

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENT
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF
DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
INSPECTOR, GENERAL OF THE DEPARTMENT OF
DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, COST ANALYSIS AND PROGRAM EVALUATION
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Guidance for Continuation of Operations in the Absence of Available
Appropriations

The current Continuing Resolution FY 2011 appropriation for the Department of Defense (DoD) expires at midnight on 4 March 2011. The Secretary and I expect that we will receive continued appropriations beyond this date. However, it is prudent to begin planning for possible expiration of the Department's appropriations.

Attached to this memorandum are instructions for continuation of essential operations in the absence of appropriated funds. The Department will, of course, continue to prosecute the war in Afghanistan, including preparation of forces for deployment into that conflict. DoD will also continue completing the military commitment in Iraq. The Department must, as well, continue many other operations necessary for the safety of human life and protection of property including operations essential for the security of our nation. These activities will be "exempt" from cessation; all other activities would need to be shut down in an orderly and deliberate fashion.

All military personnel will continue in a normal duty status regardless of their affiliation with exempt or non-exempt activities. Military personnel will serve without pay until such time as Congress makes appropriated funds available to compensate them for this period of service. Civilian personnel who are engaged in exempt activities will also continue in normal duty status and also will not be paid until Congress makes appropriated funds available. Civilian employees not engaged in exempt activities will be furloughed, i.e., placed in a non-work, non-pay status.

The responsibility for determining which functions would be exempt from shut down resides with the Military Department Secretaries and Heads of DoD Components, who may delegate this authority as they deem appropriate. The attached guidance should be used to assist in making this exempt determination. The guidance does not identify every exempt activity, but rather provides overarching direction and general principles for making these determinations. It

should be prudently applied in the context of a Department at war, with decisions guaranteeing our continued robust support for those engaged in that war, and with assurance that the lives and property of our nation's citizens will be protected.

Also attached to this memorandum is a list of operations that warrant an “interest of national security” exemption from the orderly shutdown of operations. This list was prepared by the Chairman, Joint Chiefs of Staff, after consultation with the Commanders of the Combatant Commands.

This memorandum contains guidance to begin detailed planning; no specific employee furlough notifications are yet authorized. Nor should any shutdown actions be taken until you receive further notice.

Within the Office of the Secretary of Defense, the Under Secretary of Defense (Comptroller) will take the lead in preparing for operations in the absence of appropriations, assisted by other offices as necessary.

To repeat, the Secretary and I expect that DoD will receive continued appropriations. This guidance is intended only to support prudent planning.

Attachment:
As Stated

CONTINGENCY PLAN GUIDANCE
FOR CONTINUATION OF
ESSENTIAL OPERATIONS
IN THE ABSENCE OF
AVAILABLE APPROPRIATIONS
MARCH 2011

GENERAL INFORMATION

This document provides guidance for identifying those missions and functions of the Department of Defense that may continue to be carried out in the absence of available appropriations. The information provided in this document is not exhaustive, but rather illustrative, and is intended primarily to assist in the identification of those activities that may be continued notwithstanding the absence of available funding authority in the applicable appropriations (exempt activities). Activities that are determined not to be exempt, and which cannot be performed by utilizing military personnel in place of furloughed civilian personnel, will be suspended when appropriated funds expire. The Secretary of Defense may, at any time, determine that additional activities shall be treated as exempt.

Military personnel are not subject to furlough. Accordingly, military personnel on active duty, including reserve component personnel on active duty, will continue to report for duty and carry out assigned duties. In addition to carrying out exempt activities, military personnel may be assigned to carry out non-exempt activities, in place of furloughed civilian personnel, to the extent that the non-exempt activity is capable of performance without incurring new obligations.

Movement of military personnel will be limited as follows:

- 1) Moves TO an exempt activity will continue.
- 2) Moves FROM an exempt activity will continue only to the extent the commander of the exempt activity determines it essential to mission (e.g., overburden of local infrastructure), or required to enhance support of exempt activities.
- 3) Accession and training moves associated with recruitment and initial entry training will continue, along with subsequent movement to first station when required by "1" above.
- 4) Movement to comply with separation instructions will continue.

Civilian personnel who are not necessary to carry out or support exempt activities are to be furloughed. Only the minimum number of civilian employees necessary to carry out exempt activities will be exempt from furlough. Positions that provide direct support to exempt positions may also be deemed exempt if they are critical to performing the exempt activity. Determinations regarding the status of civilian positions will be made on a position by position basis, using the guidance in this document. Determinations shall be made for all positions, including those in the Senior Executive Service or equivalent, as well as those located overseas.

Following the expiration of appropriations, a minimum number of civilian employees may be retained to execute an orderly suspension of nonexempt activities.

Senate confirmed officials appointed by the President and their immediate office personnel are deemed to be in direct support of exempt activities and are exempt from furlough

Foreign national employees paid with host country funds are exempt from furlough. Additionally, foreign national employees governed by country-to-country agreements that prohibit furloughs are exempt.

Civilian personnel whose salaries are paid with O&M appropriations and later reimbursed from a non-DoD source (e.g., the Foreign Military Sales Trust Fund) are not exempt from furlough solely on that basis. O&M-funded personnel whose salaries are reimbursed from a DoD appropriation or fund that has sufficient funding authority (e.g., multiyear appropriations with available balances from prior years) will not be subject to furlough. Heads of activities may, on their authority, require the return to work of civilian personnel in the event of developments (natural disasters, accidents, etc.) that pose an imminent danger to life or property.

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 exempt activities or not. However, new contracts (including contract renewals or extensions, issuance of task orders, exercise of options) may not be executed unless the contractor is supporting an exempt activity. No funds will be available to pay such contractors until Congress appropriates additional funds.

The expiration of an appropriation does not require the termination of contracts (or issuance of stop work orders) funded by that appropriation unless a new obligation of funds is required under the contract and the contract is not required to support an exempt activity. In cases where new obligation is required and the contract is not required to support an exempt activity, the issuance of a stop work order or the termination of the contract will be required.

The Department 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 exempt 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 to human life or property.

Additionally, when authorized by the Secretary of Defense, contracts for covered items may be entered into under the authority of the Feed and Forage Act.

**PROTECTION OF LIFE AND PROPERTY
NATIONAL SECURITY**

Exempt	<ul style="list-style-type: none">• Military operations and activities authorized by deployment or execute orders, or otherwise approved by the Secretary of Defense, and determined to be necessary for national security, including administrative, logistical, medical, and other activities in direct support of such operations and activities.• Activities of forces assigned or apportioned to combatant commands to execute planned or contingent operations necessary for national security, including necessary administrative, logistical, medical, and other activities in direct support of such operations; training and exercises required to prepare for and carry out such operations.• Activities necessary to continue recruiting for entry into the Armed Forces during contingency operations (as such term is defined in 10U.S.C. 101(13)), including activities necessary to operate Military Entrance Processing Stations (MEPS) and to conduct basic and other training necessary to qualify such recruited personnel to perform their assigned duties.• Command, control, communications, computer, intelligence, surveillance, and reconnaissance activities required to support national or military requirements necessary for national security or to support other exempt activities, including telecommunications centers and phone switches on installations, and secure conference capability at military command centers.• Activities required to operate, maintain, assess, and disseminate the collection of intelligence data necessary to support tactical and strategic indications and warning systems, and military operational requirements.• Activities necessary to carry out or enforce treaties and other international obligations.
Footnotes	<ul style="list-style-type: none">• Activities involving technical intelligence information collection, analysis and dissemination functions not in direct support of exempted activities (e.g., general political and economic intelligence unrelated to ongoing or contingency military operations, support of acquisition programs, support to operational test and evaluation, intelligence policy security promulgation and development, systems development ad standards, policy and architecture) are not exempt.

SAFETY OF PERSONS AND PROTECTION OF PROPERTY

<p>Exempt</p>	<ul style="list-style-type: none"> • Response to emergencies, including fire protection, physical and personnel security, law enforcement/counter terrorism, intelligence support to terrorist threat warnings, Explosive Ordnance Disposal operations, emergency salvage, subsafe program, nuclear reactor safety and security, nuclear weapons, air traffic control and harbor control, search and rescue, utilities, housing and food services for military personnel, and trash removal. • Emergency repair & non-deferrable maintenance to utilities, power distribution system buildings or other real property, including BEQ, BOQ, and housing for military personnel. • Repair of equipment needed to support exempted services, including fire trucks, medical emergency vehicles, police vehicles, or material handling vehicles. • Monitoring and maintaining alarms and control systems, utilities, and emergency services. • Receipt/safekeeping of material delivered during shutdown. • Control of hazardous material and monitoring of existing environmental remediation. • Oil spill/hazardous waste cleanup, environmental remediation, and pest control, only to the extent necessary to prevent imminent danger to life or property. • Safe storage or transportation of hazardous materials, including ammunition, chemical munitions, photo processing operations. • Emergency reporting response and input to the National Response Team and coordinating with EPA and other agencies on fire, safety, occupational health, environmental, explosive safety for vector borne disease management. • Activities, both in CONUS and overseas, required for the safety of DoD or other U.S. Government employees or for the protection of DoD or other U.S. Government property. • Defense support to civil authorities in response to disasters or other imminent threats to life and property, including activities of the U.S. Army Corps of Engineer with respect to responsibilities to state and local governments that involve imminent threats to life or property. • Foreign humanitarian assistance in response to disaster or other crises posing an imminent threat to life. • Emergency counseling and crisis intervention intake screening and referral services. • Suicide and substance abuse counseling. • Counterdrug activities determined to be necessary for the protection of life or property. • Other activities authorized by the Secretary of Defense to provide for the safety of life or protection of property.
<p>Footnote</p>	<ul style="list-style-type: none"> • Activities In support of environmental requirements which are not necessary to prevent imminent threat to life or property are not exempt.

MEDICAL/DENTAL CARE

Exempt	<ul style="list-style-type: none"> • Inpatient care in DoD Medical Treatment Facilities and attendant maintenance of patient medical records. • Acute and emergency outpatient care in DoD medical and dental facilities. • Civilian Health and Medical Program of the Uniformed Services. • Certification of eligibility for health care benefits. • Veterinary Services that support exempted activities (i.e., food supply and service inspections).
Footnotes	<ul style="list-style-type: none"> • Contingency planning in medical command headquarters not immediately necessary to support exempt activities is not an exempt activity. • Elective surgery and other elective procedures are not exempt activities.

ACQUISITION AND LOGISTIC SUPPORT

Exempt	<ul style="list-style-type: none"> • Contracting and logistics operations in support of exempt activities. • Activities required to contract for and distribute items as authorized by the Feed and Forage Act (e.g., clothing, subsistence, forage, fuel, quarters, transportation, medical and hospital supplies). • Central receiving points for storage of supplies and materials purchased prior to the shutdown.
---------------	---

EDUCATION AND TRAINING

Exempt	<ul style="list-style-type: none"> • Education and training necessary to participate in or support exempt activities. • DoDEA educational activities, to the extent required by law.
Footnotes	<ul style="list-style-type: none"> • DoDEA summer school activities are non-exempt. • Installation education centers may continue to operate utilizing military personnel, so that private agencies such as colleges and universities may provide courses for which payment has already been made. • Civilian employees on TDY for non-exempt training or education should be returned to their home stations as part of the orderly closedown of operations. Civilian personnel on PCS orders attending training or educational activities should remain in place.

LEGAL ACTIVITIES

Exempt	<ul style="list-style-type: none"> • 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 exempt activities. • Legal support for exempt activities, including legal assistance for military and civilian employees deployed, or preparing to deploy, in support of military or stability operations.
---------------	---

AUDIT AND INVESTIGATION COMMUNITY

Exempt	Criminal investigations related to the protection of life or property, including national security, as determined by the head of the investigating unit, and investigations involving undercover activities.
---------------	---

MORALE WELFARE & RECREATION/NONAPPROPRIATED FUNDS

Exempt	MWR and NAF activities necessary to support exempt activities, e.g., operation of mess halls; physical training; child care activities required for readiness.
Footnotes	<ul style="list-style-type: none"> • Activities funded entirely through NAF sources will not be affected. • Military personnel may be assigned to carry out or support non-exempt MWR activities, where deemed necessary or appropriate, to replace furloughed O&M-funded employees.

FINANCIAL MANAGEMENT

Exempt	<ul style="list-style-type: none">• Activities necessary to control funds, record new obligations incurred in the performance of exempt activities, and manage working capital funds.• Activities necessary to effect upward adjustment of obligations and the reallocation of prior-year unobligated funds in support of exempt activities.
Footnotes	<p>Preparation of financial reports, research and correction of problem disbursements, adjustments to prior-year funds (except as noted above) including those related to programs and contracts that do not support exempt activities, and approval of the use of currently available funds to pay obligations against closed accounts are not exempt.</p>

Military Operations and Activities Necessary for National Security

USAFRICOM:

- OEF-TS
- CJTF-HOA
- Operation OBJECTIVE VOICE
- Operation LION ARCHER
- Operation ONWARD LIBERTY
- Operation TUSKER SAND
- Operation JAVELIN STRIKE
- Operation TRIDENT REACH / OCEAN LOOK
- Operation TRIDENT REACH II
- Operation ODYSSEY DAWN
- North and West Africa NEO operations
- Military operations in support of failed governments in North and West Africa as directed by POTUS

USCENTCOM:

- Operation NEW DAWN (OND)
- Operation ENDURING FREEDOM (OEF)
- Mission Rehearsal
- Military operations in support of failed governments in Middle East as directed by POTUS
- Theater Intelligence Support
- Ballistic Missile Defense Limited Defensive Operations

USEUCOM:

- Support to OND / OEF / ISAF
- Other- Current Theater Named-Operations
- Other Support to NEO and contingency operations for North Africa and Middle East
- Contingency Support to CENTCOM/AFRICOM beyond NEO
- Theater Computer Net Defense
- Maritime Interdiction Operations
- European Phased Adaptive Approach
- Nuclear Weapons Security
- Theater Intelligence Support
- Ballistic Missile Defense Limited Defensive Operations

USJFCOM:

- Global Force Management of Joint Forces
- Readiness and Training to provide Joint Capable Forces and Headquarters
- Support to OEF/OND deploying forces (MRX Program)
- Support to Contingency Operations to include training and Joint Enabling Capability support

USNORTHCOM / NORAD:

- Homeland Defense (ONE, Ballistic Missile Defense, Command Center Operations, Counterterrorism/Force Protection (CT / FP))
- Continuity of Operations, Mobile C3
- Chemical, Biological, Radiological, Nuclear, Explosive Consequence Management Response Force
- Very Important Persons Protection Support Activity Explosive Ordnance Division
- President of the United States (POTUS) Support
- National Capital Region Integrated Air Defense System
- National Special Security Events (e.g., national political conventions)
- Aerospace Warning, Control and Maritime Warning
- Integrated Tactical Warning Attack Assessment (ITW / AA)
- Counter Transnational Criminal Organization (TCO) support to Mexico
 - Operations/Intelligence Support to Mexico (to include RIOCC Operations, Operational Planning Training and Advisory Program (OPTAP))
 - Intelligence Surveillance Reconnaissance (ISR)
- DSCA for Natural Disasters and Shuttle Support
- DOD Support to U.S. Authorities for Southwest Border Security

USPACOM:

- Operation NOBLE EAGLE (ONE)-Hawaii/Alaska/Guam
- Theater intelligence support
- Ballistic Missile Defense Limited Defensive Operations
- OEF Philippines (OEF-P)
- Joint Operations Center for Crisis Response

USSOUTHCOM:

- OEF Detention Operations (JTF GTMO)
- OEF -Caribbean and Central America (OEF-CCA)

USSOCOM:

- OND, OEF-Afghanistan, OEF-TS, OEF-P, OEF-CCA, OEF-HOA
- 1208 Projects in support of the GCCs
- Activities in Mexico in support of NORTHCOM
- Secretary of Defense-Directed operations
- Operations in support of AFRICOM and EUCOM

USSTRATCOM:

- Operation BUCCANEER CUTLASS
- Operation GHOST RIDER
- Nuclear Operations
- Space Operations
- National level ISR Operations
- Cyber Operations
- Integrated missile defense in support of homeland defense

USTRANSCOM:

- Strategic Lift for deployment, sustainment, and redeployment operations
- Operations and lift supporting Homeland Defense