



# Sequestration as a Budget Enforcement Process: Frequently Asked Questions

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## **Contents**

What Is a Sequester? .....	1
What Is the Purpose of a Sequester? .....	1
What Current Budget Requirements Are Enforced by Sequestration?.....	1
When Will a Sequester Occur?.....	2
How Is a Sequester Administered?.....	2
What Programs Are Exempt from a Sequester? .....	3
What Information Is Available Indicating How the Joint Committee Sequester for FY2013 Might Be Administered? .....	4
What Was the Plan for Sequestration as Originally Required by the BCA, and What Changes Were Made in January 2013 by the Enactment of ATRA? .....	4
Discretionary Spending Limits and Related Sequester .....	5
The Joint Committee Sequester.....	6
Has Congress Voted on Legislation That Would Modify, Replace, or Cancel an FY2013 Sequester?.....	7
When Was Sequestration First Enacted and What Past Budgetary Goals Has Sequestration Been Used to Enforce? .....	7
My Question Is Not on This List, How Do I Find the Answer I Need? .....	7

## **Contacts**

Author Contact Information.....	8
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This report provides basic information on sequesters generally, particularly those sequesters associated with the Budget Control Act of 2011. This report assumes a basic familiarity with the congressional budget process. For more information on the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by Bill Heniff Jr.

This report focuses on general processes associated with sequesters. Readers with questions about how a potential future sequester might affect a specific program or agency, or how an actual sequester is affecting a specific program or agency, should contact CRS subject matter experts by calling 7-5700 or visiting <http://www.crs.gov>.

## **What Is a Sequester?**

A sequester is an order issued by the President as required by law to enforce statutory budgetary limits, and it provides for the automatic cancellation of previously enacted spending, making largely across-the-board reductions to non-exempt programs, activities, and accounts.

## **What Is the Purpose of a Sequester?**

The purpose of a sequester is to enforce certain statutory budget requirements, such as enforcing statutory limits on discretionary spending or ensuring that new revenue and mandatory spending laws do not have the net effect of increasing the deficit. Generally, sequesters have been used as an enforcement mechanism that would either discourage Congress from enacting legislation violating a specific budgetary goal or encourage Congress to enact legislation that would fulfill a specific budgetary goal. One of the authors of the Balanced Budget and Emergency Deficit Control Act (BBEDCA; also known as the Gramm-Rudman-Hollings Act; P.L. 99-177), the law which first employed the sequester as an enforcement mechanism (discussed below), recently stated that “It was never the objective of Gramm-Rudman to trigger the sequester; the objective of Gramm-Rudman was to have the threat of the sequester force compromise and action.”<sup>1</sup>

## **What Current Budget Requirements Are Enforced by Sequestration?**

Sequestration is currently employed as the enforcement mechanism for several budgetary policies. Most notably, the Budget Control Act of 2011 (BCA; P.L. 112-25) includes sequestration to enforce two separate budgetary requirements. First, it is included as the enforcement mechanism for newly established statutory limits on discretionary spending to either deter enactment of legislation violating the spending limits or, in the event that legislation is enacted violating these limits, to automatically reduce discretionary spending to the limit specified in law.

Second, sequestration is also included in the BCA to enforce the budgetary goal established for the Joint Select Committee on Deficit Reduction to either encourage agreement on deficit

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<sup>1</sup> Oral and written testimony of the Honorable Phil Gramm, former Member of the House of Representatives from 1979-1985 and U.S. Senator from 1985-2002, before the Senate Finance Committee at the hearing on Budget Enforcement Mechanisms, May 4, 2011, accessible at <http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1>.

reduction legislation or, in the event that such agreement was not reached, automatically reduce spending so that an equivalent budgetary goal would be achieved.

Sequestration is included as the enforcement mechanism for the Statutory Pay-As-You-Go Act of 2010 (Statutory PAYGO; P.L. 111-139). The budgetary goal of Statutory PAYGO is to ensure that new revenue and mandatory spending legislation enacted during a session of Congress not have the net effect of increasing the deficit (or reducing a surplus) over either a 6-year or 11-year period. The sequester enforces this requirement by either deterring enactment of such legislation or, in the event that legislation has such an effect, automatically reducing spending to achieve the required deficit neutrality. For more information on Statutory PAYGO, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr.

## **When Will a Sequester Occur?**

As noted above, several budgetary policies are enforced by sequester and timing varies for each. For the discretionary spending limits, sequestration is generally enforced when a final sequestration report is issued by the Office of Management and Budget (OMB) within 15 calendar days after the end of a session of Congress.<sup>2</sup> The American Taxpayer Relief Act of 2012 (ATRA; P.L. 112-240) signed into law on January 2, 2013, however, postponed the enforcement of the FY2013 discretionary caps until March 27, 2013, which is also the day the current continuing resolution for FY2013 expires.<sup>3</sup> For more information on the discretionary spending caps, including sequestration and information on reporting requirements, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

For the sequester associated with the Joint Select Committee on Deficit Reduction, often referred to as the BCA sequester or the Joint Committee sequester, the sequester was originally scheduled to occur on January 2, 2013,<sup>4</sup> but was postponed by ATRA until March 1, 2013 (see “Changes to BCA Made by ATRA”). For more information on BCA sequester, including information regarding enforcement in subsequent years, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan. For more information on changes to the BCA made by ATRA, see “Changes to BCA Made by ATRA” and CRS Report R42949, *The American Taxpayer Relief Act of 2012: Modifications to the Budget Enforcement Procedures in the Budget Control Act*, by Bill Heniff Jr.

For Statutory PAYGO, if a sequester is required, it is implemented once OMB issues an annual PAYGO report not later than 14 days after the end of a session of Congress.

## **How Is a Sequester Administered?**

The statutory requirements for the sequester process are prescribed by the BBEDCA, as amended. Sequesters are implemented initially by an order issued by the President that must follow the

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<sup>2</sup> In addition to an end of the session sequester, a separate sequester may be triggered if supplemental appropriations cause a breach in the discretionary limits during the second and third quarter of the fiscal year.

<sup>3</sup> Continuing Appropriations Resolution, 2013; P.L. 112-175.

<sup>4</sup> The BCA sequester for subsequent years is to occur when the sequestration preview report is issued with the President’s budget submission.

specified statutory requirements. First, the total dollar amount of necessary spending reductions must be established by OMB, which must also make a determination about what accounts are not exempt from the sequester, creating a “sequestrable base.” OMB must then calculate the uniform percentage by which non-exempt budgetary resources must be reduced to achieve the total necessary reduction.<sup>5</sup> Budgetary resources, as defined in Section 250(c)(6) of BBEDCA, include new budget authority, unobligated balances, direct spending authority, and obligation limitations. Once this uniform percentage is determined, it is applied to all programs, projects, and activities (PPAs) within a budget account. PPAs are delineated in different ways: for accounts included in appropriations acts, PPAs within each budget account are delineated in those acts or accompanying reports; and for accounts not included in appropriations acts, PPAs are delineated in the most recently submitted President’s budget.<sup>6</sup>

Thereafter, as executive branch agencies implement the executive order they may take various actions after the cancelation of budget authority with regard to specific spending. These actions, many of which are subject to statutory limitations, may include, for example,

- transferring funds between accounts,<sup>7</sup>
- reprogramming funds within an account among one or more PPAs,<sup>8</sup>
- considering procurement-related options that the government has, pursuant to contract law or otherwise,<sup>9</sup> and
- furloughing agency personnel.<sup>10</sup>

## **What Programs Are Exempt from a Sequester?**

Many programs are exempt from sequestration, such as Social Security, and Medicaid, among many others. In addition, special rules govern the sequestration of certain programs, such as Medicare. These exemptions and special rules are found in Sections 255 and 256 of BBEDCA, as amended. Exemptions and special rules are detailed in CRS Report R42050, *Budget “Sequestration” and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

In addition, OMB included a preliminary “breakdown of exempt and non-exempt accounts” in the report issued pursuant to the Sequestration Transparency Act of 2012 (P.L. 112-115), available at [http://www.whitehouse.gov/sites/default/files/omb/assets/legislative\\_reports/stareport.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf).

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<sup>5</sup> In this way, OMB creates a percentage by which all accounts will be equally reduced, with category distinctions and special rules taken into account.

<sup>6</sup> BBEDCA Section 256(k)(2).

<sup>7</sup> For more information, see CRS Report R42633, *The Executive Budget Process: An Overview*, by Michelle D. Christensen.

<sup>8</sup> Ibid.

<sup>9</sup> CRS Report R42469, *Government Procurement in Times of Fiscal Uncertainty*, by Kate M. Manuel and Erika K. Lunder.

<sup>10</sup> For relevant frequently asked questions, see U.S. Office of Personnel Management, *Guidance for Administrative Furloughs*, February 2013, provided as a PDF file for download at <http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Administrative-Furlough>.

## **What Information Is Available Indicating How the Joint Committee Sequester for FY2013 Might Be Administered?**

The Joint Committee sequester is required by law to reduce both defense and non-defense spending by the same dollar amount, with reductions affecting both non-exempt discretionary and mandatory spending programs. Although OMB will make official calculations, according to a report released in February of 2013, the Congressional Budget Office (CBO) estimates that the following reductions will be made through the BCA sequester:<sup>11</sup>

Defense spending is estimated to be cut overall by \$42.7 billion, with defense discretionary spending reduced by the uniform percentage of 7.9% resulting in a reduction of \$42.7 billion and defense mandatory spending reduced by the uniform percentage of 7.8% resulting in a reduction of between zero and \$50 million.

Non-defense spending is also estimated to be cut by \$42.7 billion. Non-defense discretionary spending will be reduced by the uniform percentage of 5.3% resulting in a reduction of \$28.7 billion. Within the category of non-defense mandatory spending, Medicare will be cut by the uniform percentage reduction of 2% (as specified in law) for a reduction of \$9.9 billion, and other non-defense mandatory spending will be cut by 5.8% for a total of \$4 billion.

No current information is available from OMB estimating funding reductions. As was required by the Sequestration Transparency Act (P.L. 112-155) enacted in August of 2012, the Administration issued a report to Congress in September 2012, that “provides Congress with a breakdown of exempt and non-exempt budget accounts, an estimate of the funding reductions that would be required across non-exempt accounts, an explanation of the calculations in the report, and additional information on the potential implementation of the sequestration.” The report, however, was issued before the January 2013 enactment of ATRA, which revised the date the sequester would take effect and reduced the total amount to be sequestered (as described below). As a consequence, actual sequester results will likely vary from the preliminary estimates of funding reductions in the OMB report.<sup>12</sup>

Note also that the OMB report states that estimates and classifications in the report are “preliminary,” and that if sequestration occurs, the results would differ based on subsequent changes in law and ongoing legal, budgetary, and technical analysis. In addition, the report details cuts only to the account level and not to the program, project, and activity level (PPA), to which the reductions must be applied.

## **What Was the Plan for Sequestration as Originally Required by the BCA, and What Changes Were Made in January 2013 by the Enactment of ATRA?**

As noted above, the BCA includes sequestration as the enforcement mechanism for two separate budgetary goals: the statutory limits on discretionary spending and the budget goal established for

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<sup>11</sup> Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2013 to 2023*, February 2013, pp. 14, Table 1-2., <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43907-BudgetOutlook.pdf>.

<sup>12</sup> The report is available at [http://www.whitehouse.gov/sites/default/files/omb/assets/legislative\\_reports/stareport.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf).

the Joint Select Committee on Deficit Reduction, referred to as the Joint Committee Sequester. The American Taxpayer Relief Act of 2012 (ATRA) made changes to each.

## **Discretionary Spending Limits and Related Sequester**

ATRA made three major changes to the discretionary spending limit caps as originally required by the BCA. It revised the categories of the discretionary spending limits, the levels in the spending limits, and the date of enforcement for FY2013.

The BCA established statutory limits on discretionary spending for FY2012-FY2021. Originally, the spending limits for FY2012 and FY2013 were divided into separate categories: security and non-security, whereas the FY2014-FY2021 limits capped all discretionary spending as a single category.<sup>13</sup> The BCA specified that these categories would automatically change in the event that deficit reduction legislation reported from the Joint Select Committee on Deficit Reduction was not enacted by January 15, 2012. Such deficit reduction legislation was not enacted by that date and, therefore, in January of 2012, the categories were automatically revised in two major ways: (1) the categories of security and non-security were effectively changed to defense and non-defense<sup>14</sup> and (2) the limits for FY2014-2021 were no longer one single limit on discretionary spending, but instead separate limits on defense and non-defense spending. With the enactment of ATRA, categories were revised once again, and limits for FY2013 were changed back from defense and non-defense to security and non-security. This change did not affect the categories for years FY2014-2021, which remain defense and non-defense.

The statutory limits on discretionary spending for FY2013 as included in the BCA initially consisted of limits of \$684 billion for security and \$359 billion for non-security. With the automatic revision in January 2012, as described above, the FY2013 limits were effectively changed to \$546 billion for defense and \$501 billion for non-defense. ATRA changed the limits for FY2013 to \$684 billion for security spending and \$359 billion for non-security spending, which resulted in a total decrease of \$4 billion. For FY2014, ATRA reduced the limits for both the defense and non-defense by \$4 billion each, for a total of \$8 billion.

The BCA stipulates that if the discretionary spending limits are breached by the enactment of appropriations legislation, then a sequestration process will occur canceling previously enacted spending though automatic, largely across-the-board reductions of budgetary resources. The reductions would occur, however, only within the category that contains the spending breach. The BCA specified that the statutory limits may be adjusted for specific purposes, such as to provide for disaster relief and the “Global War on Terrorism.” ATRA made no changes to this process.

The BCA specifies that sequestration required to eliminate a breach in discretionary spending caps will occur when a final sequestration report is issued by the OMB within 15 calendar days after the end of a session of Congress.<sup>15</sup> ATRA however, postponed the enforcement of the

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<sup>13</sup> The security category includes discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150). The non-security category includes discretionary spending in all other budget accounts. For more information, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

<sup>14</sup> The defense category consists of budget function 050 (national defense) only. The non-defense category includes discretionary spending in all other budget accounts.

<sup>15</sup> In addition to an end of the session sequester, a separate sequester may be triggered if supplemental appropriations (continued...)

FY2013 discretionary caps until March 27, 2013, which is the day the current continuing resolution for FY2013 expires.<sup>16</sup> The enforcement process for the discretionary spending caps for FY2014-FY2021 was not changed.

### **The Joint Committee Sequester**

ATRA made two major changes to the Joint Committee sequester process as originally designed by the BCA. It reduced the amount of the sequester and the date of enforcement.

The BCA created a Joint Select Committee on Deficit Reduction instructed to develop legislation to reduce the budget deficit by at least \$1.5 trillion over the 10-year period, FY2012-FY2021. The BCA stipulated that if a measure meeting specific requirements was not enacted by January 15, 2012, then a sequester would be triggered. This sequester was scheduled to occur on January 2, 2013, with further sequesters and revised discretionary limits scheduled to occur each year through FY2021. As mentioned above, the sequester was postponed by ATRA until March 1, 2013.

Generally, the spending reductions are to be made equally from the categories of defense spending and non-defense spending. The reductions required in each of these categories are then divided proportionally between discretionary spending and mandatory spending.

The BCA required a savings of \$1.2 trillion over a nine-year period, including \$216 billion (or 18%) of assumed savings due to debt service costs. The remaining \$984 billion of required savings was divided equally across each of the nine years, resulting in annual required spending reductions of approximately \$109 billion, which is approximately \$55 billion for each of defense and non-defense spending.

ATRA reduced the level of the FY2013 Joint Committee sequester by \$24 billion to about \$85 billion with reductions estimated to be about \$42.7 billion each for both defense and non-defense spending. For more information, see question above, “What Information Is Available Indicating How the Joint Committee Sequester for FY2013 Might Be Administered?”

For more detailed information on the BCA, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan. For more detailed information on how ATRA altered the procedures in the BCA, see CRS Report R42949, *The American Taxpayer Relief Act of 2012: Modifications to the Budget Enforcement Procedures in the Budget Control Act*, by Bill Heniff Jr. For information on ATRA generally, see CRS Report R42884, *The “Fiscal Cliff” and the American Taxpayer Relief Act of 2012*, coordinated by Mindy R. Levit.

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cause a breach in the discretionary limits during the second and third quarter of a fiscal year.

<sup>16</sup> Continuing Appropriations Resolution, 2013; P.L. 112-175



## Has Congress Voted on Legislation That Would Modify, Replace, or Cancel an FY2013 Sequester?

Yes. As described above, the American Taxpayer Relief Act of 2012 was enacted in January of 2013, which modified the sequester for FY2013. In addition, in the 112<sup>th</sup> Congress, the House voted on three separate proposals to modify, cancel, or replace the Joint Committee sequester. Those proposals are described in the CRS Report R42675, *The Budget Control Act of 2011: Budgetary Effects of Proposals to Replace the FY2013 Sequester*, by Mindy R. Levit.

## When Was Sequestration First Enacted and What Past Budgetary Goals Has Sequestration Been Used to Enforce?

Sequestration was first used in the BBEDCA (referenced above). The BBEDCA created annual statutory deficit limits and a sequester mechanism to enforce the limits. These limits were replaced by the Budget Enforcement Act of 1990 (BEA; P.L. 101-508), which established pay-as-you-go (PAYGO) procedures to control new mandatory spending and revenue legislation and discretionary spending limits to control the level of discretionary spending. These two procedures, in effect until 2002, both used sequestration as the enforcement mechanism. For more information on the use of sequestration in Gramm-Rudman-Hollings and the BEA, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan S. Lynch.

## My Question Is Not on This List, How Do I Find the Answer I Need?

You may contact any of the CRS analysts or attorneys listed below, call CRS at 5-5700, or submit a request on the CRS homepage at <http://www.crs.gov>.

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