THE COMMANDER:

2 APPENDICES  
APP A - Shutdown Criteria  
APP B - CEFMS Processes

ROBERT CREAR  
Colonel, Corps of Engineers  
Chief of Staff

APPENDIX A

USACE ORDERLY SHUTDOWN CRITERIA

A-1. First and foremost, do not implement these instructions or furlough any Corps employees without specific direction from the Chief of Engineers. This document is intended for planning purposes only.

A-2. Prior to exhaustion of funding authorities, all USACE activities will be notified to proceed with identification, by individual, of the minimum workforce necessary to protect life and property, to continue supporting Joint Chiefs of Staff (JCS) operational orders, and to safeguard records.

A-3. The shutdown will be directed by the USACE Commander or a designated representative, and will begin as directed at each Corps command. It is estimated that personnel affected by these procedures could be released within four hours of initial notification.

A-4. All active duty uniformed military personnel assigned to USACE are considered exempt from shutdown procedures, and will report for duty. Duty assignments may be designated by the local commanders to supplement other activities. Only civilian employees whose functions support exempt activities listed below are to remain on duty.

A-5. The following activities are considered exempt from shutdown procedures and will be performed using minimum staffing:

a. All Emergency Operation Center (EOC) activities (minimum staffing includes all permanent staff plus any augmentation authorized by the USACE Commander).

b. Any planning, design and construction activities directly funded by available carryover appropriations - both civil works and military - to the extent funds are available.

c. Any reimbursable work, e.g., support for others - for which the ordering agency has provided funding authority and determined that the work is exempt from its shutdown criteria.

d. Other civil works activities that are to be continued without regard to available funding:

- (1) Operations and security of hydropower plants.
- (2) Operations and security of commercial locks.

(3) Operations and security of gates at flood control projects.

(4) Emergency work restoration.

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(5) Operations of the Washington Aqueduct assigned to the Baltimore District.

e. Other military activities that are to be continued without regard to available funding:

(1) All operations of the 249<sup>th</sup> Engineer Battalion, minimum staffing includes all staff of the battalion, plus any military or civilian personnel in direct support of its operations.

(2) Exempted (emergency) activities involving reserve component personnel (minimum staffing includes all involved personnel).

(3) All operations of the Topographic Engineering Center (CETEC) plus any military or civilian personnel in direct support of its operations.

(4) Operations of command and control systems, including computers, telecommunication and phone switches.

(5) All operations of the following districts: Far East (CEPOF); Japan (CEPOJ); and Europe (CENAU).

(6) All operations, including CONUS-based support, of the Overseas Project Offices.

(7) Any environmental remediation activity begun prior to 30 September xxxx.

(8) Execution of all Foreign Military Sales (FMS) cases and Host Nation support begun prior to 30 September XXXX.

f. Training, PCS moves and travel deemed minimally necessary to maintain USACE command and control and related directly to exempted functions.

g. Litigation and other legal activities in support of emergency activities.

h. Engineering Research and Development Center (ERDC) including supporting laboratories research and development functions will be

curtailed or suspended to a level of activities necessary to secure and maintain ERDC assets.

i. All activities of foreign nationals and NAF-funded employees.

j. All activities of any additional persons declared essential by the USACE Commander.

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A-6. Support staff of all Districts, Field Operating Activities (FOAs), ERDC and all staff of Major Subordinate Commands and Headquarters (including CEHEC) directly supporting emergency activities involving the safety of human life or the protection of properties are to be reduced to the maximum degree possible. As a general rule, the support staff personnel retained would be no larger than 1.5 percent of authorized total numbers, respectively, above and beyond necessary staff for the above exempted activities.

A-7. Any activity or civilian employees not specifically cited above is considered non-exempt from shutdown procedures.

APPENDIX B

CEFMS PROCESSES DURING CRA

B-1. Corps activities will receive funding authority on Funding Authorization Documents (FADs) based on a CRA provided by HQUSACE for both military and civil works programs.

B-2. Corps activities will input funds on the Program Authority and Register in CEFMS. Funding accounts will be created or amounts in existing accounts will be increased when funding is distributed to work items.

B-3. Corps activities are to obligate against carryover and current year funding of the CRA and in accordance with guidance of this regulation.

B-4. Once a CRA is terminated by enactment of appropriations and work allowances are issued, Corps activities will adjust FADs in CEFMS to reflect amounts actually received. Continuing resolution obligation authority in CEFMS will then be reconciled to the FADs issued in Program Budget Accounting System (PBAS).

B-5. There are no unique programming mechanics or edits within CEFMS for operations under a CRA.