BRUSTEIN & MANASEVIT, PLLC
ATTORNEYS AT LAW

3105 South Street, NW
Washington, DC 20007
phone 202.965.3652
fax 202.965.8913
email bruman@bruman.com
www.bruman.com

SEQUESTRATION CHEAT SHEET

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What is Sequestration?

Generally in U.S. law, sequestration is a procedure by which an automatic spending cut is triggered. It was first implemented in 1985 by the Gramm-Rudman-Hollings Balanced Budget Act and sequestration has been triggered a total of five times.

In current discussion, "sequestration" or "the sequester" are terms used to describe the automatic budget cuts passed into law under the Budget Control Act (BCA) in August 2011. The Budget Control Act contained new agreements on spending levels and the debt ceiling and created a Congressional Debt Supercommittee (formally known as the Joint Congressional Committee on Deficit Reduction). This Supercommittee, made up of members from the House and Senate on both sides of the aisle, was instructed to cut at least $1.5 trillion from the federal budget. If the Supercommittee failed to present an agreement containing cuts of at least $1.2 trillion over the next ten years, the BCA triggered automatic budgetary cuts. The Supercommittee met a number of times but ultimately failed to come to any agreement, citing irreconcilable differences over the issue of whether to reduce federal debt levels by increasing taxes (raising revenues) or reducing spending.

The automatic cuts were designed to make up for the total amount below $1.2 trillion that the Supercommittee failed to cut. Since the Supercommittee recessed permanently in November of 2011 without coming to any agreement, the sequestration cuts are set at $1.2 trillion, spread between January 2013 and October 2021.

Changes to this sequestration procedure were enacted in January of 2013 through the American Taxpayer Relief Act. That legislation delayed the implementation of automatic cuts by two months to March 1, 2013 and reduced by $24 billion the amount to be cut through those across-the-board reductions in FY 2013. Instead, the bill replaced that $24 billion in "lost" automatic spending cuts with $12 billion in taxes on retirement plans converted from traditional to Roth IRAs, and $12 billion in reductions to Congressional spending caps – giving lawmakers much more discretion over how funding is allocated.

How Does Sequestration Work?

The final amount of sequestration program cuts is calculated through the following steps:

(1) **Calculate the total adjusted amount of deficit reduction needed.** Though the ultimate amount of the reduction will be $1.2 trillion, this includes both cuts in spending and savings on interest on the national debt as treasury expenditures will be lower. This interest savings is estimated at 18% of the total, leaving a deficit reduction target of $984 billion.

(2) **Divide the remainder by year.** The $984 billion is divided evenly among the years over which the cut is to take place (2013 – 2021). This leaves about $109 billion per year. In FY 2013, however, the American Taxpayer Relief Act reduced the amount of sequestration by $24 billion, bringing the cut *for that year only* down to $85 billion.

(3) **Take this number and divide evenly between defense** ("function 050") **and non-defense** ("function 500") **spending** – about $54.5 billion each ($42.5 billion in FY 2013).

(4) **Remove exempt programs** (see below) **from the calculation**.
   a. Mandatory spending (entitlements and similar benefits) is exempt or limited to specific cuts (e.g. cuts to Medicare are limited to 2%)
   b. There are specific cuts to non-defense discretionary spending for implementation of the Patient Protection and Affordable Care Act (PPACA) and more.

(5) In fiscal year (FY) **2013, apply the remaining dollar number in equal percentage cuts across the board.**

(6) **In other years, lower the discretionary spending caps** (known as 302(b) caps, these are the total amount that each account is allowed, and the total number each appropriations subcommittee is given to work with) **by the sequester amount.** The lowering of the caps allows the cuts to be distributed by appropriators on a program-by-program basis rather than across the board.

(7) **If in any future year the caps are broken** (if spending bills are passed that go above that limit), **automatic across the board cuts are once again triggered.**

*What programs are exempt?**

Many accounts and programs are exempt from sequestration. Most exemptions arise from pension and other entitlements or obligations (e.g. Social Security benefits, railroad retirement benefits, all Department of Veterans Affairs program, and payments to all pension and special compensation programs operated by the federal government). Some are purely fiscal in nature (no reduction of payments for interest on national debt, no reduction to refundable income tax credits).

In addition, there are a large number of "low-income assistance" programs that are exempt from cuts under Title II of the U.S. Code. These include:

- ACG/SMART Grants
- Child Care entitlement grants to States
- All Child Nutrition program (except special milk programs)
- Children's Health Insurance Program (CHIP)
- Commodity Supplemental Food Program
- Some Pell grants
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Security Income Program (SSI)
- Temporary Assistance for Needy Families (TANF)

*This is not a complete list. The full list of exemptions to sequestration, including account numbers, is available at 2 U.S.C. 905. The President may also choose to exempt additional programs from cuts.

How much money does sequestration cut?

The total amount of cuts under sequestration is defined as a dollar amount which must be applied to each year's appropriation to reduce federal spending. Exempt mandatory spending, including entitlements, also varies in cost from year to year, and it is not yet clear what appropriations for these programs will be several years down the road. Reductions in funding to programs and States may also interact with funding formulas and hold harmless provisions in unanticipated ways. Because there are so many variables dependent on politics and Congressional action, it is difficult to determine the exact cut to each program in the future. In addition, decisions made by appropriators in future years (when sequestration is not realized as an across-the-board cut) may change the fate of specific programs.

The Office of Management and Budget (OMB) issued sequestration calculations in September of 2012 which yielded an estimate of an 8.2% cut to all non-defense discretionary programs (including most education funding) and a 7.6% cut to mandatory non-defense spending (including some student loans). *Because of the changes to sequestration made by the fiscal cliff deal, however, these numbers are no longer valid for FY 2013.*

Changes to the sequestration procedure for FY 2013 under the American Taxpayer Relief Act (the fiscal cliff deal) mean that the size of the sequestration cuts for FY 2013 would be significantly reduced. A number of sources, including the Committee for Education Funding, put this new cut at **approximately 5.9% below FY 2012 levels**.

These estimates are all based on the assumption that FY 2013 funding levels will be equal to federal funding levels seen in FY 2012 – which is not in a certainty at this point. In September of 2012, the House and Senate passed a six-month spending measure (a "continuing resolution" or "CR") which increases spending levels by 0.612% across the board through March of 2013 (though federal agencies have not yet distributed additional funds, keeping allocations at FY 2012 levels). Funding after March 2013 will depend on upcoming fiscal negotiations.

Additionally, sequestration will apply to FY 2014 and future funding – that is, funds allocated on October 1, 2013 or later – through reductions in Congressional spending caps. Lawmakers crafting appropriations legislation will be able to choose which programs to cut and which to spare in future years, even under sequestration.

When will sequestration go into effect?

The President is required to issue a sequestration order, which will have immediate effect, no later than March 1, 2013 (this implementation date was changed from January 2 through the fiscal cliff deal).

In a July 20, 2012 memorandum to Chief State School Officers, Deputy Secretary of Education Anthony Miller explained ED's plan for implementing sequestration for FY 2013. Programs with bifurcated appropriations, like ESEA Title I and II, Impact Aid, IDEA Part B, and CTE State Grants, receive two pools of funding: one in October, and one in July. The October funds are known in the appropriations and spending process as "advance" appropriations because they are sent out to States at the beginning of the fiscal year, but are appropriated and charged to the treasury in the previous fiscal year – a year *in advance.*

Miller's memorandum stated that advance funds – with the exception of Impact Aid – would not be subject to sequestration when first allocated. Instead, Miller writes, "… the Department will take the sequester from funds that would become available in July 2013 for school year 2013-14, not from the 2012 advance appropriations available in October 2012. The amount of the reduction will be calculated by applying the sequester percentage… to the fiscal year 2013 budgetary resources from both the 2012 advance appropriations and the 2013 regular appropriations that are available …. The calculated sequester amount will then get subtracted from the July 2013 funding." As a result, most schools and districts would not feel the impact of sequestration during the 2012-13 school year – Miller asserts that "there is no reason to believe that a sequestration would affect funding for the 2012-2013 school year" – though the effect of the cuts may be amplified in July 2013 as cuts from both the 2012 advance funds and 2013 regular appropriations would be applied to that pool of funds.

To date, ED has not revised their guidance to reflect changes made to sequestration under the American Taxpayer Relief Act. However, the new effective date of sequestration is unlikely to change this procedure, as it would not affect the mechanics of ED's plan in any way.

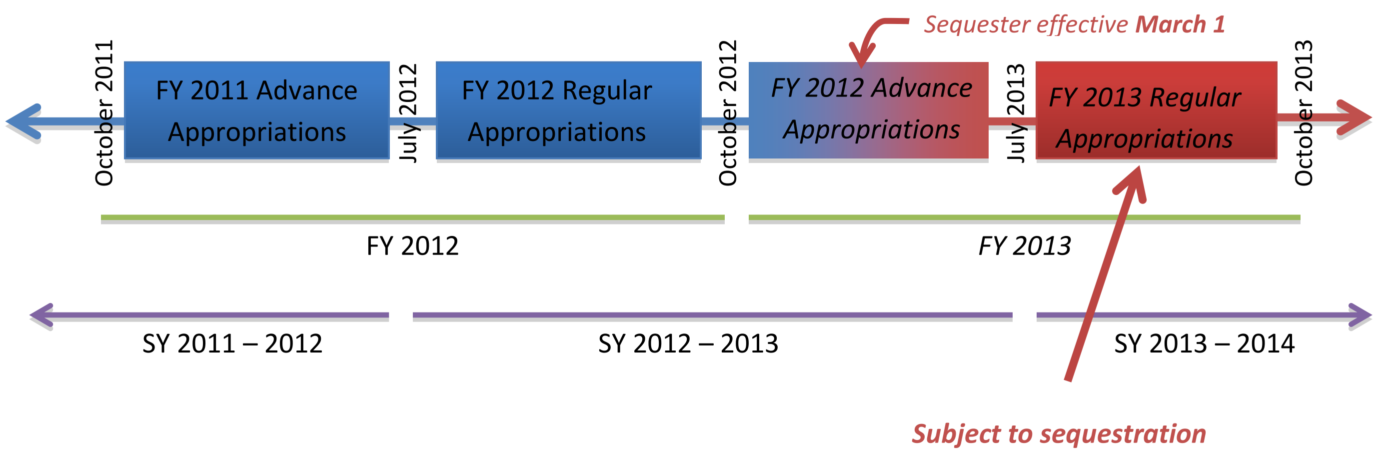
How can sequestration be avoided?

Because sequestration was put into place by an act of Congress, another act of Congress is required to undo the trigger – or, as seen in the American Taxpayer Relief Act, to delay the cuts. This can be an independent item of legislation or a budget bill which explicitly replaces sequestration. Just passing another budget bill, however, will not erase sequestration as the cuts are meant to be applied to funding levels set during regular appropriations in FY 2013, or incorporated into the appropriations process from FY 2014 – 2021.

Advocates and industry – especially the defense industry – have placed increasing pressure on Congress and the White House to undo sequestration. White House aides have said they believe they set a promising precedent in the fiscal cliff debate, where the final legislation eliminated two months' worth of sequestration cuts, and compensated for that change in two ways: half in revenue increases (taxes) and half in future spending cuts. Most members of Congress are in agreement that the sequester must be repealed and replaced with a more carefully considered system of cuts. But how those cuts are distributed and how deep they go is still a matter of debate.

New fights on spending are anticipated at three points early in 2013: first, when the nation reaches the debt ceiling – an internal limit on how much the country allows itself to borrow to pay obligations – in mid-February; second, before the new effective date of sequestration on March 1; and third, before the current CR expires on March 27th.

Appropriations Years Subject to Sequestration (by date of availability of funds)



FY 2011 Advance Appropriations became available at the beginning of FY 2012 (October 1, 2011)
FY 2012 Regular Appropriations became available during FY 2012 (July 1, 2012)
FY 2012 Advance Appropriations became available at the beginning of FY 2013 (October 1, 2012)

→ Per a July 20 memorandum from the Department of Education, these funds will not be subject to sequestration when allocated

FY 2013 Regular Appropriations will become available during FY 2013 (July 1, 2013)

→ All funds will be subject to sequestration. These funds will also be reduced by the amount the sequester would have reduced FY 2012 advance appropriations in October of 2012.

Program Years Subject to Sequestration for Certain Programs (in billions of dollars)

Program	2011 Advance	2012 Regular	2012 Advance	*2013 Regular*	*2013 Advance*
Title I	**10.8**	**3.7**	**10.8**	*?*	*?*
IDEA	**8.6**	**2.3**	**9.3**	*?*	*?*
Perkins/CTE	**.8**	**.3**	**.8**	*?*	*?*
Title II	**1.7**	**.8**	**1.7**	*?*	*?*

Advance funding represents approximately 75% of the year's federal appropriation for these programs, with 25% coming from regular year appropriations. Per the July 20 memorandum, cuts to FY 2012 Advance Appropriations will not be applied when funds are allocated. *However, cuts to FY 2012 advance appropriations will be applied to the July 2013 funds. FY 2013 Regular appropriations and all subsequent appropriations are subject to sequestration regardless of the date of obligation.*