



INFORMED BUDGETEER: SEQUESTRATION AND APPROPRIATIONS

Wrap Up of FY 2013 Appropriation and Sequestration Activities

- In previous [Bulletins](#), we discussed the challenges facing Congress for addressing a final appropriations bill for FY 2013. Beyond the \$85 billion Joint Committee sequestration that went into effect on March 1st, Congress needed to agree on spending levels that would not breach Budget Control Act (BCA) spending limits on discretionary spending in order to avoid [further sequestration](#).
- By late March, the House and Senate agreed to H.R. 933, the FY 2013 Consolidated and Further Continuing Appropriations Act. This measure ([P.L. 113-6](#)) signed by the President was [certified](#) by the Office of Management and Budget (OMB) as being within the categorical spending limits for the year. You will recall that these limits were \$684 billion for a broad security category and \$359 billion for non-security category, as established by the American Taxpayer Relief Act of 2012 (ATRA), better known as the fiscal cliff bill.
- The final appropriations bill did not trigger a second sequestration because it allowed for OMB to calculate across-the-board rescissions to eliminate the amount of budget authority exceeding the caps in both the security and non-security categories due to differences in estimations between OMB and the Congressional Budget Office. This authority, found in Section 3004 of Division G of the final appropriations bill, served as a safety-valve to ensure no budget year breach and resulted in minor across-the-board cuts of 0.032 percent (\$219 million) and 0.200 percent (\$876 million) for security and non-security accounts, respectively (see [table 13](#)). The final appropriations bill came in \$3 million under the security category limits and \$1 million below the non-security limits because the rescission calculations were rounded to the nearest thousandth of a percent.
- The timing of this final appropriations bill also allowed Congress to react to sequestration. Coming a few weeks after the Joint Committee sequester, Congress responded to the imposed budgetary pressure by shifting money in-between accounts to protect certain priorities.
- This shifting of money between accounts also allowed Congress to use section 253(f)(2) of the Balanced Budget and Deficit Control Act of 1985 (BBEDCA), dealing with part-year appropriations. This section states that in the event an account was funded below its baseline amount (the amount provided in the continuing resolution in effect at the time of the sequester order minus the amount sequestered) in a subsequent full-year appropriations bill, then the difference between the two amounts would serve as a credit against the amount to be sequestered. This, in effect, reduces the amount to be sequestered for some programs. To date OMB has found approximately [\\$5 billion in credits](#) for accounts, of which \$3.7 billion is attributable to Department of Defense procurement and military construction accounts. Due to

these credits, the \$85 billion Joint Committee sequester has currently shrunk down to \$80 billion.

A Less Turbulent Sequestration

On March 5, the Federal Aviation Administration (FAA) issued a letter to its employees stating that, due to the Joint Committee sequestration, they could be furloughed for up to 11 workdays beginning “on or about” April 7 and continuing through the end of the fiscal year. At issue was the \$232 million cut from the FAA Operations account outlined in OMB’s March 1 Sequestration Order. Officials claimed they had no choice but to begin furloughing most of the 14,895 air traffic controllers whose salaries are funded through this account. Within days of the first controller furloughs taking effect on April 20, thousands of flights were delayed nationwide, and an angry flying public (with help from the airline industry) bombarded Capitol Hill with complaints.¹ Congress responded quickly, passing the [Reducing Flight Delays Act of 2013](#) on April 26.²

This situation is hardly unique. Similar campaigns have been waged to prevent cuts to Head Start and defense programs, for example, and meat inspector furloughs were avoided through a provision included in the enacted full-year Appropriations bill.

Yet in the face of such pressure, the Administration has insisted on a “global resolution to the sequester issue,”³ rather than piecemeal fixes, and the Senate recently [rejected](#) a proposal ([S.16](#)) to provide the President with flexibility to distribute BCA cuts as he sees fit. (In any case, the President said that he would veto the bill, and has stated a preference for a package of spending cuts, entitlement reform, and tax increases).⁴

The passage of the Reducing Flight Delays Act begs an important question: is this the beginning of the end of the sequester? Or is air traffic control, like meat inspection, an issue with such visible and far-reaching consequences for the general public that Congress and the President believe they have no choice but to act?

¹For example, Airlines for America’s “Don’t Ground America” campaign: <http://www.dontgroundamerica.com/>

² The bill allows DOT to transfer up to \$233 million from the Airport Improvement Program to the FAA Operations account, sufficient funding to relieve the furloughs and re-open contract towers recently closed by the FAA.

³ FAA Administrator Michael Huerta, in April 24 testimony before the House Appropriations Subcommittee on Transportation, Housing and Urban Development.

⁴ March 1 Statement by the President on the Sequester: <http://www.whitehouse.gov/the-press-office/2013/03/01/statement-president-sequester>.

Preview of FY 2014 Appropriations and Sequestration Activities

- On April 10th, OMB released two reports: the *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2014* and the *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2014* (both found [here](#)).
- The preview report establishes the new discretionary spending limits (caps) following the Joint Committee reductions for FY 2014. Under these new caps, Congress faces spending limits of \$498.082 billion for the defense category, which unlike previous years is made up solely of budget function 050, and \$469.391 billion for the non-defense category. The following table shows the evolution of the caps for FY 2014:

Evolution of FY 2014 Discretionary Caps \$ Billions (Budget Authority)					
	Pre Joint Committee Failure	BCA Revised	Post ATRA	Cap Reduction	Post Cap Reduction
Defense (Function 050)	-	556	552	-54	498
Non- Defense	-	510	506	-37	469
Total	1,066	1,066	1,058	-91	967

- The OMB Joint Committee report provides OMB's estimates of the discretionary cap reductions and the sequestration of mandatory spending required by the BCA. The report shows that the discretionary caps must be lowered by \$91 billion (as shown in the previous table), and \$19 billion in direct spending will be sequestered. OMB calculated that to achieve this \$19 billion sequestration, non-exempt direct spending sequestration percentages must be: 2.0 percent (\$11.2 billion) for Medicare, 7.2 percent (\$7 billion) for other non-defense mandatory programs, and 9.8 percent (\$750 million) for defense mandatory programs.
- The President has already signed the [order](#) to sequester non-exempt mandatory funds for FY 2014 on October 1, 2013. As long as Congress does not exceed the reduced discretionary caps, there will not be any further sequestrations ordered pursuant to the BCA for the fiscal year. Should Congress breach the caps in either defense or non-defense category, an additional round of sequestration will be ordered for the offending category 15 days after the end of the session of Congress.

Will Congress Breach the FY 2014 Limits?

- With no conference report to determine committee allocations in the House and Senate, it appears that the leadership of the appropriations committees in both houses will move forward and mark to the levels in the budget resolutions of their respective chambers. The following table shows how this will inevitably lead to conflict over levels at some point in the future:

Competing FY 2014 Discretionary Levels \$ Billions (Budget Authority)			
	Post Cap Reduction	House	Senate
Defense (Function 050)	498	552	552
Non-Defense	469	415	506
Total	967	967	1,058

- Senate Appropriations [Chairman Mikulski](#) has made it clear that she plans to mark to the pre-reduction discretionary levels, which were used by both the President and Senate Budget Chairman Murray in their budget plans. She recently stated:

I support the President's budget level of \$1.058 trillion. That is the same deal we made three months ago in the American Taxpayers Relief Act and I believe that it will be at the \$1.058 trillion level that this Full Committee will be marking up.

- House Appropriations Chairman Rogers, on the other hand, will follow the [\\$967 billion](#) in accordance with the House budget resolution and the Budget Control Act.
- Should both houses continue on this path, the Senate will ignore the entirety of the Budget Control Act, and the House will meet overall targets but only be compliant in terms of non-defense spending. Their current trajectories create a [\\$91 billion gap](#) in terms of their non-defense spending targets for FY 2014.
- While the Senate lacks allocation levels to enforce against for appropriations bills, each bill will be monitored for BCA cap compliance and, where a breach occurs, may face 312(b) and 314(f) statutory spending caps points of orders under the Congressional Budget Act of 1974. These points of order have 60 vote and simple majority thresholds for waiving, respectively.
- Regardless of the budget enforcement challenges that await appropriations bills under current plans, it is clear that in the absence of either an amendment to their trajectories or BBEDCA, a breach will occur and further sequestration will be required unless waived or otherwise circumvented.

Newbie Corner

It is often hard to keep up with all of the changes to federal budget laws. One useful resource is the [Compilation of Laws and Rules Relating to the Congressional Budget Process](#). You can use this resource to understand baseline construction, examine the rules associated with sequestration, and study the budget points of order found in statute.