CRS INSIGHT

Impact of the Budget Control Act Discretionary Spending Caps on a Continuing Resolution

November 14, 2017 (IN10817)

|

Related Authors

- Megan S. Lynch
- James V. Saturno

|

Megan S. Lynch, Specialist on Congress and the Legislative Process (mlynch@crs.loc.gov, 7-7853)
James V. Saturno, Specialist on Congress and the Legislative Process (jsaturno@crs.loc.gov, 7-2381)

What are the requirements of the BCA for FY2018 appropriations?

Appropriations enacted for FY2018 are subject to two statutory discretionary spending limits established by the Budget Control Act of 2011 (BCA): One applies to defense discretionary spending, and the other applies to nondefense discretionary spending. The defense spending limit for FY2018 is $549 billion and applies to discretionary spending in budget function 050 (national defense) only. The nondefense spending limit for FY2018 is $516 billion and applies to discretionary spending in all other budget functions. The BCA stipulates that some spending is effectively exempt from the limits, such as appropriations designated as emergency requirements or for overseas contingency operations.

If appropriations are enacted that exceed either the defense or nondefense discretionary limits, a sequester would be triggered, making largely across-the-board reductions to nonexempt programs, activities, and accounts within the category of the breach. A sequester is implemented through a sequestration order issued by the President as required by law.

For more information on the BCA, see CRS Report R44874, *The Budget Control Act: Frequently Asked Questions*, by Grant A. Driessen and Megan S. Lynch.

When would a sequester be triggered?

A sequester would occur only if appropriations are enacted that exceed either the defense or nondefense discretionary limits. In such a case, sequestration is generally triggered when the Office of Management and Budget (OMB) issues a final sequestration report within 15 calendar days after the end of a session of Congress, as required by law.

In addition, a sequester may also be triggered if the enactment of appropriations causes a breach in the discretionary limits during the second and third quarter of the fiscal year. In such an event, the OMB evaluation and any enforcement of the limits are required to occur within 15 days of enactment of the legislation.

Can a CR trigger a sequester?

If appropriations legislation for the entire fiscal year has not yet been enacted, and Congress has passed partial-year appropriations in the form of a continuing resolution (CR), the timetable prescribed by the BCA would still require a sequester to be triggered within 15 days of the end of a session if either spending limit is breached (or within 15 days of enactment if in the second or third quarter of the fiscal year). The budgetary effect of the CR would be estimated on an "annualized" basis, meaning the effects would be measured as if the CR were providing budget authority for the entire fiscal year. Any required reduction would be taken from the annualized amount of the partial-year appropriation. In other words, if a CR were enacted covering 6 months, the evaluation of spending under the statutory limits would be measured as if it provided 12 months of spending. In such a case, however, if the annualized amount of the CR breached a spending limit by $2 billion, for example, the sequester that was triggered would apply the reductions only to that 6 months' funding ($1 billion) across all nonexempt programs in that category of spending.

What happened in FY2017?

For FY2017, the second CR enacted (P.L. 114-254) provided discretionary spending through April 28, 2017. The Congressional Budget Office (CBO) estimated that the CR would provide an annualized amount for defense spending totaling $548.122 billion (about $2.9 billion below the defense limit for FY2017) and an annualized amount for nondefense spending totaling $521.477 billion (about $2.9 billion above the nondefense limit for FY2017). Rather than follow the requirements of the BCA, however, Section 184 of P.L. 114-254 adjusted the timetable and requirements for action to enforce the statutory spending limits by (1) requiring written notification from OMB by the 10th day after the end of the second session of the 114th Congress that the combined total of enacted defense and nondefense appropriations for FY2017 subject to the statutory limits did not exceed the combined spending limits and (2) if the projected combined total did not exceed the combined limits, to delay the final sequestration report (and possible sequester) to be issued by OMB until 15 days after the end of the period covered by the CR. When regular appropriations action for FY2017 was completed in the Consolidated Appropriations Act, 2017 (P.L. 115-31), the funding levels for both the defense and nondefense categories were in compliance with the spending limits, so no sequester was required.

How might Congress address appropriations for FY2018?

Discretionary budget authority covering all 12 regular annual appropriation acts is provided through December 8, 2017, in a CR (P.L. 115-56). According to CBO, if the levels of spending provided in the CR (subject to the BCA) were annualized for FY2018, it would result in levels of $551.489 billion for defense and $518.109 for nondefense, both of which are higher than the levels prescribed by the BCA for FY2018. If this level of spending were extended through the period of OMB's first required sequestration report (within 15 days after the end of the congressional session) and OMB's projected levels of spending corresponded to those of CBO for the current CR, then it would be expected for a sequester to be triggered in both the defense and nondefense categories.

In order to avoid a sequester, legislation could be enacted to delay the requirement for OMB to evaluate whether sequestration is necessary until the issue is resolved (as for FY2017 in P.L. 114-254). Legislation could also be enacted that would adjust the level of funding for FY2018 so that the amount (whether an actual annual amount or an annualized rate) is in compliance with the current statutory spending limits. Alternately, legislation could be enacted to adjust the spending limits so that additional funding above the current limits could be provided without triggering a sequester.