



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 25, 2012

The Honorable Paul Ryan
Chairman
Committee on the Budget
U.S. House of Representatives
207 Cannon House Office Building
Washington, DC 20515

Dear Chairman Ryan:

Thank you for your letter dated April 26, 2012, regarding the Office of Management and Budget's (OMB) testimony to the House Budget Committee's hearing entitled, "Replacing the Sequester." The Budget Control Act of 2011 (BCA; Public Law 112-25) amended the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) to put into place an automatic process of across-the-board cuts, known as a sequester, to take effect if the Joint Select Committee on Deficit Reduction, also established by the BCA, failed to propose (and Congress failed to enact) a bill including at least \$1.2 trillion in deficit reduction. Your letter requested information about OMB's preparation for implementing this sequester should it take effect on January 2, 2013.

The President has made clear that Congress should act to avoid such a sequester. If allowed to occur, the sequester would be highly destructive to national security and domestic priorities, as well as core government functions. To avoid this, the President submitted a Budget that includes a comprehensive and balanced set of deficit reduction proposals. Two hundred and sixty-nine members of the House of Representatives – from both sides of the aisle – voted for the BCA, agreeing to make tough decisions to reduce the deficit, but later Congress failed to pass the required deficit reduction. Instead of looking for ways to mitigate the effects of the sequester, the Administration believes that Congress should redouble its efforts to reduce the deficit by at least the amount prescribed in the BCA; do so in a bipartisan, balanced, and fiscally responsible manner; and thus allow us to avoid the sequester.

In your letter, you asked if the accounts of the Department of Veterans Affairs (VA) would be reduced under current law if the sequester occurred on January 2, 2013. On April 23, 2012, we responded to a letter from the Government Accountability Office (GAO) regarding the effect of sequestration on programs administered by VA. Our letter concluded that all programs administered by VA, including Veterans' Medical Care, are exempt from sequestration. As the letter to GAO further stated, "...we do not address other potential sequester questions under BBEDCA, the PAYGO Act, and the BCA, including the application to VA programs of the 'Federal Administrative Expenses' sequester provision at Section 256(h) of BBEDCA." More than seven months remain before the sequester would take effect, giving Congress ample time to act to avoid it. The Administration urges Congress to act on bipartisan, balanced deficit reduction legislation to avoid the sequester rather than plan how sequestration would be implemented if Congress fails to act and the sequester takes effect on January 2, 2013.

Your letter also requested information on whether funds designated by Congress for Overseas Contingency Operations (OCO) are subject to sequester. Funds designated by Congress for OCO are subject to sequester, provided that those funds are not otherwise exempt. Section 251A(7) of BBEDCA, as added by the BCA, states that OMB shall calculate a sequestration “to reduce each account within the security category or non-security category....” OCO is funded from such accounts and is thus subject to sequester, absent an express statutory exemption. BBEDCA does not provide any special exemption for spending on OCO, meaning that those funds are generally subject to sequester.

While OCO funds would be sequestered under the BCA, the Act does include a special provision for these funds. If Congress provides funds designated for OCO in appropriations legislation, and the President subsequently so designates the same funds, the discretionary caps imposed by the BCA are adjusted upward by the amount of those funds (Section 251(b)(2)(A) of BBEDCA). In other words, OCO spending is subject to sequester, but it will not cause a sequester.

The BCA also provides that the President may exercise special authority under Section 255(f) of BBEDCA to exempt any military personnel account from a sequester, subject to a further reduction of other accounts within sub-functional category 051 pursuant to Section 251(a)(3). To the extent that a portion of OCO funding is in a military personnel account and the President exempts that account from sequestration, that portion of OCO funding would be exempt, but the reduction would be reallocated to other defense accounts.

Your letter requests a listing of each budget account organized by its classification as exempt from a sequester, non-exempt, or subject to a special rule in the event of a sequestration that would result from the Joint Committee’s failure. OMB currently does not maintain such a list. If Congress fails to act to avoid the sequester then, at the appropriate time, OMB will work with executive departments and agencies on this classification of programs.

Finally, if necessary, the Administration will be ready to implement a sequester; however, now is the time to focus on enacting the balanced framework proposed in the President’s Budget. OMB has considerable institutional experience and expertise in dealing with extenuating circumstances resulting from congressional inaction. OMB will provide guidance to agencies at the appropriate time and will be ready to implement the sequester if necessary.

I urge the Congress to enact bipartisan balanced deficit reduction legislation that the President can sign into law and avoid the sequestration scheduled to take place on January 2, 2013. Balanced deficit reduction, rather than sequestration, is the way to put the Nation on the path to fiscal stability and protect our national security.

Sincerely,


Jeffrey D. Zients
Acting Director