

Sequestration as a Budget Enforcement Process: Frequently Asked Questions

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The House of Representatives and Senate Explained

Congressional Procedure

A Practical Guide to the Legislative Process in the U.S. Congress

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 **TheCapitolNet**

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This report provides basic information on sequesters generally. The report assumes a basic familiarity with the congressional budget process. For more information on the congressional budget process, see CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. 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 nonexempt 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), 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 nondefense discretionary spending as established by the Fiscal Responsibility Act of 2023 (FRA; P.L. 118-5).² 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 was also included in the Budget Control Act of 2011 (BCA; P.L. 112-25) 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

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>.

² For more information, see CRS Insight IN12168, *Discretionary Spending Caps in the Fiscal Responsibility Act of 2023*, by Grant A. Driessen and Megan S. Lynch.

deficit by at least \$1.2 trillion over 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. Subsequent legislation extended this sequestration through FY2031 and through FY2032 for Medicare benefit payments.

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.³ (A sequester will occur only if either the defense or nondefense discretionary spending limits are exceeded.) Under a new provision in the FRA, if a continuing resolution is in effect on January 1, the discretionary spending levels will be revised, and a final sequestration report will be issued either: (1) 15 days, not including holidays and weekends, after the enactment of full year appropriations, or (2) if a continuing resolution is still in effect on April 30.⁴
- 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 levels are calculated by OMB and are included in the annual OMB Report to Congress on the Joint Committee Reductions, which is 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.

³ 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.

⁴ For more information, see CRS Insight IN12183, *The FRA's Discretionary Spending Caps Under a CR: FAQs*, by Drew C. Aherne and Megan S. Lynch.

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 nonexempt budgetary resources must be reduced to achieve the total necessary reduction.⁵ 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.⁶

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,⁷
- Reprogramming funds within an account among one or more PPAs,⁸
- Considering procurement-related options that the government has, pursuant to contract law or otherwise,⁹ and
- Furloughing agency personnel.¹⁰

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.¹¹ These 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 the Congress on the Joint Committee Sequestration for*

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

⁶ BBEDCA, Section 256(k)(2).

⁷ See CRS Report R47019, *The Executive Budget Process: An Overview*, by Dominick A. Fiorentino and Taylor N. Riccard.

⁸ Ibid.

⁹ See CRS Legal Sidebar LSB10243, *How a Government Shutdown Affects Government Contracts*, by David H. Carpenter; and CRS Report R42469, *Government Procurement in Times of Fiscal Uncertainty*, by Kate M. Manuel and Erika K. Lunder (available to congressional clients upon request).

¹⁰ For relevant frequently asked questions, see U.S. Office of Personnel Management, *Guidance for Administrative Furloughs*, March 2017, <http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Administrative-Furlough>.

¹¹ For more information, see CRS Report R45106, *Medicare and Budget Sequestration*, by Ryan J. Rosso.

Fiscal Year 2013.¹² To see a list of direct spending programs subject to the most recent sequester, see the annual *OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2024*.¹³

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 (as described 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.

Sequestration was also used to enforce discretionary spending limits established by the BCA for FY2012-FY2021. For more information, see CRS Report R46752, *Expiration of the Discretionary Spending Limits: Frequently Asked Questions*, by Megan S. Lynch and Grant A. Driessen; and CRS Report R44874, *The Budget Control Act: Frequently Asked Questions*, by Grant A. Driessen and Megan S. Lynch.

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¹² OMB, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, March 1, 2013, https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

¹³ OMB, *OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2024*, March 13, 2023, https://www.whitehouse.gov/wp-content/uploads/2023/03/BBEDCA_Sequestration_Report_and_Letter_3-13-2024.pdf.

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