



U.S. HOUSE OF REPRESENTATIVES

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Frequently Asked Questions About Sequestration Under the Budget Control Act of 2011

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Frequently Asked Questions about Sequestration under the Budget Control Act of 2011

“sequestration: An enforcement mechanism by which the President orders the cancellation of budgetary resources in amounts sufficient to eliminate a deficit.”

- Excerpt from the glossary definition by the Congressional Budget Office at http://www.cbo.gov/ftpdocs/120xx/doc12039/01-26_FY2011Outlook.pdf

1. What is the sequester that is going to occur under the Budget Control Act (the Act)?

A budget sequester is when money that would otherwise be spent under current law is held back and is used instead for deficit reduction. The Budget Control Act (the Act) includes two possible instances under which federal spending could be sequestered.¹

The deficit reduction sequester: The deficit reduction sequester – a result of the failure to enact legislation that reduces the budget deficit by at least \$1.2 trillion over the next ten years – will begin in January 2013. This sequester will affect all non-exempt federal programs, with equal savings coming from defense spending and from non-defense spending.

The discretionary sequester: If Congress exceeds any of the annual discretionary spending caps set by the Act, then all non-exempt discretionary programs (but not mandatory spending) would be sequestered that year by an equal amount sufficient to reduce total appropriations to the cap specified in the Act.

2. When does the Act’s upcoming deficit reduction sequestration take effect?

Short answer: January 2, 2013. That is part way through fiscal year (FY) 2013.

Longer answer: The Joint Select Committee on Deficit Reduction did not report and Congress did not enact legislation that reduced the deficit by more than \$1.2 trillion.

¹ In addition, the Pay-As-You-Go Act of 2010 (PAYGO) reinstated sequestration procedures to ensure that, over the course of a Congressional session, the total of all net new mandatory spending or tax cuts is offset by an equal amount of mandatory spending cuts or revenue increases. The Office of Management and Budget (OMB) keeps a scorecard tabulating all net costs and savings of legislation that change mandatory spending and revenues during each Congressional session. At the end of the Congress, if the total shows net deficit reduction, there is no sequester. But if the net impact of mandatory and revenue legislation has worsened the deficit, then a PAYGO sequester of that amount is imposed on all non-exempt mandatory programs (but not on discretionary programs).

Therefore, the Act now requires sufficient spending cuts to achieve that level of deficit reduction over nine years (fiscal years 2013 through 2021). The Act divides the cut evenly between defense and non-defense spending, including both discretionary and mandatory programs. However, the cut does not go into effect until January 2, 2013, which is part way through FY 2013. Congress may enact the FY 2013 appropriations bills up to the discretionary caps listed in the Act. Funding for the non-exempt programs will then be cut when the sequester takes effect on January 2, 2013. Unless Congress amends the Act, the FY 2013 deficit reduction sequester will occur even if Congress limits appropriations to below the spending cap.

3. How much will the deficit reduction sequestration cut from the budget?

The deficit reduction sequester was designed to achieve savings of \$1.2 trillion through 2021. For 2013, that comes out to be a \$55 billion cut in defense and a \$55 billion cut in non-defense spending. Based on the calculations in the law, spending on government programs will be reduced by \$984 billion. The Act envisions that the remaining savings will come from reduced debt service costs. The Congressional Budget Office (CBO) has made rough calculations that the \$984 billion in programmatic reductions will actually translate into \$888 billion in deficit reduction through 2021. The deficit reduction amount is lower for two reasons. First, for discretionary programs the programmatic reduction applies to budget authority, which sets the level of funding a program is eligible to spend, but not how much actually flows out of the Treasury in that fiscal year. Changes in budget authority result in outlay changes – the actual flows from the Treasury – over a period of years. Some of the outlay changes from the sequester will occur beyond 2021 and are thus not included in the deficit reduction through 2021. Second, reductions in Medicare required under the sequester will have the effect of reducing Medicare premiums since they are calculated based on program costs. This lower income offsets a portion of the savings in the program.

4. How much of the sequestration comes from discretionary programs? How much comes from mandatory programs?

The bulk of the sequestration savings come from discretionary programs (those funded by annual appropriations bills) as opposed to mandatory programs (also known as direct spending, or entitlement spending, where the program's annual cost is generally determined by eligibility criteria established by law). The required savings are to come half from defense programs and half from non-defense programs. Within each half, the savings are allocated to discretionary and mandatory programs based on the contribution each makes to the total of discretionary budget authority and sequesterable direct spending. Because defense has almost no mandatory funding subject to sequestration, almost all of the defense portion will come from discretionary programs. On the non-defense side of the

budget, mandatory programs will account for only a bit more than one-third of the non-defense savings because most mandatory spending is exempt. Thus, almost all defense savings and about two-thirds of non-defense savings will come from discretionary programs.

5. What is the Act's total effect on discretionary spending?

The Act established discretionary spending caps that CBO estimated would save \$756 billion over ten years (2012 through 2021) compared with continuing the current levels adjusted for inflation. Those caps will be now replaced by even lower caps as part of the deficit reduction sequester, yielding an additional \$749 billion in savings.

6. Which programs will be sequestered and which programs will be exempt from the cut? Which programs will be subject to special rules?

For 2013, the deficit reduction sequestration will apply individually to discretionary and mandatory programs unless they are specifically exempted in law.

On the discretionary side of the budget, few accounts are exempted. Pell grants are exempt as is spending from most transportation trust funds, which support highways, mass transit, and airports. Veterans' programs, other than administrative expenses, may also be exempt; the list of exemptions includes all programs administered by the Department of Veterans Affairs.² In addition, the cut can be no more than 2 percent for community and migrant health centers and for Indian health services and facilities. While the pay rate and benefits for federal employees cannot be cut, agencies could furlough employees to achieve required savings.

On the mandatory side of the budget, the bulk of spending is either exempt or subject to a special rule. Social Security is exempt, as are many programs that serve low-income beneficiaries, including Medicaid, Supplemental Nutrition Assistance Program (formerly called food stamps), Supplemental Security Income, and Temporary Assistance for Needy Families. Federal retirement and disability accounts and veterans' programs are exempted, as are refundable tax credits. Other specific exemptions include a variety of government insurance programs and activities funded from private donations or voluntary contributions. Most of Medicare payments to providers are subject to sequestration but limited to a 2 percent reduction. (Some of Medicare is exempt and a small portion is subject to the full

² However, another provision of the underlying Balanced Budget and Emergency Deficit Control Act of 1985 says that veterans' medical care should be limited to a 2 percent reduction. OMB will make a final determination of what, if any, portion of veterans' spending will be subject to sequestration.

sequester.) Farm support programs comprise the largest component of the remaining mandatory spending subject to full sequestration.

For 2014 and beyond, the deficit reduction sequester works a little differently for discretionary programs. In those years, the discretionary sequester will lower the discretionary caps, not funding for individual programs. It will be up to the Appropriations Committee to determine how the cuts are allocated. If the Appropriations Committee breaches the caps, the separate discretionary sequester would apply at the account level to remove the breach.

7. What are the firewalls? What is the “security” category?

The Act sets different spending caps for different discretionary categories, separated by a “firewall” for enforcement purposes. If a cap is breached in one category, the firewall requires an offsetting sequester only within that portion of discretionary spending rather than across all discretionary categories.

The Act includes a security category that refers to programs within the federal budget’s national defense function, which includes the Department of Defense, nuclear-energy related activities at the Department of Energy, the national security activities of several other agencies such as the Selective Service System, and portions of the activities of the Coast Guard and Federal Bureau of Investigation. (Note that the security category for 2012 is defined differently. In addition to the Department of Defense, it includes the Departments of Homeland Security and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management accounts, and accounts in the International Affairs function.)

8. What percentage of the cut is in “defense” versus “non-defense” programs?

The deficit reduction sequester requires that half of the savings come from defense programs and half from non-defense programs.

9. Is funding for Overseas Contingency Operations (OCO) exempt from a sequester?

No. OCO funding, which includes funding for military operations in Afghanistan, will count as part of the available funds subject to the sequester.

10. Why can't we calculate now the exact size of the cut to each category of spending?

We can calculate the total amount of spending that will have to be cut each year. However, the percentage cut to each non-exempt program cannot yet be determined. OMB first has to review which programs are exempt, and then must calculate the remaining size of all non-exempt programs. That calculation will change slightly each year based on any re-estimate of the non-exempt mandatory programs.

11. Will sequestration cuts be at the program level, or at the budget account level?

The upcoming deficit reduction sequestration occurs at the program-by-program level, with every non-exempt program cut by the percentage required to reach the calculated deficit reduction target for that year. There may be budgetary accounts within agencies that have some programs exempt from sequestration or where the size of the sequestration is limited by statute, whereas other programs are not exempt and are subject to the full cut required.

12. Who makes the estimates that determine the size of the required cut, and when will we know the specifics?

OMB will manage all aspects of the deficit reduction sequester. The law specifies that OMB estimates are to be used to determine both which programs are exempt from the sequester and the size of the cut on the remaining programs. Neither the CBO nor the Budget Committees plays a role in actually implementing the sequester. OMB has not yet released the list of exempt programs.

13. How much discretion does the President have in how the sequester is applied across agency budgets?

Short answer: Very little. The President does not have discretion to vary the size of the cut to agency budgets.

Longer answer: The Act does provide the President with limited flexibility in how sequestration is implemented on military personnel programs. The President would have to notify Congress of his intention to exempt certain military personnel accounts, while increasing the amount of the sequestration on other defense programs; the total amount of the defense sequester could not decrease. All agencies will continue to have their existing transfer authority with the limitations that are specific to each agency.

14. How does the sequester in 2013 differ from the sequester in following years?

The deficit reduction sequester for FY 2013 will reduce spending not only for all non-exempt mandatory programs, but beginning in January 2013 it will also lower the amount already appropriated for all non-exempt discretionary programs. For FYs 2014 through 2021, the effect of the deficit reduction sequester on appropriations will be to lower the total annual discretionary cap. The Appropriations Committee will then allocate funding under that new, lower cap, but funding will not be further cut by a sequester (unless total appropriations exceed the caps set in law, in which case there will be a discretionary sequester).

15. Is there still time to prevent the deficit reduction sequester?

Yes, but only if Congress enacts legislation amending the Act. For example, Congress could enact \$1.2 trillion in deficit reduction but implement that savings in a different way than envisioned by the sequester.

16. Is there a waiver?

There is no waiver of the deficit reduction sequester unless there is a declaration of war. The only option for changing it would be to enact legislation to amend the Act.

Sources for information mentioned in this report

The Budget Control Act of 2011 (Public Law No: 112-25): <http://www.gpo.gov/fdsys/pkg/PLAW-112publ25/pdf/PLAW-112publ25.pdf>

CBO report on the “Estimated Impact of Automatic Budget Enforcement Procedures Specified in the Budget Control Act,” September 12, 2011: <http://cbo.gov/ftpdocs/124xx/doc12414/09-12-BudgetControlAct.pdf>

Congressional Research Service report on “Budget “Sequestration” and Selected Program Exemptions and Special Rules,” November 23, 2011:
<http://www.crs.gov/pages/Reports.aspx?PRODCODE=R42050&Source=search>

List of programs exempt from sequestration under Sections 255 ([2 U.S.C. 905](#)) and subject to special rules under Section 256 ([2 U.S.C. 906](#)) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Appendix: List of programs exempt from sequestration or subject to “special rules”

(Excerpted from the Congressional Research Service report titled *Budget “Sequestration” and Selected Program Exemptions and Special Rules*, November 23, 2011)

Section 255 Program Exemptions

Section 255 [of the Deficit Control Act of 1985] contains a list of programs and activities that are exempt from sequestration. Most are mandatory, although a few are discretionary, most notably programs administered by the Department of Veterans Affairs (VA). In many cases, specific budget accounts are provided, so readers are referred to the statute for precise identification of exempted programs and activities. While the law provides a list of programs and types of spending that are exempt from sequestration, *there is no definitive list of programs or types of spending that would absolutely be subject to sequestration*. As stated above, the impact of sequestration on any given program will depend on the actions and interpretations of OMB. The following are selected programs identified in Section 255 as exempt from sequestration:

- Social Security benefits (old-age, survivors, and disability) and Tier 1 Railroad Retirement benefits.
- All programs administered by the VA, and special benefits for certain World War II veterans.
- Net interest (budget function 900).
- Payments to individuals in the form of refundable tax credits.
- Unobligated balances, carried over from prior years, for nondefense programs.
- At the President's discretion (subject to notification to Congress), military personnel accounts may be exempt entirely, or a lower sequestration percentage may apply.
- A list of "other" budget accounts and activities; readers should consult the statute for a complete list. A few selected examples include
 - activities resulting from private donations, bequests or voluntary contributions, or financed by voluntary payments for good or services;
 - advances to the Unemployment Trust Fund;
 - payments to various retirement, health care, and disability trust funds;
 - certain Tribal and Indian trust accounts; and
 - Medical Facilities Guaranty and Loan Fund.
- Specified federal retirement and disability accounts and activities (consult the statute for the complete list).
- Prior legal obligations of the federal government in specified budget accounts (consult the statute for the complete list).
- Low-income programs, including
 - Academic Competitiveness/Smart Grant Program;
 - mandatory funding under the Child Care and Development Fund;
 - Child Nutrition Programs (including School Lunch, School Breakfast, Child and Adult Care Food, and others, but excluding Special Milk);

- Children's Health Insurance Program (CHIP);
- Commodity Supplemental Food Program;
- Temporary Assistance for Needy Families (TANF) and the TANF Contingency Fund;
- Family Support Programs;
- Federal Pell Grants;
- Medicaid;
- Foster Care and Permanency Programs;
- Supplemental Nutrition Assistance Program (SNAP, formerly food stamps); and
- Supplemental Security Income (SSI).
- Medicare Part D premium and cost-sharing subsidies; Medicare Part D catastrophic subsidy payments; and Qualified Individual (QI) premiums.
- Specified economic recovery programs, including GSE Preferred Stock Purchase Agreements, the Office of Financial Stability, and the Special Inspector General for the Troubled Asset Relief Program.
- The following "split-treatment" programs, to the extent that the programs' budgetary resources are subject to obligations limitations in appropriations bills:
 - Federal Aid-Highways;
 - Highway Traffic Safety Grants;
 - Operations and Research NHTSA and National Driver Register;
 - Motor Carrier Safety Operations and Programs;
 - Motor Carrier Safety Grants;
 - Formula and Bus Grants; and
 - Grants-in-Aid for Airports.

Section 256 Special Rules

In addition to the exemptions in Section 255 of BBEDCA, Section 256 establishes special rules for sequestration of certain programs. Most Section 256 special rules apply to mandatory programs, although some discretionary programs are included (e.g., certain health programs). Once again, the effect of sequestration on any given program is subject to the interpretation of the law's provisions by OMB.

The following is a list of programs included in Section 256:

- student loans under Title IV-B and IV-D of the Higher Education Act;
- Medicare;
- community and migrant health centers, Indian health services and facilities, and veterans' medical care;
- Child Support Enforcement;
- federal pay;
- federal administrative expenses;
- Unemployment Compensation; and
- Commodity Credit Corporation.