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	Civilian Personnel LABOR-MANAGEMENT RELATIONS	
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DEPARTMENT OF THE ARMY
US Army Corps of Engineers
Washington, D. C. 20314

DAEN-PEC-L

Regulation
No. 690-1-711

25 January 1984

Civilian Personnel
LABOR-MANAGEMENT RELATIONS

1. Purpose. The purpose of this regulation is to provide the U. S. Army Corps of Engineers policy on the Labor-Management Relations Program.

2. Applicability. This regulation is applicable to all HQ USACE/OCE elements and all field operating activities (FOA).

3. References.

- a. Federal Service Labor-Management Relations Statute (5 USC Chapter 71).
- b. DOD CPM Chapter 711.
- c. AR 690-700, Chapter 711.
- d. FPM Chapter 711.

4. Policy. Labor-management relations in the Corps of Engineers shall be governed by the following policies and principles:

a. Effective Labor-management relations are basic a part of the responsibilities of commanders, supervisors, and managers wherever there are employees subject to the Federal Service Labor-Management Relations Statute.

b. Unions which have been accorded exclusive recognition have a legitimate interest in matters affecting the conditions of employment of employees in the units they represent.

c. Commanders, supervisors, and management officials are responsible for assuring that the interest of the Department of the Army and the Corps of Engineers are fully protected and that the rights and privileges accorded employees and unions pursuant to 5 USC Chapter 71 are carefully observed.

d. Supervisors and management officials will observe a policy of strict neutrality with regard to employee support or participation in union organizing activities. Specifically, supervisors and management officials will not: (1) make any statement, as a representative of management, that would indicate a preference

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pro or con concerning employee affiliation with or support of any labor organization; or (2) take any action for the purpose of intimidating employees in the exercise of their rights under 5 USC section 7102. Within the limitations imposed above, management has a positive responsibility to encourage all eligible employees to vote in a representation election so as to assure that the outcome of a representational proceeding reflects the wishes of eligible employees.

5. Responsibilities. The Chief, Civilian Personnel Division, acts for and on behalf of the Commander, USACE in labor relations matters covered by AR 690-700 Chapter 711. Unless otherwise specified, matters to be submitted to HQDA (DAPE-CPL) WASH DC 20310 will be forwarded through command channels to CDR USACE (DAEN-PEC-L) WASH DC 20314. Districts will send their respective Divisions a copy of any document submitted directly to DAEN-PEC-L.

a. Commanders.

(1) Commanders having civilian personnel management authority and responsibility per AR 10-20 are delegated the authority to execute (i.e., sign off) locally negotiated labor agreements. This authority, which may not be redelegated, includes any supplemental or reopener agreements and written midterm agreements resulting from formal negotiations. All executed agreement are subject to review and approval by DAEN-PEC-L to ensure conformance with applicable laws, regulations of appropriate non-DOD authorities, and published DOD and DA policies and regulations.

(2) Commanders must vest the chief negotiator of the management negotiating team with the authority necessary to commit the activity to a binding labor agreement.

(3) Commanders will have the FOA Counsel for Counsel's designee act as a labor counselor to provide legal advice and assistance to the activity on labor relations matters. FOA without an Office of Counsel should request the Chief Counsel, HQUSACE to make an attorney available as its labor counselor. If necessary, appropriate training should be initiated.

(4) Commanders will designate the FOA's civilian personnel officer as the principal point of contact for conducting business with unions. This does not, however, relieve other management officials or supervisors of their day-to-day labor relations responsibilities.

b. Personnel Officers. Personnel officers are responsible for:

(1) Establishing a suspense system that will assure a review of all labor agreements at least 120 days prior to their expiration or automatic renewal;

(2) Notifying employees on an annual basis of their right to union representation pursuant to 5 USC section 7114(a)(2)(B) (the "Weingarten" right);

(3) Effecting the notifications set forth in reference c (AR 690-700 Chapter 711);

(4) Establishing a system for recording and maintaining data on the amount of official time employees spend on representational functions; and

(5) Establishing a procedure for terminating an employee's dues withholding allotment when the individual moves to a position that is outside of the established bargaining unit.

c. Supervisors and Management Officials. Supervisors and management officials are responsible for:

(1) Respecting the rights of employees and labor organizations set forth in 5 USC Chapter 71;

(2) Complying with the terms of applicable negotiated labor agreements; and

(3) Protecting the interests of their activity in their dealings with labor organizations.

6. Training.

a. Commanders of activities having one or more bargaining units consisting of civilian employees subject to 5 USC Chapter 71 will obtain labor relations training. Attendance at the DA-sponsored Labor Relations for Executive Seminar will satisfy this requirement. Other members of the command group (e.g., Deputy Commander, Chief of Staff and Deputy Director) should also have labor relations training.

b. Each member of a management negotiating team should receive in training the tactics and techniques of collective bargaining.

c. Within 90 days following the completion of negotiations, commanders will insure that affected supervisors and management officials receive training on the terms and conditions of the labor agreement.

7. Petitions.

a. Activities will send to DAEN-PEC-L, through command channels, two copies of any representation petition.

b. Activities will consult with their respective Divisions and DAEN-PEC-L before seeking to decertify an incumbent union before filing a clarification of unit or a consolidation of existing units petition.

c. Whenever the Federal Labor Relations Authority (FLRA) issues or amends a Certification of Recognition, activities will submit to CDR USACE (DAEN-PCL-L) WASH DC 20314, through command channels, four copies of the certification together with four copies of the completed OPM Form 913B.

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d. Activities will keep their respective Divisions and DAEN-PEC-L advised of union-organizing activity.

8. Negotiation of Agreements.

a. The person selected as the chief negotiator for management must be well versed in labor relations, knowledgeable of the mission of the activity, and possess the authority to commit the activity commander to a binding agreement.

b. Immediately after negotiations are completed, activities will send two advance copies of the agreement directly to CDR USACE (DAEN-PEC-L) WASH DC 20314. Within two workdays after the agreement is formally signed (executed) by the activity commander, activities will send the original and four copies of the signed agreement for review and final approval. Except where DAEN-PEC-L fails to meet the 30-day time limit for approving or disapproving a labor agreement, contracts will become effective no sooner than the date approved by DAEN-PEC-L. Activities should leave room on the signature page for DAEN-PEC-L to indicate that the contract has been approved. After a contract has been approved, DAEN-PEC-L will return the original to the activity and submit the necessary OPM Forms 913B to the Office of Personnel Management.

c. No agreement will exceed three years in duration from its effective date. Agreements may be renewed or extended for a specific period not exceeding 3 years for each renewal or extension, subject to the requirement set forth in subparagraph g. below.

d. Where time permits, DAEN-PEC-L will notify affected labor unions by certified mail whenever a contract or portions thereof have been disapproved. If time does not permit this procedure to be followed (FLRA decisions require such notices to be delivered in writing to unions within 30 days of the execution date), DAEN-PEC-L will instruct local activities to prepare and deliver to the union the notice of disapproval.

e. Questions regarding the interpretation of published regulations of DA, DOD, or authorities outside DOD will be sent through command channels to CDR USACE (DAEN-PEC-L) WASH DC 20314 for processing.

f. Requests for an exception to a compelling need agency or primary national subdivision regulation will be sent through command channels for forwarding to HQDA(DAPE-CPL).

g. Compelling need agency regulations and Government-wide regulations do not override the provisions of a negotiated agreement during the term of the agreement, unless such regulations implement mandatory requirements of law. However, each agreement must be brought into conformance with all existing compelling need and Government-wide regulations at the time the agreement is renegotiated, or when the agreement is renewed or extended and such action will result in its being in effect for more than 3 years and 90 days since it was last brought into conformance with applicable laws and regulations.

9. Negotiability Disputes.

a. If a union advances a proposal which the activity believe is nonnegotiable, the parties should endeavor to find a mutually acceptable alternative. If this effort is unsuccessful and the union makes a written request for a statement of position on the negotiability of the proposal, the activity will promptly consult by telephone with its Division and with DAEN-PEC-L. After studying the proposal, DAEN-PEC-L will advise the activity of the position to be taken on the negotiability of the proposal. Thereafter, the activity will send a written reply to the union within 10 calendar days after receipt of the written request for a statement of position. The activity's reply will contain a justification for any determination of nonnegotiability. Such justification will include a citation of case law and a thorough explanation of any local circumstance having a bearing on the determination. The activity will submit a copy of its written reply directly to CDR USACE (DAEN-PEC-L) WASH DC 20314 and HQDA(DAPE-CPL) WASH DC 20310.

b. Activities will not make a written allegation of nonnegotiability unless the union has made a request in writing in accordance with 5 CFR 2424.3. Where such a written request is made by the union, however, a written statement of position will be provided in all cases by the activity.

c. Activities will request union to serve a copy of any negotiability appeal on both CDR USACE (DAEN-PEC-L) WASH DC 20314 and HQDA(DAPE-CPL) WASH DC 20310. Unions are required under 5 USC 7117(c)(2)(B) to serve a copy of negotiability appeals on the head of the agency (i.e., the Director of Labor-Management Relations, DOD).

d. If an issue of negotiability arises in the context of an unfair labor practice proceeding or in connection with an impasse proceeding before the Federal Service Impasses Panel (FSIP), the activity will promptly inform its Division and DAEN-PEC-L. Consistent with the rules of the FLRA and the FSIP, matters involving questions of negotiability will be resolved through the FLRA's procedures under 5 CFR 2424 et seq.

e. Any proposal for judicial review of a negotiability decision by the FLRA will be sent through command channels to DAEN-PEC-L. Such proposal should be accompanied by a supporting rationale.

10. Negotiation Impasses.

a. A copy of any referral to the FSIP by either the activity or the union will be sent through command channels to DAEN-PEC-L.

b. After consulting with its Division and DAEN-PEC-L, activities may refer an impasse issue to arbitration. This procedure, however, is subject to approval by the FSIP.

c. Activities will send two copies of any recommendation or final decision by the FSIP through command channels to DAEN-PEC-L.

11. Allegations of Unfair Labor Practices (ULP).

a. Activities are encouraged to negotiate provisions providing that before ULP: charge is filed with the FLRA (except in cases involving apparent violations of 5 USC 7116(b)(7)) the charging party will provide the respondent party with a copy of the proposed ULP charge so as to permit the latter to investigate the allegations and to attempt a settlement, if warranted.

b. Activities will promptly send two copies of any ULP complaint against the activity and any final decision thereon by the FLRA through command channels to DAEN-PEC-L.

c. Within 3 calendar days of its receipt, activities will send a copy of an Administrative Law Judge's (ALJ) recommended decision directly to CDR USACE WASH DC 20314 (DAEN-PEC-L) and HQDA(DAPE-CPL) WASH DC 20310. Activities may file their own exceptions to an ALJ's recommended decision after consulting with their respective Divisions and DAEN-PEC-L.

d. If an activity believes that judicial review should be sought with respect to a final decision of the FLRA, it will consult with its Division and DAEN-PEC-L. Thereafter, the activity will send, within 14 calendar days of receipt of the final FLRA decision, any such recommendation directly to DAEN-PEC-L and HQDA (DAPE-CPL). Any recommendation should be accompanied by supporting rationale and case citations.

e. Activities will consult with their respective Divisions and DAEN-PEC-L before filing an unfair labor practice charge against a labor organization. Thereafter, activities will keep DAEN-PEC-L advised of proceedings and will send two copies of such ULP charge, complaint, or final decision through command channels to DAEN-PEC-L. If the ULP charge concerns a job action prohibited by 5 USC 7116(b)(7), activities will follow the following procedure:

(1) When information reaches an activity that a labor organization with members employed at the activity has indicated that such members may or will engage in an act prohibited by 5 USC 7116(b)(7), or when it is apparent that employees are actually engaging in such an act, the activity will immediately inform its Division and DAEN-PEC-L and also immediately seek to contact the head of the local labor organization for the purpose of apprising that individual of the situation.

(2) If the head of the local labor organization disavows or withdraws any threatening statements and there is no evidence that the union ordered, approved or authorized a prohibited act, and if prompt steps are taken by the union to disavow any such act and it orders its members to cease their participation, no further action will be taken against the organization.

(3) In the absence of the circumstances and actions set forth in (2) above, the activity should file an unfair labor practice charge with the Regional Director of the FLRA in accordance with the applicable provisions of the FLRA's regulations. Such a charge should be filed as promptly as possible following consultations with the Division and DAEN-PEC-L.

12. Arbitration Awards.

a. Awards on issues referred to arbitration under the terms of a negotiated grievance procedure will be accepted by activities unless (1) implementation of the award would violate applicable law or regulation, or (2) the award presents other grounds for review similar to those applied by Federal courts in private-sector cases.

b. Immediately upon receipt of any arbitration award, activities will send an information copy to HQDA(DAPE-CPL) WASH DC 20310, CDR USACE (DAEN-PEC-L) WASH DC 20314, and their Division. Two copies of the award must be submitted directly to:

U.S. Office of Personnel Management
LAIRS Office - OLMR
1900 E Street, NW
Room 2340
Washington, DC 20415

c. If an activity proposes that exceptions be filed to an arbitration award, it will telephone its Division and DAEN-PEC-L immediately. After consulting with their respective Divisions and DAEN-PEC-L, activities will forward a copy of the proposed exception, with full justification, directly to DAEN-PEC-L and HQDA(DAPE-CPL). This will be accomplished within five calendar days of the date of the award. The 30-day time limit for filing exceptions under 5 USC 7122 begins on the date of the award, not on the date served or received. Accordingly, activities should request the arbitrator to date the award on the day it is mailed and to provide DAEN-PEC-L and HQDA(DAPE-CPL) with a service copy.

d. Proposed exceptions should be prepared with the assistance of the activity's Labor Law Counselor, designated in consonance with paragraph 5a(3). They should also be accompanied by a copy of the complete record of the case and copies of any other document HQDA might need to prepare the exception.

e. Proposed requests for judicial review of arbitration awards on matters covered by 5 USC 4303 or 5 USC 7512 should be handled in accordance with the procedures set forth in c and d above.

f. Activities will promptly notify their respective Divisions and DAEN-PEC-L by telephone of any union-filed exception to an arbitration award. A copy of any such exception will be sent directly to DAEN-PEC-L and HQDA(DAPE-CPL).

13. Official Time.

a. Activities relating to the internal business of a labor organization (including, for example, the solicitation of membership, elections of union officials, and collection of dues) shall not be performed during the work time of the employees concerned. Such activities, however, may be performed during the

employee's non-work time, e.g., during authorized rest periods and lunch periods.

b. Activities will establish a system for recording and maintaining data on the amount of official time employees spend on representational activities. The system employed must permit data to be summarized and recorded in the format set forth in Appendix A to reference c (AR 690-700, Chapter 711). Activities may change this format and the explanatory paragraphs to better meet their own needs, as long as the prescribed final figures in each category are shown. Data will be recorded for each separate unit and also on an activity-wide basis, i.e., the data for each separate unit at the activity should be combined to yield activity-wide totals. Activities should summarize and record the data as often as necessary, but not less than each quarter of the fiscal year.

14. Standards of Conduct for Labor Organizations. When a question arises as to whether a labor organization is in compliance with the Standards of Conduct in 5 USC 7120, activities will promptly furnish all available information to CDR USACE (DAEN-PEC-L) WASH DC 20314 through command channels. When the information raises a valid question as to compliance with the Standards of Conduct, DAEN-PEC-L will refer the matter to the proper office of the FLRA or the Labor-Management Services Administration of the Department of Labor.

15. Job Action Contingency Plans. Activities will develop a job action contingency plan in accordance with the provisions of Appendix B to reference c (AR-690-700, Chapter 711). Activities will submit two copies of their job action contingency plan to DAEN-PEC-L through command channels.

16. Notice to Employees Regarding Investigatory Examinations. Activities shall annually inform employees in established bargaining units of their right to union representation pursuant to 5 USC 7114(a)(2)(B). The posting of an appropriate notice on employee bulletin boards normally will satisfy this annual notice requirement. A sample notice is provided in Appendix A to this regulation. This or a similar notice should be posted permanently on bulletin boards serving locations where there are employees in units of exclusive recognition. A copy of this or a similar notice should also be given to each new employee occupying a bargaining-unit position.

17. Reports on Exclusive Recognition. Activities will submit through channels to CDR USACE (DAEN-PEC-L) WASH DC 20314 no later than 15 November of each year. The following information required by Interagency Report Control Number 1060-OPM-AN for each existing bargaining unit:

- a. The description of the bargaining unit;
- b. The name of the union holding exclusive recognition;
- c. The number of General Schedule, Wage Grade, and professional employees in the unit;

- d. The total number of employees in the unit; and
- e. The effective date, expiration date, and the renewal period of any labor agreement.

18. Information Required.

a. In addition to other requirements in this regulation, activities will submit through command channels to CDR USACE (DAEN-PEC-L) WASH DC 20314 any recommendation for exemption from either AR-690-700, Chapter 711 or the Federal Service Labor-Management Relations Statute under 5 USC 7103(b).

b. Activities will request the FLRA (including the General Counsel and Regional Directors) the FSIP, and the Assistant Secretary of Labor for Labor-Management Relations to include DAEN-PEC-L and HQDA(DAPE-CPL) in the list of parties to be served by these agencies and be provided information copies of correspondence.

FOR THE COMMANDER:



PAUL F. KAVANAUGH
Colonel, Corps of Engineers
Chief of Staff

1 Appendix
APP A-Sample Notice
to Employees-
Right of Representation

APPENDIX A

Sample Notice to Employees - Right of Representation

NOTICE TO EMPLOYEES
IN EXCLUSIVE BARGAINING UNITS

(NAME OF ACTIVITY)

Right of Representation

This is to inform you that pursuant to section 7114(a)(2)(B) of Title 5, U.S. Code, the exclusive union must be given the opportunity to be represented at any examination of an employee in the bargaining unit by a management representative in connection with an investigation if:

- (1) The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- (2) The employee requests representation.

(Activity Official)