



MEMORANDUM

February 7, 2013

Subject: Potential Effects on Defense Spending of a Year-long Continuing Resolution and the March 2013 Sequesters

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This memorandum was prepared to enable distribution to more than one congressional office.

This memorandum addresses concerns raised by Department of Defense and others that a year-long CR and a sequester could seriously compromise military readiness and cause significant disruption to defense investment programs.¹ To address these concerns, this memo analyzes potential effects on Operation & Maintenance (O&M) funding, which supports military readiness, and Procurement, which funds investment in weapon systems, of a strict year-long CR and the March sequesters. In addition, the memo explains effects on the other major types of DOD spending for military personnel, military construction, and Research, Development, Test & Evaluation (RDT&E).

Secretary of Defense Panetta has argued that the Department of Defense (DOD) faces what he called a “perfect storm of budget uncertainty” about funding levels for FY2013 from the potential combination of a year-long continuing resolution that links defense spending levels to FY2012 enacted levels and about a 9% across-the-board sequester applied to affected accounts slated to occur in March 2013.²

Under the current FY2013 Continuing Resolution or CR (H.J. Res 117/P.L.112-175), national defense (budget function 050) spending would be \$556.9 billion, or \$6.3 billion above the FY2013 request. At the same time, however, the FY2013 CR links specific funding at the account level to amounts provided in the FY2012 enacted appropriations acts.³ In some cases, FY2013 CR levels are above those in the request, and in other cases below those in the FY2013 request, which creates several significant misalignments in spending levels.

With the exception of the military pay raise, the FY13 CR does not reflect congressional action on either the FY2013 National Defense Authorization Act (P.L.112-239) enacted on January 2, 2013, or in FY2013 House and Senate appropriations action.⁴ The House passed the FY2013 DOD Appropriations Act,

¹U.S. Department of Defense, News Transcript, “Press Briefing by Secretary Panetta and General Dempsey in the Pentagon Briefing Room,” January 10, 2013

² Department of Defense, Press Briefing by Secretary Panetta and General Dempsey,” p. 3, January 10, 2013;

³ The Department of Defense makes up 95% of the National defense budget function (050); Department of Energy nuclear programs and FBI counter-terrorism programs makes up the rest of discretionary 050 Budget Authority; see Table 1-4 and 1-9 in Department of Defense, *National Defense Budget Estimates for FY2013*, March 2012; http://comptroller.defense.gov/defbudget/fy2013/FY13_Green_Book.pdf.

⁴ The 1.7% pay raise provided in Sec. 601 of P.L. 112-237, the FY2013 National Defense Authorization Act, is provided for in (continued...)

H.5856 in June 2012, and the Senate Appropriations Committee reported its version on August 2, 2012 (H. Rept. 112-493 and S. Rept. 112-196). Funding under the CR is slated to end on March 27, 2013.

Each year since 1974, Congress has passed individual Defense appropriations acts, or included a full defense bill within continuing resolutions or omnibus appropriations. It is currently not clear, however, whether Congress will pass an individual appropriations act for defense this year or whether DOD would be under a strict continuing resolution that continues funding at FY2012 enacted levels.

Key Observations about Potential Effects on DOD

This CRS analysis suggests that a strict year-long CR that continues funding at FY2012 enacted levels and implementation of a sequester estimated by CR as 8.5% could have the following effects.

- DOD would have discretion to allocate funding within Operation and Maintenance (O&M) accounts for each service and for defense agencies as long as FY2013 CR funding levels and the sequester reductions are met;
- The March 2013 sequesters would require a \$22 billion reduction in Operation and Maintenance (O&M) funds, which would require an overall reduction of 17.5% to O&M funds available in the latter half of the fiscal year;
- DOD could limit reductions to the services' readiness-related O&M funding that supports training for Operational Forces (Budget Activity 1) to 10% to 12% if the department implemented a civilian hiring freeze, furloughed civilians for 22 non-consecutive days, and reduced other O&M activities by 18% to 20%;
- DOD would not be able to increase production rates of items, fund new starts, or sign new multiyear contracts for its procurement, Research, Development, Test & Evaluation (RDT&E), or military construction programs under a strict CR;
- DOD would have discretion to move funds within individual procurement accounts from less to more critical programs under a strict year-long CR as long as FY2012 funding at the individual account level was met, with the exception of programs with higher production rates, new programs, multiyear contract, or shipbuilding programs.
- Funding levels for Shipbuilding programs are set for individual programs in statutory language in the Shipbuilding, Construction, Navy (SCN) account so the Navy's FY2013 shipbuilding plans could not be carried out under a strict year-long CR unless Congress included exceptions for individual programs;
- Congress could choose to include specific language in a CR permitting DOD to fund individual shipbuilding programs requested in FY2013;
- Sequester reductions would be levied on individual procurement, RDT&E, and military construction programs (Program Elements listed in DOD's P-1, R-1, and C-1 budget exhibits).
- Military personnel are receiving the 1.7% pay raise authorized by the FY2013 National Defense Authorization Act;

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the FY2013 CR.

- To soften the effect of a strict CR and the sequesters, Congress could choose to set the amount of reprogramming or transfer authority for FY2013 at a higher level than the \$3.7 billion to \$4 billion typical in recent years. This could raise concerns about giving DOD additional discretion on funding levels.
- Congress could also amend the Budget Control Act to adopt a more gradual path where year-to-year reductions grew over time, for example, from \$25 billion in FY2013 to \$60 billion for FY2015 – FY2017, returning to \$55 billion in later years through FY2021. The overall \$490 billion in defense savings from the BCA caps for FY2012-FY2021 would still be achieved, which might also raise concerns.

Potential DOD Issues under a Strict CR

The FY2013 CR total funding level reflects a .612% increase over the FY2012 enacted level with the exception of war funding for Overseas Contingency Operations (OCO), which is provided at the FY2013 requested level.⁵ In addition to tying funding levels to FY2012 enacted levels, the FY2013 CR prohibits the Department of Defense from

- increasing production rates for weapon systems or other items;
- initiating new programs, or programs not funded in FY2012; and
- signing new multiyear contracts.⁶

This could create significant funding misalignments for several programs.

Definition of Programs, Projects, or Activities under a Strict CR

One question for defense programs is whether the services would be required to comply with funding levels *below the account level* for programs which continue from year-to-year but at different funding levels. The FY2013 CR says that for “continuing programs and activities,” agencies are to provide amounts consistent with FY2012 enacted levels “under the authority and conditions provided in such Acts . . .”⁷ With the exception of Shipbuilding, statutory language in DOD appropriations acts sets funding at the individual account level. In the Shipbuilding (SCN) account, statutory language sets spending levels for individual ship programs.⁸ For all other programs, the Joint Explanatory statements included in conference reports includes specific funding guidance for individual programs and activities, indicating congressional intent.⁹

⁵ P.L. 112-175, Continuing Appropriations Resolution, 2013, enacted September 28, 2012.

⁶ § 102 (a) and (b) in Joint Resolution on Continuing Appropriations for FY2013 (P.L.112-175).

⁷ § 101 (a), P.L. 112-175.

⁸ CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, p. 12, by Ronald O'Rourke

⁹ See, for example, Division A in H. Rept. 112-331 for statutory language for DOD accounts; the Joint Explanatory Statement starts on. 489.

While OMB, in its September 28, 2012 apportionment guidance for the FY2013 CR, directs agencies to “restrict funding actions so as not to impinge on the final funding prerogatives of the Congress,”¹⁰ OMB also directs agencies to spend at the account level. In its guidance, OMB addresses the question of

How should the phrase “project or activity” be applied in determining the CR level?

In the context of determining the rate for operations under the CR, OMB has interpreted the term “project or activity” to refer to *the total appropriation, that is, the account* [italics added] (Treasury Appropriations Fund Symbol (TAFS) level). The Government Accountability Office’s (GAO’s) view has been consistent with OMB’s (see pages 8-24 of the Principles of Federal Appropriations Laws, Third Edition, Volume II, issued by GAO).¹¹

While there are mismatches in funding at the account level between the FY2013 CR level (the FY2012 enacted level with a .612% increase) and the FY2013 DOD request, the services would have considerable flexibility to adjust program funding levels within individual accounts based on this OMB guidance. The definition of PPA under a year-long CR differs from the definition under a sequester (see below).

Potential DOD Issues Posed by the BCA March Sequesters

In the American Taxpayer Relief Act (ATRA, H.R. 8/PL.112-20), enacted on January 2, 2013, Congress reduced the amount of the across-the-board sequester spending cut required under the Budget Control Act (BCA) and delayed the date. Instead of cutting defense funding by \$55 billion on January 2, 2013, the ATRA reduced the defense sequester amount to \$42.6 billion, and delayed the date until March 1, 2013. Under current budget law, a second sequester is also required on March 27, 2013 to bring defense spending into compliance with pre-sequester caps set in the BCA.¹²

The Department of Defense and others have raised serious concerns about potential effects on readiness of an estimated 8.5% sequester cut that would be levied on Operation and Maintenance (O&M) accounts this March. In a January 14, 2013 letter to Senator Levin, the Joint Chiefs of Staff warned that sequestration could “trigger a cut in operating budgets of more than 20 percent,” that could put the United States “on the brink of creating a hollow force . . .”¹³

Each of the services has warned of significant readiness impacts—for example, the Air Force predicted a cut of 18% to flying hours, the Navy cited cancellations of planned ship maintenance, and the Army called for curtailing training not related to mission-critical activities. In hopes that the CR and sequester will be reversed by Congress, the services were directed to take near-term actions that could be reversed.¹⁴

¹⁰ OMB, Bulletin No. 12-02, To the Heads of Executive Departments and Establishments, “Apportionment of the Continuing Resolution(s) for Fiscal Year 2013,” p. 1, September 28, 2013; <http://www.whitehouse.gov/sites/default/files/omb/bulletins/fy2012/b12-02.pdf>.

¹¹ *Ibid.*, p. 7.

¹² §251(a) (2) Deficit Control Act of 1985 (2 U.S.C. 901); see CRS, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths,” FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012; a congressional distribution memo available on request from the authors.

¹³ Joint Chiefs of Staff, Letter to Senator Carl Levin, Chair, Senate Armed Services Committee, January 14, 2013;

¹⁴ Secretary of the Air Force, Michael B. Donley and Chief of Staff, Air Force, Mark A. Welsh, Memorandum for the Deputy Secretary of Defense, “Fiscal Year 2013 (FY13) Near-Term Actions to Mitigate Sequestration Impacts,” January 16, 2013;

(continued...)

In addition, all the services have raised concerns about the civilian hiring freeze and plans to furlough civilians that were included in “guiding principles” issued by Jeffrey D. Zients, Deputy Director for Management, OMB. Reflecting OMB’s general guidance, Ashton Carter, Deputy Secretary, issued guidance to the services about developing their sequestration implementation plans. This DOD guidance requires the services to

- exempt military personnel from sequester cuts as provided by the President;
- protect war funding;
- reduce civilian workforce costs by imposing a hiring freeze and considering a furlough of 22 discontinuous workdays;
- protect readiness as much as possible; and
- fund investment programs (procurement, RDT&E, construction) so as to meet urgent operational needs and minimize contract disruptions and added costs.¹⁵

Definition of Programs, Projects, and Activities under a Sequester

There has been some debate about how programs, projects, or activities (PPAs) would be defined in the presidential order implementing a sequester. The definition of PPAs under a sequester differs from the definition under a CR.

According to current budget law, the same percentage sequester cut is to be applied to each “program, project, and activity within a budget account . . . as delineated in the appropriations Act or accompanying report for the relevant fiscal year covering that account.”¹⁶ In its preliminary estimate of a sequester in the Sequestration Transparency Act (STA), OMB did not identify cuts at the PPA level given

the STA’s reporting deadline of just 30 days, the large number of PPAs across all agencies and budget accounts, and inconsistencies in the way PPAs are defined, additional time is necessary to identify, review, and resolve issues associated with providing information at this level of detail.¹⁷

The conference report accompanying the FY2012 Omnibus Appropriations Act, however, includes report language that specifies that for the purposes of budget law, PPA would be defined as the “most specific level of budget items identified in the Department of Defense Appropriations Act, 2012 . . . [with] the

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Chief of Naval Operations, Jonathan W. Greenert, “Direction Regarding the Continuing Resolution and Sequestration,” January 27, 2013, slide, “Navy actions fleet-wide.” Army, Fiscal Guidance for Budgetary Uncertainty, January 16, 2013; <http://cpol.army.mil/library/general/20130116-DA-Guidance.pdf>.

¹⁵ OMB, Jeffrey D. Zients, Deputy Director for Management, “Planning for Uncertainty with Respect to Fiscal Year 2013 Budgetary Resources,” January 14, 2013; <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2013/m-13-03.pdf>. DOD, Memorandum from Deputy Secretary of Defense, Ashton Carter, to Service Secretaries and other Defense components, “Handling Budgetary Uncertainty in Fiscal Year 2013,” January 10, 2013.

¹⁶ §256 (k)(2), Budget Control Act of 1985.

¹⁷ OMB, *Report Pursuant to the Sequestration Transparency Act of 2012* (p.L.112-25), p. 8, September 14, 2012; http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf.

following exception . . . for the military personnel and operation and maintenance accounts,” where the definition would be at the account level.¹⁸

Under this definition, there would be considerably more flexibility to allocate O&M sequester reductions applied at the account level than the program-specific reductions for procurement and RDT&E.

Effect on FY2013 Total National Defense Funding of March Sequesters

CRS calculates that national defense funding (budget function 050) would be cut by 8.5% in FY2013 to achieve the savings required by the Budget Control Act (BCA) in March 2013. This includes a 7.6% cut on March 1, 2013 and about an additional 1% cut on March 27, 2013, an estimate close to DOD’s own estimate.¹⁹ CRS estimates FY2013 savings would total \$48 billion for national defense. **Table 1** estimates the combined impact of both March sequesters on national defense funding (budget function 050). **Table 2** and **Table 3** estimate the impact of each sequester separately.

Table 1. Estimated Total Effect on FY2013 National Defense (050) Funding of the March Sequesters

In Billions of Dollars and Percentage Reduction

Enacted/ Budgetary Resources	FY2013 Continuing Resolution	Budgetary Resources Subject to a Sequester	Sequester Amount	Post-Sequester Funding	Cut to All Accounts	Cut to Affected Accounts
Base Budget	556.9	419.6	-35.7	521.2	-6.4%	-8.5%
War Funding	88.5	74.5	-6.3	82.1	-7.2%	-8.5%
Total FY2013 Budget Function, 050	645.3	494.0	-42.0	603.3	-6.5%	-8.5%
Unobligated Balances carried forward	106.0	69.1	-5.9	100.1	-5.5%	-8.5%
Total Nat'l Defense resources	751.3	563.1	-47.9	703.5	-6.4%	-8.5%

Sources and Notes: CRS estimates based on Budget Control Act of 2011 (P.L. 112-25) as amended by the American Taxpayer

¹⁸The complete text from H. Rept. 112-331, p. 89 is as follows: “The conferees agree that for the purposes of the Balanced Budget and Emergency Deficit Control act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 101-508), and by Budget Enforcement Act of 1990 (Public Law 101-508), the terms program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2012, the related classified annexes and explanatory statements, and the P-1 and R-1 budget justification documents as subsequently modified by congressional action. The following exception to the above definition shall apply: for the military personnel and the operation and maintenance accounts, for which the term “‘program, project, and activity’ is defined as the appropriations accounts contained in the Department of Defense Appropriations Act. . . In carrying out any Presidential sequestration, the Department of Defense and related agencies shall conform to the definition for ‘program, project, and activity’ set forth above except that military personnel accounts will be exempt from sequestration per the notification made by the Director of the Office of Management and Budget on August 10, 2011.”

¹⁹ On January 7, 2013, DOD Comptroller, Robert Hale said the percentage cut to the Department would be “about 9%,” see *Government Executive*, “Threatened delay in defense budget adds to planners’ uncertainty,” by Charles S. Clark, January 7, 2013.

Relief Act (P.L. 112-240) and the Joint Resolution on Continuing Appropriations for FY2013 (P.L.112-175); Department of Defense, FY2013 Budget, Department of Defense, *Financial Summary Tables*; http://comptroller.defense.gov/defbudget/fy2013/FY2013_Financial_Summary_Tables.pdf; OMB, *Unobligated Balances, FY2013 budget*; <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/balances.pdf>; OMB, *Report Pursuant to the Sequestration Transparency Act of 2012* (P.L.112-25), September 14, 2012; http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf. Committee; Congressional Research Service, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths, FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012, available from authors. Budget law defines defense budgetary resources as consisting of all FY2013 appropriations (both base and war funding) and unobligated balances from prior years; see §250 of BBEDCA (2 U.S.C. §900 (c)(6)). Affected accounts include all DOD accounts except military personnel accounts, which the President exempted last year.

Under the BCA, the 8.5% sequester cut is levied on FY2013 defense budget authority for both the base budget and war spending, as well as unobligated balances available from prior years. On March 27, 2013, after both sequesters, CRS estimates that national defense base budget funding would decrease from the \$557 billion in the FY2013 CR to \$521 billion. At the same time, war funding would fall from \$88 billion in the FY2013 CR (the amount requested) to \$82 billion. Unobligated balances from prior years would also decrease by \$6 billion (**Table 1**).

Table 2 shows the \$42.6 billion reduction, or 7.5% savings from annual caps set in the Budget Control Act that is slated to be implemented on March 1, 2013. That sequester is required under the BCA to achieve the FY2013 savings. In later years, there would not be a sequester as long as appropriated levels meet the annual reductions required by the BCA. For the FY2012-FY2021 decade, the BCA requires reductions in defense spending that total \$849 billion, compared to continuing FY2011 enacted levels adjusted for inflation, and \$1 trillion, compared to the Administration’s FY2012 request before enactment of the BCA.²⁰

Table 2. Estimated Total Effect of the March 1, 2013 Sequester on National Defense
In Billions of Dollars and Percent Reduction

Enacted/ Budgetary Resources	FY2013 Continuing Resolution	Budgetary Resources Subject to a Sequester	Sequester Amount	Post-Sequester Funding	Cut to all accounts	Cut to affected accounts
Base Budget	556.9	419.6	-31.7	525.1	-5.7%	-7.6%
War Funding	88.5	74.5	-5.6	82.8	-6.4%	-7.6%
Total FY2013 050	645.3	494.0	-37.4	608.0	-5.8%	-7.6%
Unobligated Balances carried forward	106.0	69.1	-5.2	100.8	-4.9%	-7.6%
Total Nat'l Defense resources	751.3	563.1	-42.6	708.7	-5.7%	-7.6%

Sources: CRS estimates based on Budget Control Act of 2011 (P.L.112-25) as amended by the American Taxpayer Relief Act (P.L. 112-240) and the Joint Resolution on Continuing Appropriations for FY2013 (P.L.112-175); Department of Defense, FY2013 Budget, Department of Defense, *Financial Summary Tables*; http://comptroller.defense.gov/defbudget/fy2013/FY2013_Financial_Summary_Tables.pdf; OMB, *Unobligated Balances, FY2013 budget*; <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/balances.pdf>; OMB, *Report Pursuant to the Sequestration Transparency Act of 2012* (P.L.112-25), September 14, 2012; http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf. Committee; Congressional Research Service, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths, FY2012-FY2021,” by Amy Belasco

²⁰ See Table 5 in Congressional Research Service, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths, FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012, available from authors.

and Andrew Austin, November 16, 2012, available from authors. Budget law defines defense budgetary resources as consisting of all FY2013 appropriations (both base and war funding) and unobligated balances from prior years; see §250 of BBEDCA (2 U.S.C. §900 (c)(6)). Affected accounts include all DOD accounts except military personnel accounts, which the President exempted last year.

Table 3 shows the additional 1% reduction required in order to bring the FY2013 CR into compliance with the caps set in the BCA. If Congress enacts another appropriation act before March 27, 2013, this sequester could be either higher or lower depending on the appropriation level compared to the BCA caps.

Table 3. Estimated Total Effect of the March 27, 2013 Sequester on National Defense

In Billions of Dollars and Percentage Reduction

Enacted Funding/Budgetary Resources	FY2013 Continuing Resolution	FY2013 Budgetary Resources	Sequester Amount	Post-Seq. Funding	Cut to All Accounts	Cut to Affected Accounts
Base Budget	556.9	419.6	-3.9	521.1	-0.7%	-0.9%
War Funding	88.5	74.0	-0.7	82.1	-0.8%	-0.9%
Total FY2013 050	645.3	494.0	-4.7	603.3	-0.7%	-0.9%
Unobligated Balances carried forward	106.0	69.1	-0.6	100.1	-0.6%	-0.9%
Total Nat'l Defense resources	751.3	563.1	-5.3	703.5	-0.7%	-0.9%

Sources: CRS estimates based on Budget Control Act of 2011 (P.L.112-25) as amended by the American Taxpayer Relief Act (P.L. 112-240) and the Joint Resolution on Continuing Appropriations for FY2013 (P.L.112-175); Department of Defense, FY2013 Budget, Department of Defense, *Financial Summary Tables*; http://comptroller.defense.gov/defbudget/fy2013/FY2013_Financial_Summary_Tables.pdf; OMB, *Unobligated Balances, FY2013 budget*; <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/balances.pdf>; OMB, *Report Pursuant to the Sequestration Transparency Act of 2012* (P.L.112-25), September 14, 2012; http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf. Committee; Congressional Research Service, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths, FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012, available from authors. Budget law defines defense budgetary resources as consisting of all FY2013 appropriations (both base and war funding) and unobligated balances from prior years; see §250 of BBEDCA (2 U.S.C. §900 (c)(6)). Affected accounts include all DOD accounts except military personnel accounts, which the President exempted last year.

Potential Effects on Military Readiness and Operation and Maintenance

The Secretary of Defense and military officials have raised significant concerns about the potential effects of both a year-long, strict CR and the March sequesters on near-term military readiness, which is funded in Operation and Maintenance (O&M) accounts. O&M funding pays for both readiness-related unit training and a wide variety of support activities, including the running of military installations.

Secretary of Defense Panetta and other DOD and military officials have all warned that the March sequesters could have serious effects on the immediate readiness of the armed forces, which is funded in O&M. In a January 10, 2013 press conference, Chairman of the Joint Chiefs of Staff, General Martin Dempsey warned that:

Due to the unprecedented convergence of the factors mentioned by the secretary, sequestration will hit while we're under a continuing resolution, while we're implementing the deep cuts already made in the Budget Control Act, and while we're still fighting a war in Afghanistan. Any one of these would be

serious -- would be a serious challenge on its own. Together, they set the conditions for readiness to pass a tipping point as early as March.

We won't shortchange those in combat, and we'll continue to resource those who are next to deploy, as the Secretary said. It would be unconscionable to do otherwise.

Likewise, we'll continue to care for our wounded warriors and their families. But for the rest of the force, operations, maintenance and training will be gutted. We'll ground aircraft, return ships to port, and sharply curtail training across the force. As the Secretary mentioned, we may be forced to furlough civilians at the expense of maintenance and even health care. We'll be unable to reset the force following a decade of war. Our readiness will begin to erode. Within months, we'll be less prepared. Within a year, we'll be unprepared.²¹

Estimated O&M Savings Required By a Year-Long CR and a Sequester

Year-Long CR Scenario

There would be some funding mismatches in O&M accounts between the funding that would be available under a year-long CR and the FY2013 request, with the largest problem being faced by the Army (**Figure 1**). According to DOD, there are three major reasons for higher O&M funding in the FY2013 request:

- price increases to reflect inflation;
- the reversal of transfers by Congress of O&M funding from base to Overseas Contingency Operations (OCO) in FY2012; and
- reset costs for Army forces returning from Afghanistan.

These increases are partly offset by decreases in O&M for certain flying hours, depot maintenance, and efficiency savings.²² **Figure 1** suggests that the Army faces the largest gap between FY2013 CR levels and the FY2013 request—a \$6 billion or 19% difference. The Navy faces a potential \$3 billion or 8% discrepancy while these funding levels are close for the Marine Corps and the Air Force (**Figure 1** and **Table 4**). Some of these discrepancies could be mitigated by lower-than-anticipated inflation, and other factors.

O&M funding reflects assumptions that purchases will increase by 1.7% because of inflation, and that civilian pay will rise by .5%.²³ According to the January, 2013 Commerce Department report, the price index that measures GDP inflation, excluding food and fuel, was 1.2% in the fourth quarter, below DOD's planning assumption.²⁴ This could mitigate the effect of inflation on O&M, as would an additional year of a civilian pay freeze that has been proposed by some observers.

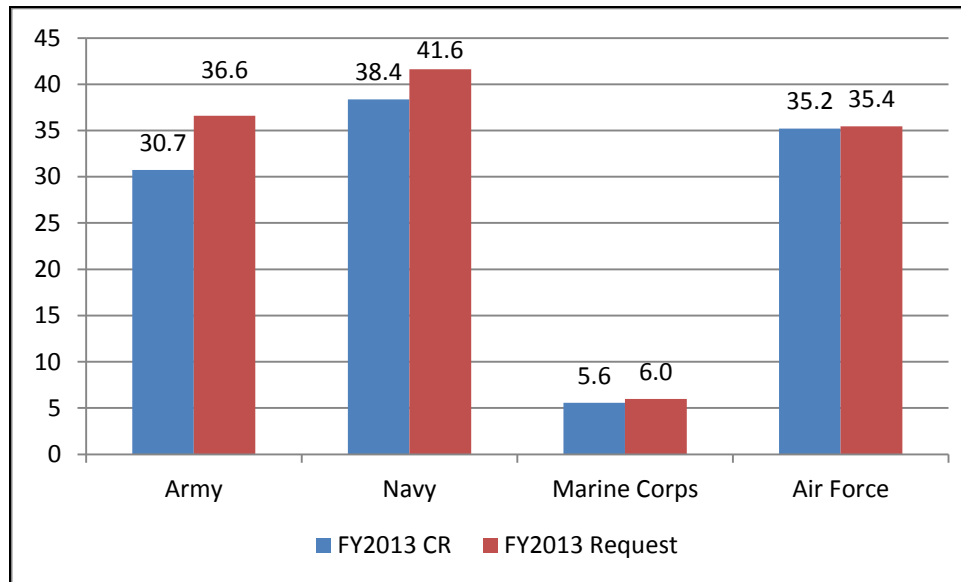
²¹ U.S. Department of Defense, News Transcript, "Press Briefing by Secretary Panetta and General Dempsey in the Pentagon Briefing Room," p. 3, January 10, 2013.

²² Office of the Under Secretary of Defense (Comptroller).Chief Financial Officer, *Operation & Maintenance Overview: Fiscal Year 2013 Budget Estimates*, February 2012; http://comptroller.defense.gov/defbudget/fy2013/fy2013_OM_Overview.pdf.

²³ Department of Defense, *National Defense Budget Estimates for FY2013*, Table 5-2, March 2012; http://comptroller.defense.gov/defbudget/fy2013/FY13_Green_Book.pdf.

²⁴ U.S. Department of Commerce, Bureau of Economic Analysis, National Income and Product Accounts, Gross Domestic Product, "4th quarter and annual 2012 (advance estimate)," January 30, 2013.

Figure I. FY2013 CR and FY2013 Funding Levels for Active-Duty O&M Accounts
In Billions of Dollars



Sources: Office of the Under Secretary of Defense (Comptroller).Chief Financial Officer, *Operation & Maintenance Overview: Fiscal Year 2013 Budget Estimates*, February 2012; http://comptroller.defense.gov/defbudget/fy2013/fy2013_OM_Overview.pdf. P.L. 112-175, Continuing Appropriations Resolution, 2013

Notes: CRS calculations based on sources above.

DOD also identified some funding mismatches as reflecting their decision to move funds back into the base budget that Congress moved from the base budget to OCO in last year’s DOD Appropriations Act.²⁵ DOD’s action reflects a judgment that these activities are part of normal peacetime O&M activities. DOD estimates that these transfers would increase funding by \$2.6 billion for the Army, \$1.0 billion for the Navy, \$347 million for the Marine Corps, and \$591 million for the Air Force.²⁶

Table 4. Funding Discrepancies in Operation and Maintenance
Under the FY2013 CR and the March Sequesters, in Billions of Dollars

Active-Duty O&M Account	Funding in		Discrepancy between FY2013 CR and FY2013 Request					
	FY2013 CR	FY2013 Request	From CR		From Sequester		From Both	
			In \$	In %	In \$	In %	in \$	in %
Army	30.7	36.6	-5.9	-19%	-2.6	-8.5%	-8.5	-28%
Navy	38.4	41.6	-3.3	-8%	-3.3	-8.5%	-6.5	-17%
Marine Corps	5.6	6.0	-.4	-7%	-.5	-4.8%	-.9	-16%
Air Force	35.2	35.4	-.2	-1%	-3.0	-8.5%	-3.2	-9%

²⁵ See, for example, *H. Rept. 112-331*, p. 538-540 showing transfers from base budget O&M to Title IX, which funds wartime activities.

²⁶ DOD, *Operation & Maintenance Overview, FY2013*, p. 8, 14, 24, and 28.

Sources: Office of the Under Secretary of Defense (Comptroller). Chief Financial Officer, *Operation & Maintenance Overview: Fiscal Year 2013 Budget Estimates*, February 2012; http://comptroller.defense.gov/defbudget/fy2013/fy2013_OM_Overview.pdf. P.L. 112-175, Continuing Appropriations Resolution, 2013

Notes: CRS calculations based on sources above.

In addition, the Army attributes a \$2.1 billion increase in its FY2013 base budget to reset costs as troops return state-side from Afghanistan and incur costs to train and use installation activities. The Marine Corps does not cite additional reset costs for their troops returning from Afghanistan. Since two-thirds of 16,700 Army troops returning from Afghanistan in FY2013 came home in the last two months of the fiscal year, these Army reset costs could be lower than anticipated.²⁷

Although inflation, reversing OCO to base transfers, and reset costs could exacerbate the effect of the FY2013 March sequesters, it is not clear that these additional costs will be as high as anticipated. It is also not clear that DOD has fully factored into its FY2013 request other potential O&M savings from the drawdown already underway that is anticipated to reduce force levels by 100,000 by FY2017.²⁸

In addition to funding mismatches among accounts created by a strict CR, the March sequesters would require an additional 8.5% decrease to each O&M accounts (**Table 4**). The potential effect on readiness, however, would depend on how the services allocated the savings required among different types of O&M activities as discussed below.

FY2013 Sequesters

The sequester amount for O&M would be based on total funding for both the base budget and wartime spending to support forces deployed for Operation Enduring Freedom (OEF), in and around Afghanistan. CRS estimates total O&M funding under the FY2013 CR would be \$263 billion. Applying an 8.5% cut to that total would require sequester savings of \$22.4 billion (**Table 5**).

Not all O&M activities would necessarily be subject to a sequester. In its January 10, 2013 guidance, the Department of Defense requires that the services protect spending for wartime operations. Since almost all war-related funding is provided in the same accounts as base budget funding, DOD could protect war funding from a sequester by levying larger cuts on base budget funding within those accounts.²⁹ If all war-related O&M were excluded from a sequester, the amount of O&M available to absorb a sequester in FY2013 would decrease from \$263 billion to \$199 billion.

At the same time, some O&M funding would no longer be available as of March 1, 2013 because funds would already have been disbursed to pay civilian workers, and some contracts for delivering goods or

²⁷ Army troops in Afghanistan fell from 65,000 at the beginning of FY2013 to 48,3000 at the end of the fiscal year; see DOD, "Boots on the Ground reports," monthly, October 2011-September 2012.

²⁸ For example, see Under Secretary of Defense Comptroller, Robert Hale's testimony in transcript of Subcommittee on Defense, House Appropriations Committee, "Proposed Fiscal 2013 Appropriations for the Defense Department," February 16, 2012 where he acknowledged that DOD's budget did not reflect potential decreases in the civilian workforce in response to the planned decrease of 100,000 military personnel between FY2012 and FY2017. Hale said that civilians are going down by 1 to 2 percent in the FY2013 budget, but that "in the out-years, there's pretty modest decline right now. I think it's an issue we'll have to look at again."

²⁹ The only exceptions are the Afghanistan Security Forces Fund, which provides training and support for Afghanistan's security forces, and the Joint Improvised Explosive Device Fund.

services would already have been paid. Based on FY2012 experience, CRS estimates that as of March 1, 2013, DOD would already have spent \$71 billion for civilian pay and goods and services delivered.³⁰

Excluding both war spending and monies already spent, CRS estimates that about \$128 billion in O&M would be available to absorb a sequester. If cuts were allocated evenly, total O&M funding would have to be cut by 17.5% to achieve the \$22 billion in savings required (**Table 5**).

Table 5. FY2013 Operation and Maintenance Funding and a Sequester

In Billions of Dollars and Percent Reduction

FY2013 Operation and Maintenance Funding	
Base Budget	\$198.9
War Spending	\$64.0
Total enacted as of FY13 CR	\$263.3
Percent Sequester Cut	-8.5%
Sequester Cut	-\$22.4
O&M Funds Likely to Be Available to Absorb a Sequester	
Excluding War Spending	\$199.3
Excluding estimated obligations available	-\$71.4
Estimated Base O&M Available for Sequester	\$127.9
Sequester Cut assuming allocated Evenly to all categories of O&M	-17.5%

Sources: Department of Defense, *National Defense Budget Estimates for FY2013*, Table 2-1, March 2012; http://comptroller.defense.gov/defbudget/fy2013/FY13_Green_Book.pdf. Office of Management and Budget, FY 2012 FACTS II Cross Walk to the SF 133 – Realignment format, 10/23/12; <https://max.omb.gov/maxportal/document/SF133/Budget/attachments/599820230/599917852.pdf>.

Notes: CRS calculations based on sources above.

Allocating the O&M Reduction

Estimating the potential effects of a sequester on readiness depends on both the total amount of the funding cut and how that cut would be distributed among different types of O&M spending. Guidance issued by the individual services calls on commands to take near-term actions to achieve savings that would protect their most essential activities.

For example, the Air Force guidance requires that implementation “should be structured to minimize harmful effects on our people and on unit readiness.”³¹ As near-term actions, all the services require a near-complete hiring freeze and dismissal of temporary employees. In addition, the Air Force guidance

³⁰ CRS estimated a monthly obligation rate of 7.1% based on the 43% obligated over the first two quarters of the fiscal year in FY2012 for O&M for the active-duty Army, Navy, USMC, and Air Force; see SF-133, OMB budget execution document tracking obligations by account and agency; SF 133, Budget Execution; Office of Management and Budget, FY 2012 FACTS II Cross Walk to the SF 133 – Realignment format, 10/23/12; <https://max.omb.gov/maxportal/document/SF133/Budget/attachments/599820230/599917852.pdf>.

³¹ Under Secretary of the Air Force, Jamie M. Morin, and Vice Chief of Staff, General Larry O. Spencer, Memorandum to ALMAJCOM/CC, “Fiscal Year 2013 (FY13) Near-Term Actions to Handle Budgetary Uncertainty, p.1, January 14, 2013.

calls for eliminating temporary employees, cancelling conferences, curtailing flying for air shows, flyovers, and familiarization rides, and deferring non-emergency facility improvement projects.³²

The guidance from the Chief of Naval Operations calls for cancelling maintenance contracts, curtailing non-mission essential travel and professional training, and limiting administrative expenses. The Army guidance calls for reducing base operating support by 30%, reviewing contractor workforce levels, and limiting administrative and supply purchases to essential FY2013 consumption levels.³³

The potential effects of a sequester under these guidelines depends on not only the amount but also how sequester reductions are allocated among the four major different types of budget activities (BA) funded under O&M:

- **Operating Forces (Budget Activity 1):** supports peacetime operational training for units, depot maintenance, training ranges, and other support considered to be key to maintaining readiness;
- **Mobilization (Budget Activity 2):** maintains pre-positioned equipment, pays for ship inactivations, and mobility support.
- **Training and Recruitment (Budget Activity 3):** pays for recruiting and advertising expenses and classroom training
- **Administrative and Service-wide Activities (Budget Activity 4):** pays for acquisition and logistics support, administrative and personnel support, communications and headquarters support.³⁴

The greater the sequester savings levied on BA 1, Operational Forces, presumably the greater the effect on readiness, and vice versa.

To assess the potential effects of the March sequesters, CRS developed estimates of illustrative savings that reflect the general guidance issued by OSD to be used by the services in preparing their plans. These estimates are based on two assumptions: 1) that DOD implements a hiring freeze, and furloughs civilian workers for 22 days over seven months (though a final decision on the latter has not yet been made); and 2) that the services limit cuts to readiness-related O&M in Operating Forces to 10% to 12%, about half the level that the Joint Chiefs warned would be dangerous in its January letter to Senator Levin. The remainder of the savings would be achieved by cutting all other O&M activities including all base support.

All savings are levied on the funding estimated to be available as of February 1, 2013 for the hiring freeze and March 1, 2013 for other activities. **Table 6** shows these savings estimates:

- \$2.3 billion from a hiring freeze implemented by February 1, 2013;
- \$3.7 billion from furloughing DOD civilians for 22 days between March 1 and September 30, 2013;

³² Under Secretary of the Air Force, "Fiscal Year 2013 Near- Term Actions to Handle Budgetary Uncertainty," p.1.

³³ Chief of Naval Operations, Jonathan W. Greenert, "Direction Regarding the Continuing Resolution and Sequestration," January 24, 2013. Department of the Army, "Fiscal Planning Guidance for Budgetary Uncertainty," 16 January 2013.

³⁴ Office of the Under Secretary of Defense (Comptroller).Chief Financial Officer, *Operation & Maintenance Overview: Fiscal Year 2013 Budget Estimates*, February 2012; http://comptroller.defense.gov/defbudget/fy2013/fy2013_OM_Overview.pdf.

- \$1.6 billion from a hiring freeze and furloughs to DOD civilians employed by industrially-funded activities that supply weapon system parts, depot maintenance services, and other goods and services;
- \$5.5 billion to \$6.6 billion from a 10% to 12% cut to readiness-related activities in Budget Activity 1 for Operating Forces; and
- \$9.3 billion to \$8.2 billion from a 17.8% to 20.2% cut to all other O&M budget activities including all base support (**Table 6**).

While the civilian hiring freeze and furloughs could affect the delivery of goods and services to military forces, the effect on mission could be mitigated if furloughs were scheduled on the three federal holidays in the remainder of FY2013. In addition, it is likely that civilian workers could be absent on annual or sick leave for an additional day or two between March and October 2013.

Under these assumptions, DOD could limit readiness-related cuts to either 10% or 12% of funding estimated to be available in the last seven months of the fiscal year. Limiting the size of that cut could minimize effects on readiness though at the cost of larger cuts to other O&M activities and civilian workforce cuts. It is not clear whether the readiness impacts cited by the services would occur under this scenario limiting cuts to Operating Forces O&M.

If DOD chose to limit savings in operational forces O&M to 10%, then the services would need to save 20% from other O&M activities not related to immediate military readiness, i.e. BA 2, Mobilization, BA 3 Training and Recruiting, BA 4 Administrative and Service wide, including all base support. An alternative would be levy a 12% cut on BA 1 readiness activities, which would then reduce the savings needed from other O&M activities to 18%. Both options assume savings from a civilian hiring freeze and furloughs (**Table 6**).

Table 6. Potential Allocation of Operation & Maintenance Sequester Savings

In Billions of Dollars and Percent Reduction

Source of Potential Savings	In Billions of \$	In Cut to Available Funds
O&M Civilian Hiring Freeze as of February 1, 2013	-\$2.3	-9.0%
Furloughing O&M Civilians as of March 1, 2013 for 22 days	-\$3.7	-14.6%
Civilian Savings in Working Capital Fund from hiring freeze and furloughs ⁰	-\$1.6	-19.0%
Operating Forces Funding (Budget Activity 1)	-\$5.5 to - \$6.6	-10% to -12.0%
Other O&M: Mobilization, Training and Recruiting, Administrative and Service-wide including all Base Support	-\$9.3 to -\$8.2	-20.2% to -17.8%
Total	-\$22.4	-17.5%

Sources: OP-32A Exhibits for Operation and Maintenance of the Army, Navy, USMC, and Air Force for estimates of civilian costs. Office of the Under Secretary of Defense (Comptroller).Chief Financial Officer, *Operation & Maintenance Overview: Fiscal Year 2013 Budget Estimates*, February 2012; http://comptroller.defense.gov/defbudget/fy2013/fy2013_OM_Overview.pdf.

Notes: CRS estimates based on sources above. Estimates assume that 10% savings in Budget Activity 1 (BA 1) would be coupled with 20.2% savings in Other O&M. In the same way, 12% savings in BA 1 would be coupled with 17.8% savings in Other O&M. In other words, smaller savings in readiness-related activities in BA 1 would require larger cuts in Other O&M and vice versa. Available funds reflect reductions for civilian pay and purchases already incurred and excluding all war funding.

Working capital funds provide supplies and services to the services to support their training, maintenance, and other activities. Savings from a civilian hiring freeze and furloughs would appear in unanticipated and unnecessary increases in working capital fund cash. To dissipate this cash, DOD could reduce the prices charged to O&M customers, which would reduce O&M costs.

If DOD furloughs its civilians for 22 days in the last seven months of the fiscal year, annual salaries would be reduced by 8.5% and pay in those last months would be cut about 15%. Much of the contractor workforce, funded primarily in other O&M, could be subject to an 18% to 20% cut under this scenario if applied evenly across those budget activities (**Table 6**).

Other Ways to Achieve O&M Savings

Another possible source of savings mentioned in service guidance is to review the FY2013 Overseas Contingency Operations (OCO), or war request, for potential savings. The House-passed version of the FY2013 DOD Appropriations Act, for example, included \$2.0 billion in war savings reflecting unjustified growth in average operations cost per troop.³⁵ In addition, if President Obama announces additional withdrawals from Afghanistan that would take place in the next several months, the FY2013 request could include savings from fewer troops deployed compared to the request, which assumes troop levels remain the same. Those savings could be applied to meet sequester reductions if the President did not submit an amended request or Congress chose not to address it.

Other factors that could affect the percent savings required in the sequesters would be the amount of O&M monies that would be available as of the March sequesters. CRS estimates assume that O&M funds are being obligated at the same rate in each quarter of FY2013 as in FY2012 when a continuing resolution was in effect through late December. If this year's obligations are slower than those last year, then the amount of funding available to absorb sequester reductions could be larger and the percentage decreases needed would be smaller, or vice versa.

Potential Effects on DOD Investment Programs

Year-Long CR Scenario

Some observers would argue that defense procurement programs are likely to be more affected by a year-long CR at FY2012 enacted levels than by the sequester cuts. Procurement programs would be subject not only to prohibitions on new starts, increases in production rates, and new multiyear contracts, as mentioned previously, but also by funding mismatches at the account level between the FY2013 CR and the FY2013 request. Both could hinder particularly those programs scheduled to begin or ramp up in FY2013.³⁶ Such actions could cause schedule delays or contracting difficulties.

Assuming DOD could transfer funds within individual accounts to resolve funding discrepancies from the FY2013 CR as included in OMB's apportionment bulletin, most mismatches in funding for individual programs (the Program Element or PE level) could be resolved by moving monies within individual procurement accounts except for new starts or new multiyear contracts or programs where quantities

³⁵H. Rept. 112-493, p. 293. Savings are based on comparisons to recent experience.

³⁶Sec. 102 a) and (b) in Joint Resolution on Continuing Appropriations for FY2013 (P.L.112-175).

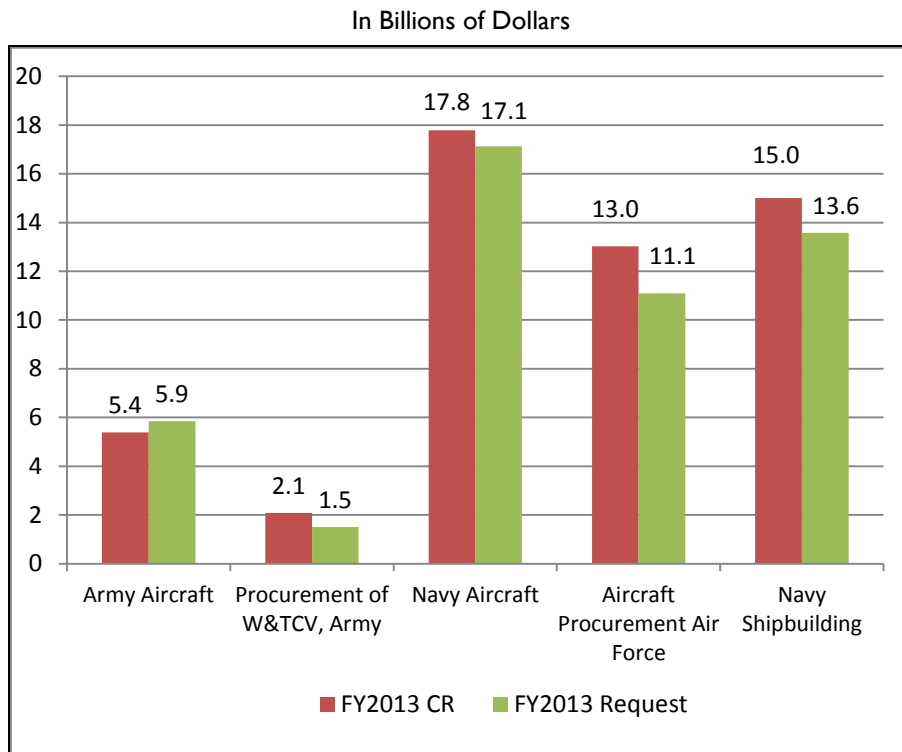
increase, and shipbuilding. Statutory language sets funding for individual shipbuilding programs in the SCN account.³⁷

Among the five major weapon system accounts—Army Aircraft, Weapons & Tracked Combat Vehicles, Navy Aircraft, Air Force Aircraft, and Shipbuilding—funding in the FY2013 CR exceeds funding in the FY2013 request for all but Army Aircraft (**Figure 2**). Funding under the CR exceeds the FY2013 request by:

- \$581 million, or 28% for Army Weapons and Tracked Vehicles;
- \$655 million, or 4% for Navy Aircraft;
- \$1.9 billion, or 15% for Air Force aircraft; and
- \$1.4 billion, or 10% for Navy shipbuilding (**Figure 2** and **Table 7**).

In the case of Army Aircraft, the FY2013 CR is \$461 million or 9% below the FY2013 request.

Figure 2. FY2013 CR and FY2013 Funding Levels for Major Weapon System Accounts



Source: Office of the Under Secretary of Defense (Comptroller), Department of Defense Budget for FY2013, Procurement Programs (P-1); P.L. 112-175, Continuing Appropriations Resolution, 2013.

Notes: CRS calculations based on sources above.

³⁷ CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, p. 12, by Ronald O'Rourke.

FY2013 Sequesters

An 8.5% sequester would create funding shortfalls for several of the major weapon system accounts though some accounts would continue to have excess funding (**Table 7**). For example, the funding shortfall for Army aircraft would be exacerbated by the sequester, creating a combined “shortfall” from the FY13 request of over \$900 million or 17% at the account level. After the March sequester reductions, Navy aircraft funding under the CR would be \$200 million or 1% below the request (**Table 7**).

In the case of the other accounts, FY2013 CR levels would exceed the FY2013 request even after a sequester:

- by \$404 million or 19% for Weapons and Tracked Vehicles;
- by \$829 million or 6% for Air Force Aircraft; and
- by \$155 million or 1% for Navy Shipbuilding (**Table 7**).

Table 7. Funding Discrepancies for Major Weapon System Accounts

Under the FY2013 CR and the March Sequesters, in Millions of Dollars

Account	Funding in		Discrepancy between FY2013 CR and FY2013 Request					
			From CR		From Sequester		From Both	
	FY2013 CR	FY2013 Request	In \$	In %	In \$	In %	in \$	in %
Army Aircraft	5,393	5,854	-461	-9%	-458	-8.5%	-919	-17%
Procurement of W&TCV, Army	2,083	1,502	581	28%	-177	-8.5%	404	19%
Navy Aircraft	17,784	17,129	655	4%	-855	-4.8%	-200	-1%
Aircraft Procurement Air Force	13,029	11,093	1,937	15%	-1,107	-8.5%	829	6%
Navy Shipbuilding	15,010	13,580	1,431	10%	-1,276	-8.5%	155	1%

Sources: Office of the Under Secretary of Defense (Comptroller), Department of Defense Budget for FY2013, Procurement Programs (P-1); P.L. 112-175, Continuing Appropriations Resolution, 2013.

Notes: CRS calculations based on sources above.

Although DOD could accommodate some funding mismatches caused by mismatches at the account level between FY2013 CR and FY2013 request funding levels, some programs could be disrupted because the current CR prohibits increases in quantity, new starts, or new multiyear contracts. Sequester reductions, even applied to individual programs, may be less problematic.

Navy Shipbuilding³⁸

If a year-long CR is enacted, without the equivalent of an FY2013 DOD appropriations act, and it does not include sufficient transfer authority or specific anomalies or exceptions, the following Navy shipbuilding (SCN) programs could be affected by FY2013 funding shortfalls, restrictions on new starts, increases in production, or new multiyear contracts:

³⁸ Prepared by Ronald O'Rourke, CRS.

- The Navy would not be able to complete the refueling complex overhaul (RCOH), a mid-life nuclear refueling overhaul on the carrier, CVN-71, (\$135 million requested in FY2013) and would not be able to continue work on the CVN-72 RCOH (\$1.6 billion requested in FY2013). A \$96 million reprogramming of FY2012 funds to the RCOH program that Congress approved in late-September 2012 provided a short-term funding patch for the CVN-72 refueling but did not provide enough funding to fully meet the program's FY2013 funding needs. If no additional funding for the refueling is provided, the Navy's plan would be delayed, possibly making it more difficult to have carriers available for future rotations.
- The Navy would not be able to complete construction work on two ships procured in prior years—LPD-25 and LHA-6.
- The Navy would not be able to award a full-ship construction contract for the next carrier, CVN-79 in FY2013, as requested, because the Navy did not procure a CVN-78 class ship in FY2012. The Navy might be able to award a short-term contract for continued pre-construction activities on the ship, but that is not certain.
- The Navy would not be able to procure in FY2013 the second DDG-51 requested for FY2013, because the Navy procured only one DDG-51 in FY2012, slipping the schedule to the right.
- The Navy would also not be able to award an MYP contract for the DDG-51 program starting in FY2013, as requested, because new multiyear contracts are prohibited under the FY2013 CR.

If a year-long CR does not include the equivalent of an FY2013 DOD appropriations act, and Congress wanted the Navy to proceed with the refueling of the CVN-72 or make an exception for the new DDG-51 multiyear contract requested or the other programs above, Congress could add language to the next Continuing Resolution permitting those actions.

Even though funding shortfalls for the LPA and LHD ships, or other programs could probably be resolved with transfers from other programs, the Navy lacks the authority to do so because statutory language setting funding levels for these programs is not included in P.L. 112-74, the enacted FY2012 appropriations act.

Aircraft Programs³⁹

Aircraft programs that could be affected by a year-long CR and sequester include the following:

- The KC-46 tanker development program, which is slated to go from \$877 million in FY12 to \$1.8 billion in FY13, amounting to \$1 billion, or 51% funding cut compared to DOD's plan and potentially delaying by some months the Air Force's declared highest priority hardware program.
- A CR cut of 1 Air Force F-35 aircraft from the 19 requested. At the same time, under the FY2013 CR, FY2012 funding provides for 7 Navy Joint Strike Fighter aircraft compared to 3 requested in FY2013. This excess funding, or funds from other AF programs, could be used to fund the Air Force request, assuming funding controls are set at the account level or by using transfer authority.

³⁹ Prepared by Jeremiah Gertler, CRS.

- The multiyear contract proposed for the V-22 program for Air Force and Marine Corps that is projected to save \$843 million over the life of the contract. This would not be permitted by the CR and might need to be re-negotiated next year.

The services could also choose to protect the most critical parts of individual programs from the 8.5% sequester cuts through allocations of funds within program lines. For example, of the \$3.45 billion appropriated for the Air Force F-35 in FY2012, \$2.3 billion went for the aircraft and their systems, while \$786 million was appropriated for other non-recurring costs and \$156 million for various support costs.⁴⁰

Because this support funding comes from procurement funds already designated for the Air Force F-35, it could conceivably be used to restore reductions in airframe spending without requiring a formal reprogramming action. As the aircraft paid for in FY2013 would not be built for several years, support funding reallocated to airframe procurement might be restored prior to the delivery of the aircraft.

Army Programs⁴¹

Compared to the Navy and the Air Force, FY2013 CR and sequestration impacts on investment would be an order of magnitude less, due to the post-Afghanistan drawdown as well as a number of previous delays and cancellations in major Army ground programs, notably the Future Combat System. However, several Army procurement programs could be affected by mismatches and the sequester including the following:

- \$206 million in planned procurement of 17 upgraded Paladin howitzers with improved accuracy and mobility would be delayed because none were bought in FY2012.
- Plans to spend \$107 million to buy 31 Improved Recoverability Vehicles (M88A2), which provide combat service support for a heavy-force contingency, would be delayed because none were bought in FY2012.
- A shortfall of \$13.5 million to purchase 31 Stryker modifications that upgrade the double-v hull design to improve soldier survivability would be delayed.

Unless the CR language prohibiting DOD from buying higher quantities in FY2013 than were purchased in FY2012 is deleted, the Paladin and M88A2 recovery vehicle planned buys would have to be put off until FY2014. DOD could request higher levels to offset the cut in FY2014 assuming that production capacity is available. For funding shortfalls, the Army could also request authority to transfer funds from other accounts assuming that Congress resolves the question of the amount of transfer authority available in the final CR.

Other Programmatic Problems⁴²

Other defense programs that could be affected by the FY2013 CR and the sequester would be the \$211 million in U.S. funding for Israel's Iron Dome program, an indigenous Israeli military system designed to

⁴⁰ See P-5, Cost Analysis, F-35, p. 67 in Department of Defense, Fiscal Year (FY) 2013 President's Budget Submission, Air Force, Justification Book Volume 1, Aircraft Procurement, Air Force, February 2012; <http://www.saffm.hq.af.mil/shared/media/document/AFD-120210-115.pdf>.

⁴¹ Prepared by Nathan Lucas, CRS.

⁴² Prepared by Steve Hildreth, CRS.

counter short-range rockets. These funds could not be provided because there was no program in FY 2012. It is possible that DOD could request approval from the four congressional defense committees to reprogram funds for this program, as occurred last year. Funding under the CR, however, would be prohibited under a strict year-long CR because it would be considered a new start since no funds were included in FY2012. In addition, the request for two Space Base Infrared Systems satellites (SBIRS) could not proceed.

Potential Effects on Military Personnel and Military Construction

Under a strict year-long CR, military personnel would receive the 1.7% pay raise authorized in the FY2013 National Defense Authorization Act using the funds available under the CR and after a sequester.⁴³ There would be no sequester to military personnel accounts because the President exempted those accounts from a sequester last year.⁴⁴

Military construction funding is provided for individual projects, each of which are considered to be “new starts.” For that reason, DOD would not be able to carry out any military construction under a year-long CR. If an exception were provided, then an 8.5% cut would be levied on each individual project.

Ways to Soften the Impact of the CR and Sequester

For O&M funding where CR limits and sequester reductions are set at the account level, DOD could transfer funds from less critical to more critical programs, resolving many potential funding mismatches between FY2012 and FY2013, and potentially protecting readiness-related activities. For procurement accounts where a strict CR would set funding limits at the account level, DOD could also move monies within accounts to offset mismatches. Sequester reductions, however, would likely occur at the individual program level, which could cause some temporary delays.

If DOD wanted to protect critical programs, it might use reprogramming authority to transfer funds between appropriation accounts as long as the four congressional defense committees approved. DOD currently has about \$5 billion available in prior-year reprogramming authority that can be used to move funds appropriated in previous years. This could provide DOD a way to protect some critical programs by offsetting sequester decreases to unobligated funds.

There does not appear to be consensus about how much, if any, reprogramming authority is available for FY2013. If the amount of reprogramming authority available is the level provided in the FY2012 DOD Appropriations Act, then \$3.75 billion would be available for the base budget.⁴⁵ Clarifying whether that authority is available might need to be provided in a year-long CR. Congress could also choose to

⁴³ §601, P.L. 112-239.

⁴⁴ §255 (2 U.S.C. 905) of BBEDCA allows for the exemption of military personnel and §258B [2 U.S.C 907c] provides for expedited procedures in the Senate if the President submits targeted reductions for defense, though it is not clear that this option is available. See Acting OMB Director Jeffrey D. Zients, Letter to President of the Senate Joseph R. Biden, dated July 31, 2012 that notes the President’s intention to exempt military personnel from sequestration; available at <http://www.whitehouse.gov/sites/default/files/omb/legislative/letters/military-personnel-letter-biden.pdf>.

⁴⁵ §8005, P.L. 112-74.

increase the amount of FY2013 transfer authority in a final CR to give DOD additional flexibility to move funds to more critical areas. Some would be concerned about the precedent of giving DOD more flexibility to move funds between accounts.

Since program elements may include several contracts, monies could be allocated among contracts in such a way as to protect the most critical elements. Some contracts, for technical data or support, could be let in future years without necessarily affecting deliveries of weapon systems.

Congress could also choose to include statutory language addressing specific anomalies (such as for those individual ships considered essential to buy in FY2013) in the final year-long CR.

Another way to soften the impact of the March sequesters would be to spread savings for this year and FY2014 more gradually over the next three years. Instead of requiring annual savings of \$55 each year from the revised caps in the BCA, Congress could amend the Act to require annual savings that would grow from \$25 billion in FY2013 to about \$55 billion in FY2014, \$60 billion for FY2015 through FY2017, and then resume the \$55 billion reductions in the BCA through FY2021. The American Taxpayer Review Act included a partial and somewhat similar version of this option.

Under such a smoothed path, DOD would be better able to implement savings that build over time, such as reductions in force structure or to the civilian and contractor workforce, relying primarily on annual turnover rather than more costly early retirement incentives. After FY2017, DOD could return to the BCA path of annual savings of \$55 billion, and still achieve the \$490 billion in savings compared to BCA caps over the FY2012-FY2021 decade. Starting in FY2015, DOD funding levels would include 2% to 3% increases that could cover inflation and modest growth.⁴⁶ Under this path, DOD funding in the FY2012-FY2021 decade would average between the FY2007 and FY2008 level in real terms, i.e., adjusting for inflation, a level that matches the Reagan era of the 1980s and the past decade, both historically high levels of defense spending.⁴⁷

⁴⁶ For pre-ATRA sequester path, see CRS, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths,” FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012; a congressional distribution memo available on request from the authors. The ATRA adjusted the FY2013 revised defense cap from \$546 to \$544 in FY2013 for purposes of calculating the sequester and from \$556 to \$552 in FY2014; see §901 (d) and (e) ATRA, H.R. 8/P.L.112-20.

⁴⁷ Congressional Research Service, “The Budget Control Act and Alternate Defense and Non-Defense Spending Paths, FY2012-FY2021,” by Amy Belasco and Andrew Austin, November 16, 2012, available from authors