



HOUSE COMMITTEE *on* APPROPRIATIONS

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The Bipartisan Budget Agreement: A Tale of Two Sequestration Scenarios

The only way to avoid harmful across-the-board cuts is to enact full-year bills at the levels in the bipartisan budget agreement.

The Fiscal Responsibility Act of 2023 (FRA) was a bipartisan budget agreement intended to be a compromise to avert an unprecedented default on the United States’ obligations. The terms and conditions of that agreement called for moderate increases to defense funding and essentially a freeze on nondefense funds, as explained in this [Committee fact sheet](#).

As a price to pull back from the threat of default, House Republicans also demanded that Congress reinstate the Budget Control Act (BCA) threat of discretionary sequestration—across-the-board cuts—for 2024 and 2025. In fact, the FRA threatens two types of sequestration: In addition to the return of BCA sequestration (section 101) required by annual caps on defense and nondefense discretionary spending, section 102* of the FRA institutes the threat of a new **additional** type of Appropriations Process Sequestration in 2024 and 2025 if Congress has not completed all annual appropriations legislation. That is if any portion of the government is funded by a part-year continuing appropriations act (also known as a “CR”).

When Does What Happen?

Timing	Circumstance	Consequence	Context
Before January 1	Congress finishes <u>all</u> annual funding bills...	Appropriations Process Sequestration does not come into play.	The <u>original caps</u> in the FRA apply to <u>any</u> full-year funding agreement.
Note. — Remember from our previous fact sheet , the terms of the budget agreement call for \$773 billion in nondefense resources (including \$704 billion subject to the cap working together with at least \$69 billion in additional base nondefense resources outside of the caps), limits the offsets to the Internal Revenue Service, and guarantees no new poison pill riders, among other things.			
January 1	Congress has not finished <u>all</u> annual funding bills...	Defense cap is <u>temporarily</u> set to \$850 billion and nondefense cap is <u>temporarily</u> set to \$736 billion.	At this point, the Biden Administration will begin calculating how much will need to be cut to meet the <u>temporary caps</u> , but <u>sequestration will not yet take place</u> .
Note. — A <u>disproportionately</u> large amount of nondefense funding would be at risk of across-the-board cuts called “sequestration”.			
April 30	Congress has <u>still</u> not finished <u>all</u> annual funding bills...	President orders sequestration to cut spending by however much base funding exceeds the <u>temporary caps (Appropriations Process Sequestration)</u> .	Sequestration is indiscriminate and uniformly cuts every non-exempt program, project, and activity. The President and Congress have no flexibility over which programs are cut.
Note. —The Congressional Budget Office estimates that the levels in the current CR would require sequestration for both categories of funding: \$10 billion for defense, and at least \$40 billion for nondefense .			
After April 30	All annual funding bills are completed...	Caps reset to the original levels in FRA.	The <u>original caps</u> in the FRA and BCA Sequestration continue to apply to <u>any</u> full-year funding agreement.
Note. —Enacting all full-year bills reflecting the full terms of the FRA agreement is the only feasible path forward that will not inflict pain on the American people.			

(More on the budget agreement, including an explanation of how caps are cuts and House Republicans’ choices to undercut critical nondefense investments by more than \$152 billion available [here](#) and [here](#).)

*Section 102 is often referred to as the “backstop.” This term is misleading as section 102 sequestration does not prevent cuts to critical programs.

Frequently Asked Questions and Misconceptions

1. *Does the FRA fund the government on January 1 if no CR is in place?*

No. The threat of a shutdown is the same under the FRA as it always has been. It is still the Congress's key constitutional requirement to act on timely annual appropriations Acts, or if needed additional CRs, to prevent the threat of a House Republican shutdown.

2. *Isn't January 1 the only date that matters for FRA sequestration?*

No. If Congress has not completed all annual appropriations work by January 1, then the FRA requires that the caps in the FRA *temporarily* change. After that, the FRA further requires on April 30 that a sequestration at those *temporary* levels would take place. However, full-year funding bills for FY 2024 will ultimately be subject to the original statutory caps set in section 101 of the FRA.

3. *Does section 102 of the FRA increase funding for nondefense programs after January 1?*

No. Section 102 of the FRA would subject nondefense programs (and defense programs) to the threat of an additional type of Appropriations Process Sequestration, which means painful cuts. Full-year funding bills for FY 2024 will ultimately be subject to the original caps set forth in section 101 of the FRA. The cap levels set in section 102 are only temporary and only remain in place until Congress completes its work on full-year funding bills. As soon as full-year FY 2024 bills are complete (this includes a full-year CR), the original section 101 caps are back in place. Whether the effects of a potential Appropriations Process Sequestration remain in place would be subject to future legislative negotiations.

4. *How large would the Appropriations Process Sequestration be?*

The cuts would be large. The [Congressional Budget Office](#) currently estimates that that the funding levels in the current CR would require a sequestration of \$10 billion for discretionary defense (budget function 050) funding, and at least \$41 billion for nondefense discretionary funding. For context, the last time discretionary sequestration was implemented (in FY 2013), cuts to defense funding totaled almost \$43 billion, and cuts to nondefense discretionary funding totaled \$26 billion.

5. *Is Appropriations Process Sequestration on April 30 really that bad?*

Yes. Sequestration would mean an indiscriminate across-the-board cut to every single non-exempt program, project, and activity in the Federal government funded by discretionary amounts. The Administration would have no flexibility in how to administer the cuts. Moreover, a sequestration more than halfway through the year would feel more than twice as painful, as the cuts would be spread out over only 5 of 12 months.

6. *What discretionary funds get cut under sequestration?*

Everything that is not statutorily exempt would get cut. On the defense side, the President has the statutory authority to exempt military personnel accounts and chose to do so in his [August 9, 2023, letter to Congress](#) (the letter also exempts certain Coast Guard military personnel activities from cuts, which are financed mostly by nondefense funding). For nondefense activities, all activities would be subject to the cuts unless they are [statutorily exempted](#) (a couple examples of exempt programs include programs at the Department of Veterans Affairs, as well as funding for Federal Pell Grants). Some programs and activities are also subject to [special sequestration rules, which is why, for example, administrative expenses at the Department of Veterans Affairs would be cut even though program dollars would be spared.](#)

Funding for disasters (such as amounts in the **Disaster Relief Fund**) and emergency requirements (such as funding provided for the **Infrastructure Investment and Jobs Act**, the **Bipartisan Safer Communities Act**, and supplemental funding for Israel and Ukraine) are *not exempt* from sequestration. "Mandatory" funding or "Direct Spending" (such as funding provided in the Inflation Reduction Act or for programs like Medicare, Medicaid, and SNAP) would not be affected by the threat of FRA sequestration.

Note that the Office of Management and Budget is responsible for interpreting and executing sequestration and any applicable exemptions and special rules. For authoritative guidance on sequestration implementation, please consult the Office of Management and Budget, and see also section 100 of OMB Circular No. A-11.