Sequestration as a Budget Enforcement Process: Frequently Asked Questions

Megan S. Lynch
Analyst on Congress and the Legislative Process

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This report provides basic information on sequesters generally, particularly those sequesters associated with the Budget Control Act of 2011 (BCA). 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 Jim Saturno.

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 provides for the automatic cancellation of previously enacted spending, making largely across-the-board reductions to non-exempt programs, activities, and accounts. A sequester is implemented through a sequestration order issued by the President as required by law.

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 of 1985 (BBEDCA; also known as the Gramm-Rudman-Hollings Act; P.L. 99-177), the law that first employed the sequester as an enforcement mechanism (discussed below), recently stated, "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."[1]

What Current Budget Requirements Are Enforced by Sequestration?

Sequestration is currently employed as the enforcement mechanism for three budgetary policies.

1. It is included as the enforcement mechanism for statutory limits on defense and non-defense discretionary spending as established by the BCA. In this situation a sequester is used either to 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 limits specified in law.
2. Sequestration is also included in the BCA to enforce the budgetary goal established for the Joint Select Committee on Deficit Reduction. The BCA established an automatic process to reduce spending, beginning in 2013, in the event that a joint committee bill reducing the deficit by at least $1.2 trillion over

[1] 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, http://finance.senate.gov/hearings/hearing/?id=f47f0466-5056-a032-526c-15196aea18d1.

the period covering FY2012-FY2021 was not enacted by January 15, 2012. (Such a bill was not enacted.) In this case, sequestration was included either to encourage agreement on deficit reduction legislation or, in the event that such agreement was not reached, to automatically reduce spending so that an equivalent budgetary goal would be achieved.

3. 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 prevent new revenue and mandatory spending legislation enacted during a session of Congress from increasing the net deficit (or reducing a net surplus) over either a six-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.[2] A sequester will occur only if either the defense or non-defense discretionary limits are exceeded.
- 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 spending reduction is more complicated. Since a bill was not enacted reducing the deficit by at least $1.2 trillion over the period covering FY2012-FY2021, the sequester process was activated, and the actions described below will happen each year absent legislation enacted to the contrary.

  Under the BCA, the required reductions associated with the Joint Committee are achieved annually through a two-part process:

1. First, the discretionary spending caps mentioned above are adjusted downward (or decreased) each year through FY2021. These adjusted levels are to be calculated by OMB and are included annually in the *OMB Sequestration Preview Report to the President and Congress*, which is to be issued with the President's annual budget submission. (While these downward cap adjustments are not a sequester per se, they are often referred to as a sequester.)
2. Second, a sequester of non-exempt direct spending programs takes place each year through FY2025.[3] These levels are also calculated by OMB and are included in the annual *OMB Report to Congress on the Joint Committee Reductions*,

[2] 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. In such an event, sequestration would take place 15 days after the enactment of the appropriation.

[3] The BCA originally stipulated that the annual sequester of non-exempt direct spending would take place only through 2021, but other legislation extended the direct spending sequester through 2025. For more information, see below the question "What Legislation Has Made Significant Changes to the BCA Since Its Enactment?"

which is also to be issued with the President's budget submission. The sequester does not occur, however, until the beginning of the upcoming fiscal year.

- 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 specified statutory requirements. First, the total dollar amount of necessary spending reductions must be established by OMB, which must also determine 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.[4] Budgetary resources, as defined in Section 250(c)(6) of the 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.[5]

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

- Transferring funds between accounts,[6]
- Reprogramming funds within an account among one or more PPAs,[7]
- Considering procurement-related options that the government has, pursuant to contract law or otherwise,[8] and
- Furloughing agency personnel.[9]

What Programs Are Exempt from a Sequester?

Many programs are exempt from sequestration, such as Social Security and Medicaid. In addition, special rules govern the sequestration of certain programs, such as Medicare. These

[4] In this way, OMB creates a percentage by which all accounts will be equally reduced, with category distinctions and special rules taken into account.

[5] BBEDCA, Section 256(k)(2).

[6] For more information, see CRS Report R42633, *The Executive Budget Process: An Overview*, by Michelle D. Christensen.

[7] Ibid.

[8] See CRS Report R42469, *Government Procurement in Times of Fiscal Uncertainty*, by Kate M. Manuel and Erika K. Lunder.

[9] For relevant frequently asked questions, see U.S. Office of Personnel Management, *Guidance for Administrative Furloughs*, February 2013, http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Administrative-Furlough.

exemptions and special rules are found in Sections 255 and 256 of the BBEDCA, as amended, respectively.

It may also be helpful to review OMB sequester reports detailing programs that *have* been subject to sequester. To see a list of both discretionary and direct spending programs subject to the FY2013 sequester, see the *OMB Report to Congress on the Joint Committee Sequestration for FY 2013*.[10] To see a list of direct spending programs subject to the most recent sequester, see the annual *OMB Report to the Congress on the Joint Committee Sequester for FY2016*.[11]

What Legislation Has Made Significant Changes to the BCA Since Its Enactment?

Since the BCA was enacted, several pieces of legislation have been enacted making changes to the spending limits and enforcement procedures included in the BCA. Some of the most significant of these changes are included below.

The American Taxpayer Relief Act of 2012 (P.L. 112-240) postponed the start of FY2013 sequester from January 2 to March 3 and reduced the amount of the spending reductions by $24 billion, among other things.

The Bipartisan Budget Act of 2013 (P.L. 113-67, referred to as the Murray-Ryan agreement) increased discretionary spending limits for both defense and non-defense for FY2014, each by about $22 billion. In addition, it increased discretionary spending limits for both defense and non-defense for FY2015, each by about $9 billion. It also extended the direct spending sequester by two years to 2023.

Soon after the enactment of the Bipartisan Budget Act of 2013, a bill was enacted to "ensure that the reduced annual cost-of-living adjustment to the retired pay of members and former members of the armed forces under the age of 62 required by the Bipartisan Budget Act of 2013 will not apply to members or former members who first became members prior to January 1, 2014, and for other purposes (P.L. 113-82). This legislation extended the direct spending sequester by one year to 2024. For more information, see CRS Report R43411, *The Budget Control Act of 2011: Legislative Changes to the Law and Their Budgetary Effects*, coordinated by Steven Maguire.

The Bipartisan Budget Act of 2015 (P.L. 114-74) increased discretionary spending limits for both defense and non-defense for FY2016, each by $25 billion. In addition, it increased discretionary spending limits for both defense and non-defense for FY2017, each by $15 billion. It also extended the direct spending sequester by one year to 2025. In addition, it established spending targets for overseas contingency operations/global war on terrorism for FY2016 and FY2017 and amended the limits of adjustments allowed under the discretionary spending limits for Program Integrity Initiatives. For more information, see CRS Insight IN10389, *Bipartisan Budget Act of 2015: Adjustments to the Budget Control Act of 2011*, by Grant A. Driessen.

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[10] OMB, *OMB Report to the Congress on the Joint Committee Sequestration for FY2013*, March 1, 2013. https://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

[11] OMB, *OMB Report to the Congress on the Joint Committee Reductions for FY2016*, February 2, 2015, https://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration/2016_jc_sequestration_report_speaker.pdf.

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

Sequestration was first used as an enforcement mechanism in the BBEDCA of 1985 (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 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.

Area of Expertise	Name	Title	Phone	Email
Congressional Budget Process	Bill Heniff, Jr.	Analyst on Congress and the Legislative Process	7-8646	wheniff@crs.loc.gov
	Megan S. Lynch	Specialist on Congress and the Legislative Process	7-7853	mlynch@crs.loc.gov
	Jim Saturno	Specialist on Congress and the Legislative Process	7-2381	
Budget Policy	Grant Driessen	Analyst in Public Finance	7-7757	gdriessen@crs.loc.gov
Executive Budget Process	Clinton T. Brass	Specialist in Government Organization and Management	7-4536	cbrass@crs.loc.gov
	Michelle D. Christensen	Analyst in Government Organization and Management	7-0764	mchristensen@crs.loc.gov
Government Procurement	Erika K. Lunder	Legislative Attorney	7-4538	elunder@crs.loc.gov
	Kate M. Manuel	Legislative Attorney	7-4538	kmanuel@crs.loc.gov
Civilian Employee Furloughs	Clinton T. Brass	Specialist in Government Organization and Management	7-4536	cbrass@crs.loc.gov
	Barbara L. Schwemle	Analyst in American Government	7-8655	bschwemle@crs.loc.gov

Author Contact Information

Megan S. Lynch
Analyst on Congress and the Legislative Process
mlynch@crs.loc.gov, 7-7853