

PB Washington Update - February 28, 2013 - Interim Update on Sequestration

Tomorrow, March 1, the government-wide sequestration goes into effect. It is clear now that Congress does not intend to once again postpone implementation of the sequester. It appears that Congress plans to push any debate about averting the worst impacts of the sequester until later in March when it must also deal with the expiration of the FY'13 Continuing Resolution (CR) which occurs on March 27. There is some speculation that a potential "grand deal" between Congress and the White House could include giving federal agencies some relief by permitting them more flexibility to determine where the cuts are taken in order to spare critical programs.

In a first step, the House is preparing to bring an omnibus six-month CR to the floor next week which would fund all federal agencies through the remainder of the fiscal year – September 30, 2013. That bill is likely to include an actual full year appropriation for the Defense Department, which may in part override the sequester cuts and in part give more flexibility to DoD to manage the cuts. It is less clear that similar flexibility will be granted to domestic agencies. Note also that, should Congress delay action on the CR, a government shut-down would be triggered.

While much is still unclear about sequestration and its impacts on federal agencies, here is what we do know:

The latest estimates from the Congressional Budget Office (CBO) for FY'13 cuts are 5.3% for non-defense discretionary programs, 5.8% for non-defense mandatory programs and 7.9% for defense programs. These cuts are across-the-board on all "programs, projects and activities" affected with no discretion for agency heads to pick and choose which programs to cut. The sequester percentages are expressed in terms of total annual funding for programs, but will have to be achieved in the seven months remaining in FY'13.

Programs funded under the Highway and Aviation Trust Funds are exempt from the sequester. This includes the highway formula program (with the exception of \$639M in contract authority exempt from the obligation ceiling), the transit formula programs and the Airport Improvement Program (AIP). However, other critical transportation programs, such as the FTA Capital Investment (New Starts/Small Starts) program, Amtrak capital and operating grants, TIGER grants, and the recently passed Hurricane Sandy emergency relief programs, which are all funded with General Funds, will be impacted. The FTA Capital Investment program is estimated to be cut by \$104M for the remainder of FY'13. Other US DOT programs impacted include FAA operations and facilities, including air traffic controllers. Other federal infrastructure programs affected include all Corps of Engineers programs, including construction.

In addition, the \$6.2B in General Fund money authorized in MAP-21 to be transferred to bail-out the Highway Trust Fund will be subject to the sequester, resulting in a cut of about \$471M in FY'13. However, at this point that should not impact FY'13 funding for Highway Trust Funded programs, but could lead to dramatically low Trust Fund balances before the end of FY'14.

Federal government employees funded with General Funds, such as FTA employees, must receive a 30-day notice before they can be furloughed, so if those notices go out on March 1, Congress will have a few weeks to work out a deal before the furloughs actually go into effect. Furloughs would have a detrimental impact on federal employees' ability to review and process grants, expedite rulemaking, travel to industry events, etc. The specifics of furloughs for all agencies have not yet been released, but

in the case of FAA, for example, employees have been warned of a possible one-day furlough in each two-week pay period.

Additional information will sent out as the full impact of sequestration becomes clearer.