
OMB Final Sequestration Report to the President and Congress for Fiscal Year 2020



January 21, 2020

TABLE OF CONTENTS

	<i>Page</i>
Transmittal Letter	iii
I. Introduction	1
II. Discretionary Final Sequestration Report.....	3

LIST OF TABLES

	<i>Page</i>
Table 1. Overview of Changes to Discretionary Spending Limits	4
Table 2. Discretionary Spending Limits.....	6
Table 3. Status of 2019 Discretionary Appropriations	8
Table 4. Summary of 2020 Appropriations Action	9
Table 5. Comparison of OMB and CBO Discretionary Spending Limits.....	10

GENERAL NOTES

1. All years referred to are fiscal years unless otherwise noted.
2. Details in the tables and text may not add to totals due to rounding.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 21, 2020

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Enclosed please find the *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2020*, which has been prepared pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA). As required by BBEDCA, this report provides the Office of Management and Budget's (OMB) current estimates of the discretionary spending limits for each category, OMB's scoring of the enacted 2020 discretionary appropriations bills compared to those limits, and comparisons of OMB's estimates of the caps with the estimates provided by the Congressional Budget Office in its *Final Sequestration Report for Fiscal Year 2020*.

Based on the estimates in this report, enacted appropriations are within the discretionary spending limits for 2020 and a sequestration of discretionary budget authority pursuant to section 251 of BBEDCA is not required.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Vought".

Russell T. Vought
Acting Director

Enclosure

Identical Letter Sent to the President and
The Honorable Michael R. Pence

I. INTRODUCTION

The Budget Control Act of 2011 (BCA; Public Law 112-25) amended the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Public Law 99-177) by reinstating spending limits on discretionary budget authority for the period of 2012 through 2021. Since enactment of the BCA, these spending limits have been revised a number of times, with changes usually occurring in the form of two-year budget agreements: the 2014 and 2015 limits were revised by the Bipartisan Budget Act of 2013 (BBA of 2013; Public Law 113-67); the 2016 and 2017 limits were revised by the Bipartisan Budget Act of 2015 (BBA of 2015; Public Law 114-74); the 2018 and 2019 limits were revised by the Bipartisan Budget Act of 2018 (BBA of 2018; Public Law 115-123); and, most recently, the 2020 and 2021 limits were revised by the Bipartisan Budget Act of 2019 (BBA of 2019; Public Law 116-37).

Section 254 of BBEDCA requires the Office of Management and Budget (OMB) to issue a final sequestration report 15 days after the Congress ends a session to determine whether a sequestration of discretionary budget authority is required, based on OMB's scoring of enacted discretionary appropriations against the applicable discretionary spending limits. Section 150 of the Continuing Appropriations Act, 2020 (2020 CR; division A of Public Law 116-59, as amended by Public Law 116-69) had set the release of this report for 15 days after the 2020 CR expired. However, this provision was nullified in section 8(a) of the Further Consolidated Appropriations Act, 2020 (FCAA of 2020; Public Law 116-94), and the due date for the report defaulted to the original BBEDCA re-

quirement. This report updates the current legal limits for adjustments included in enacted appropriations Acts since OMB last reported on the caps in its 2020 sequestration update report that was released on August 20, 2019.¹

The regular 12 appropriations Acts for 2020 were enacted as separate divisions in two consolidated Acts: the Consolidated Appropriations Act, 2020 (CAA of 2020; Public Law 116-93) and the FCAA of 2020. The President signed both Acts on December 20, 2019, and OMB completed its scoring estimates for each appropriations Act and transmitted its Seven-Day-After Reports detailing those estimates to the Congress on January 15, 2020 in accordance with the requirements of section 251(a)(7) of BBEDCA and section 8(b) of the FCAA of 2020.²

This final fiscal year 2020 sequestration report provides OMB's current estimates of the discretionary spending limits for each category in BBEDCA, a summary of OMB's scoring of the enacted 2020 discretionary appropriations in the Acts listed above compared to those limits, and comparisons of OMB's estimated limits with those provided by the Congressional Budget Office (CBO) in its *Final Sequestration Report for Fiscal Year 2020*. As required by BBEDCA, OMB's scoring for 2020 estimates relies on the same economic and technical assumptions used in the 2020 Budget that was transmitted to the Congress on March 11, 2019. This report covers appropriations legislation enacted through January 15, 2020, and indicates that no sequestration of discretionary budget authority is required.

¹ OMB's sequestration update report for 2020 can be found on OMB's website: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

² OMB's Seven-Day-After Reports can be found on OMB's website: <https://www.whitehouse.gov/omb/legislative/budget-enforcement-act-7-day-reports/>.

II. DISCRETIONARY FINAL SEQUESTRATION REPORT

Discretionary programs are funded annually through the appropriations process. BBEDCA sets limits (or “caps”) on the amount of new budget authority available for discretionary programs each year through 2021, but it does not require that the Congress appropriate the full amount available under the discretionary limits. For 2012 and 2013, BBEDCA originally specified separate “security” and “nonsecurity” categories³ for discretionary programs and then a single “discretionary” category for each year after 2013. These caps were subsequently revised pursuant to section 302 of the BCA as a result of the Joint Select Committee on Deficit Reduction’s failure to propose, and the Congress’ failure to enact, legislation to reduce the deficit by more than \$1.2 trillion by January 15, 2012. The revised security (“defense”) category included only the discretionary programs in the national defense budget function (050), which mainly consists of the Department of Defense and significant portions of agency budgets for the Department of Energy (including the National Nuclear Security Administration) and the Federal Bureau of Investigation. The revised nonsecurity (“non-defense”) category contained all discretionary programs not in the defense category—essentially all non-defense (or non-050) budget functions.

BBEDCA requires OMB to issue reports containing OMB’s scoring of individual appropriations bills within seven business days of their enactment and, three times a year, on the overall status of discretionary legislation against the current law discretionary spending caps. Any enacted discretionary appropriations that OMB estimates to exceed the caps triggers an across-the-board reduction (i.e., sequestration) to eliminate the excess funding. This report meets the requirement for OMB to issue a final sequestration report for 2020. As BBEDCA requires, the estimates rely on the same economic and technical assumptions used in the President’s 2020 Budget.

Section 251A of BBEDCA requires annual reductions in the caps as part of the Joint Committee reductions. In OMB’s 2020 preview report,⁴ the 2020 defense cap was reduced by \$53.8 billion, from \$630.0 billion to \$576.2 billion, and the non-defense cap was reduced by \$34.8 billion, from \$578.0 billion to a level of \$543.2 billion.⁵ Section 101(a) of the BBA of 2019

³ For more information on the structure of the original security and nonsecurity categories, see any of OMB’s sequestration reports to the President and the Congress for fiscal years 2012 through 2014, which are available at the following archive site: https://obamawhitehouse.archives.gov/omb/legislative_reports/sequestration.

⁴ See OMB’s sequestration preview report for 2020 on OMB’s website: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

⁵ The 2020 Joint Committee reductions for discretionary programs are enforced through cap reductions, in contrast to the 2013 reductions, which were enforced through a sequestration

raised the 2020 defense cap by \$90.3 billion to a level of \$666.5 billion and the 2020 non-defense cap by \$78.3 billion to a level \$621.5 billion. For 2021, the BBA of 2019 effectively canceled the Joint Committee enforcement reductions that would have been applied in the 2021 Budget and set new caps of \$671.5 billion for the defense category and \$626.5 billion for the non-defense category. These new caps for 2021 represent increases over the current law caps of \$27.5 billion for defense and \$36.5 billion for non-defense.⁶

OMB is required by statute to report on the current discretionary caps in this report. Table 1 summarizes the original caps enacted in the BCA and all changes to date that have been made to those caps. Table 2 begins with the caps included in the preview report and shows the changes that lead to the 2020 update report caps due to section 101(a) of the BBA of 2019 and enacted emergency supplemental appropriations Acts for 2019. The 2019 limits already reflected adjustments to the caps from 2019 appropriations Acts that were made in OMB’s 2019 final sequestration report.⁷ Table 2 also lists the adjustments from enacted 2020 appropriations Acts, which are discussed in the next section.

Adjustments to discretionary limits.

Table 2 shows how adjustments pursuant to section 251(b) of BBEDCA affect the discretionary limits for 2020. Section 251(b)(1) allows adjustments for concepts and definitions in OMB’s sequestration preview report, which is transmitted with the President’s Budget, and section 251(b)(2) authorizes certain adjustments after the enactment of appropriations Acts. In addition, section 747 of the Financial Services and General Government Appropriations Act, 2020 (2020 FSGG Act; division C of the CAA of 2020) requires an adjustment for OMB estimating differences with CBO for 2020 if OMB estimates that new budget authority exceeds the discretionary spending limit for any category set forth in section 251(c) of BBEDCA. With full-year appropriations for 2020 enacted, the adjustments listed are now made to the 2020 defense and non-defense caps in Table 2. Each of these adjustments are presented in millions of dollars.

of non-exempt discretionary funds that was ordered on March 1, 2013.

⁶ The 2021 caps were never formally adjusted for Joint Committee enforcement since the size of those reductions would have to be based on sequestrable mandatory outlays in the 2021 Budget. However, the 2020 preview report did estimate the reductions for 2021 to be approximately \$53.8 billion for the defense category and \$33.9 billion for the non-defense category. This would have resulted in levels of \$590.2 billion for defense and \$556.1 billion for non-defense. Based on those levels, the caps set in the BBA of 2019 are about \$81.3 billion higher for defense and \$70.4 billion higher for non-defense.

⁷ OMB’s 2019 final sequestration report can be found on OMB’s website: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

Table 1. OVERVIEW OF CHANGES TO DISCRETIONARY SPENDING LIMITS

(Budget authority in billions of dollars)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Original limits set in Title I of the Budget Control Act of 2011:										
Security Category	684.0	686.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category	359.0	361.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Discretionary Category	N/A	N/A	1,066.0	1,086.0	1,107.0	1,131.0	1,156.0	1,182.0	1,208.0	1,234.0
Redefinition of limits pursuant to section 251A of BBEDCA:										
Security Category		-686.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category		-361.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Discretionary Category	N/A	N/A	-1,066.0	-1,086.0	-1,107.0	-1,131.0	-1,156.0	-1,182.0	-1,208.0	-1,234.0
Defense Category	N/A	+546.0	+556.0	+566.0	+577.0	+590.0	+603.0	+616.0	+630.0	+644.0
Non-Defense Category	N/A	+501.0	+510.0	+520.0	+530.0	+541.0	+553.0	+566.0	+578.0	+590.0
Adjustments pursuant to section 901(d) of the American Taxpayer Relief Act of 2012:										
Security Category		+684.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category		+359.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Defense Category	N/A	-546.0	-4.0							
Non-Defense Category	N/A	-501.0	-4.0							
Joint Select Committee on Deficit Reduction Enforcement:										
Defense Category	N/A	N/A	-53.9		-53.9		-53.9	-53.9	-53.8	
Non-Defense Category	N/A	N/A	-36.6		-36.5		-37.3	-35.7	-34.8	
Adjustments pursuant to section 101(a) of the BBA of 2013:										
Defense Category	N/A	N/A	+22.4	-44.7						
Non-Defense Category	N/A	N/A	+22.4	-27.6						
Adjustments pursuant to section 101(a) of the BBA of 2015:										
Defense Category	N/A	N/A			+25.0	-38.9				
Non-Defense Category	N/A	N/A			+25.0	-22.5				
Adjustments pursuant to section 30101(a) of Title I in Division C of the BBA of 2018:										
Defense Category	N/A	N/A					+79.9	+84.9		
Non-Defense Category	N/A	N/A					+63.3	+66.7		
Adjustments pursuant to section 101(a) of Title I of the BBA of 2019 (Public Law 116-37):										
Defense Category	N/A	N/A							+90.3	+27.5
Non-Defense Category	N/A	N/A							+78.3	+36.5
Enacted adjustments pursuant to section 251(b)(2) of BBEDCA:										
OCO/GWOT:										
Security Category	+126.5	+98.7	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Defense Category	N/A	N/A	+85.4	+64.4	+58.8	+82.9	+66.1	+69.0	+71.5	
Non-Defense Category	N/A	N/A	+6.5	+9.3	+14.9	+20.8	+12.0	+8.0	+8.0	
Emergency Requirements:										
Security Category		+7.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category		+34.6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Defense Category	N/A	N/A	+0.2	+0.1			+5.9	+2.8	+8.0	
Non-Defense Category	N/A	N/A		+5.3	+1.7	+19.4	+103.8	+22.6	+0.5	
Program Integrity:										
Nonsecurity Category	+0.5	+0.5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Non-Defense Category	N/A	N/A	+0.9	+1.5	+1.5	+2.0	+1.9	+1.9	+1.8	
Disaster Relief:										
Security Category	+6.4	+11.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category	+4.1		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Non-Defense Category	N/A	N/A	+5.6	+6.5	+7.6	+8.1	+7.4	+12.0	+17.5	

Table 1. OVERVIEW OF CHANGES TO DISCRETIONARY SPENDING LIMITS—Continued

(Budget authority in billions of dollars)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Wildfire Suppression:										
Non-Defense Category	N/A	N/A	.....	.....	.....	.....	.....	.....	+2.3	.....
2020 Census:										
Non-Defense Category	N/A	N/A	.....	.....	.....	.....	.....	.....	+2.5	.....
Technical adjustments for scoring differences with CBO: ¹										
Defense Category	N/A	N/A	+0.2	+0.0	.....	+0.0	+0.0	+0.0	.....	.....
Non-Defense Category	N/A	N/A	.....	.....	+0.2	.....	+0.6	.....	+0.5	.....
Revised Limits Included in the 2020 OMB Final Sequestration Report:										
Security Category	816.9	801.5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Nonsecurity Category	363.5	394.1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Discretionary Category	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Defense Category	N/A	N/A	606.3	585.9	606.9	634.0	700.9	718.8	746.0	671.5
Non-Defense Category	N/A	N/A	504.8	514.9	544.4	568.8	704.6	641.5	654.6	626.5

N/A = Not Applicable

¹These adjustments are permitted under section 7 of Public Laws 113–76, 113–235, 114–113, and 115–31, section 748 of division E of Public Law 115–141, and section 747 of division D of Public Law 116–6 and division C of Public Law 116–93.

Emergency Requirement and Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT) Appropriations.—These adjustments are authorized in section 251(b)(2)(A) of BBEDCA and include funding for amounts that the Congress designates in law as being either an emergency requirement or for OCO/GWOT activities on an account-by-account basis and that the President subsequently so designates. The detail below specifies each of the adjustments made for 2020.

Emergency Requirements. —For 2020, a net total of \$8,534 million (including rescissions and re-appropriations) was provided as emergency requirements. These funds were mostly for expenses related to disaster relief, including from recent major hurricanes, flooding, and earthquakes occurring in FY 2019 as well as for procurement of Ebola medical countermeasures. The component amounts appropriated are as follows:

- \$1,771 million in defense funds provided in the Department of Defense Appropriations Act, 2020 (2020 Defense Act; division A of the CAA of 2020);
- \$233 million in non-defense funds provided and an equal amount of prior-year emergency appropriations rescinded (netting to \$0 overall) in the Department of Homeland Security Appropriations Act, 2020 (2020 DHS Act; division D of the CAA of 2020);
- \$535 million in non-defense funds (including an estimated \$1.5 billion in prior-year emergency

appropriations that are rescinded and re-appropriated) in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2020 (division B of the FCAA of 2020); and

- \$6,228 million in defense funds provided in the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2020 (2020 MILCON Act; division F of the FCAA of 2020).

OCO/GWOT. —Final 2020 appropriations provided a total of \$79,500 million (including rescissions) for OCO/GWOT purposes for 2020. The component amounts appropriated are as follows:

- \$70,665 million in defense funds provided in the 2020 Defense Act;
- \$190 million in defense funds provided in the 2020 DHS Act;
- \$645 million in defense funds provided in the 2020 MILCON Act; and
- \$8,000 million in non-defense funds provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (division G of the FCAA of 2020).

The Congress designated as emergency requirements or as OCO/GWOT these amounts in Public Laws 116-93 and 116-94, and the President transmitted to the Congress his separate designations of these amounts as emergency requirements or as OCO/GWOT activities, as appropriate, on December 20,

Table 2. DISCRETIONARY SPENDING LIMITS

(Budget authority in millions of dollars)

	2019	2020	2021
<u>DEFENSE (OR "REVISED SECURITY") CATEGORY</u>			
2020 Preview Report Spending Limits	716,004	576,175	644,000
Defense Adjustments for the 2020 Sequestration Update Report:			
Defense Category changes enacted pursuant to section 101(a) of the BBA of 2019		+90,325	+27,500
Emergency Requirements	+2,838		
Subtotal, Defense Adjustments for the 2020 Update Report	+2,838	+90,325	+27,500
2020 Sequestration Update Report Spending Limits	718,842	666,500	671,500
Adjustments for the 2020 Final Sequestration Report:			
Overseas Contingency Operations/Global War on Terrorism		+71,500	
Emergency Requirements		+7,999	
Subtotal, Defense Category Adjustments		+79,499	
2020 Final Sequestration Report Spending Limits	718,842	745,999	671,500
<u>NON-DEFENSE (OR "REVISED NONSECURITY") CATEGORY</u>			
2020 Preview Report Spending Limits	620,576	543,193	590,000
Non-Defense Adjustments for the 2020 Sequestration Update Report:			
Non-Defense Category changes enacted pursuant to section 101(a) of the BBA of 2019		+78,307	+36,500
Emergency Requirements	+20,874	+8	
Subtotal, Non-Defense Adjustments for the 2020 Update Report	+20,874	+78,315	+36,500
2020 Sequestration Update Report Spending Limits	641,450	621,508	626,500
Adjustments for the 2020 Final Sequestration Report:			
Emergency Requirements		+535	
Overseas Contingency Operations/Global War on Terrorism		+8,000	
Social Security Dedicated Program Integrity		+1,309	
Health Care Fraud and Abuse Control		+475	
Disaster Relief		+17,503	
Reemployment Services and Eligibility Assessments		+58	
Wildfire Suppression		+2,250	
2020 Census		+2,500	
Technical allowance for estimating differences with CBO		+465	
Subtotal, Non-Defense Category Adjustments		+33,095	
2020 Final Sequestration Report Spending Limits	641,450	654,603	626,500
<u>TOTAL DISCRETIONARY FUNDING</u>			
2020 Preview Report, Total Discretionary Spending	1,336,580	1,119,368	1,234,000
2020 Update Report, Total Discretionary Spending	1,360,292	1,288,008	1,298,000
2020 Final Sequestration Report, Total Discretionary Spending	1,360,292	1,400,602	1,298,000

N/A = Not Applicable

2019.⁸ The combined adjustments in 2020 for all of these amounts (for OCO/GWOT and emergency requirements) increases the defense category by \$79,499 million and the non-defense category by \$8,535 million. These adjustments are included in Table 2.

Social Security Dedicated Program Integrity.—Section 251(b)(2)(B) of BBEDCA authorizes cap adjustments for Social Security Administration (SSA) appropriations primarily for Continuing Disability Reviews (CDRs) and redeterminations. CDRs are periodic reevaluations conducted to determine if recipients of Social Security Disability Insurance benefits and Supplemental Security Income (SSI) for persons with disabilities still qualify for benefits. Redeterminations are periodic reviews of non-medical factors of eligibility, such as income and resources, for the means-tested SSI program, and generally result in a revision of the individual's benefit level. SSA may also use cap adjustment funds for work CDRs, cooperative disability investigation units, and special attorneys for fraud prosecutions. The maximum cap adjustment in each year is limited to the levels of budget authority specified in BBEDCA, provided that a base level of \$273 million is provided for these purposes in the underlying appropriations bill. Appropriations in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2020 (2020 LHHS Act; division A of the FCAA of 2020) provided the base level of \$273 million and \$1,309 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2020 in BBEDCA. This adjustment is allocated entirely to the non-defense category in Table 2.

Health Care Fraud and Abuse Control (HCFAC).—Section 251(b)(2)(C) of BBEDCA authorizes adjustments to the caps by amounts appropriated for HCFAC activities, which include efforts to reduce the Medicare improper payment rate and strengthen the Health Care Fraud Prevention and Enforcement Action Team initiative. The maximum HCFAC cap adjustment in each year is limited to the levels of budget authority specified in BBEDCA, provided that a base level of \$311 million for these purposes is provided in the underlying appropriations bill. Appropriations in the 2020 LHHS Act provided the base level of \$311 million and \$475 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2020 in BBEDCA. This adjustment is allocated entirely to the non-defense category in Table 2.

Disaster Relief Funding.—Section 251(b)(2)(D) of BBEDCA authorizes an adjustment to the caps for appropriations that are designated by the Congress as

being for disaster relief. “Disaster relief” is defined as activities carried out pursuant to a determination under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; 42 U.S.C. 5122(2)). Prior to enactment of the Consolidated Appropriations Act, 2018 (Public Law 115-141), BBEDCA set a limit (or “funding ceiling”) for the adjustment that was determined through a formula that added the total average funding provided for disaster relief over the previous 10 years (excluding the highest and lowest years) plus any portion of the ceiling for the previous year that was not appropriated (or “carryover”). If the carryover from one year was not used in the subsequent year, it would not carry forward for a second year. This led to a precipitous decline in the funding ceiling as higher disaster funding years began to fall out of the 10-year average formula.

Division O of Public Law 115-141 amended BBEDCA to stabilize the disaster formula by redefining the calculation beginning in fiscal year 2019. Under the revised calculation, the funding ceiling is determined by adding three pieces: 1) the same 10-year average as calculated under the previous formula; 2) a portion of discretionary amounts appropriated to address Stafford Act disasters that were designated as emergency requirements pursuant to BBEDCA; and 3) the cumulative net carryover from 2018 and all subsequent fiscal years. On April 23, 2018, OMB released the *OMB Report on Disaster Relief Funding to the Committees on Appropriations and the Budget of the U.S. House of Representatives and the Senate, 2018*,⁹ which specified the methodology and criteria OMB is using for estimating the emergency appropriations for Stafford Act disasters under the revised formula in step 2.

Section 254(e) of the BBEDCA requires OMB to include in its August update report a preview estimate of the adjustment for disaster funding for the upcoming fiscal year. As required by law, OMB calculated a preview estimate of \$17,503 million for the ceiling in 2020. The Congress provided disaster relief appropriations totaling the amount of the ceiling with \$151 million for the Disaster Loans Program Account in the Small Business Administration in the 2020 FSGG Act and \$17,352 million for the Federal Emergency Management Agency's Disaster Relief Fund in the 2020 DHS Act. The total \$17,503 million amount is allocated to the non-defense category in Table 2.

Since the appropriations provided in 2020 equal the amount of the ceiling, under the revised formula, there will be no carryover applied to the 2021 ceiling under current assumptions. The 2021 ceiling is currently estimated to be approximately \$15,285 million based on

⁸ Presidential designations of emergency requirements and OCO/GWOT amounts can be found on OMB's website: <https://www.whitehouse.gov/omb/supplementals-amendments-and-releases/>.

⁹ The report is available on the OMB website: <https://www.whitehouse.gov/omb/legislative/omb-reports/>.

the following three components: the 10-year average including enacted 2020 appropriations (\$8,691 million); 5 percent of Stafford Act emergencies since 2012 (\$6,594 million); and carryover from the previous year (\$0). Any revisions necessary to account for further changes in 2020 appropriations levels will be included in the 2021 sequestration update report, which is expected to be released in August of 2020.

Reemployment Services and Eligibility Assessments.—Section 30206(c) of title II of the BBA of 2018 created a new cap adjustment for program integrity efforts under section 251(b)(2)(E) of BBEDCA for Reemployment Services and Eligibility Assessments (RESEA) in the Department of Labor. Similar to the SSA dedicated program integrity and HCFAC cap adjustments, the RESEA adjustment is permitted up to a maximum amount specified in BBEDCA if the underlying appropriations bill first funds a base level of \$117 million for these activities. The 2020 LHHS Act provided the base level of \$117 million and \$58 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2020 in BBEDCA. This adjustment is allocated entirely to the non-defense category in Table 2.

Wildfire Suppression Cap Adjustment.—Division O of Public Law 115-141, as amended by section 7(2) of Public Law 116-6, the Stephen Sepp Wildfire Suppression Funding and Forest Management Activities Act, created a new adjustment under section 251(b)(2)(F) of BBEDCA for wildfire suppression activities. This adjustment is permitted up to a maximum amount specified in the law if the underlying appropriations bill first funds a base level for these activities. The base level is defined as the average costs over ten years for wildfire suppression operations that was requested in the President’s 2015 Budget for the Department of Agriculture’s (USDA) Forest Service and for the Department of the Interior (DOI). These amounts have been determined to be \$1,011 million for USDA Forest Service and \$384 million for DOI. The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2020 (division D of the FCAA of 2020) provided for the base activities and the total \$2,250 million as a cap adjustment for wildfire suppression purposes—the maximum allowable adjustment specified for 2020 in BBEDCA. The adjustment is split with USDA receiving \$1,950 million and DOI receiving \$300 million. The adjustment is allocated entirely to the non-defense category in Table 2.

U.S. Census for 2020.—Section 101(c) of the BBA of 2019 created a new cap adjustment under section 251(b)(2)(G) of BBEDCA for the 2020 Census. The adjustment is for 2020 only and capped at \$2,500 million. The adjustment is permitted for any appropriation

provided for the Periodic Censuses and Programs account of the Bureau of the Census in the Department of Commerce that the Congress designates in statute as being for the “2020 Census” subject to the \$2,500 million cap. The Commerce, Justice, Science, and Related Agencies Appropriations Act, 2020 (division B of the CAA of 2020) provides the full \$2,500 million as a cap adjustment for the 2020 Census and the adjustment is allocated entirely to the non-defense category in Table 2.

Technical Allowance for Estimating Differences.—This allowance, specified in section 747 of the 2020 FSGG Act, requires OMB to adjust the spending limit for either category in 2020 when new budget authority provided in an appropriations Act exceeds the discretionary spending limit due to estimating differences with CBO. The adjustment is equal to the amount of the excess in a category, but the total of all such adjustments for any category cannot exceed 0.2 percent of the sum of the adjusted discretionary caps for all categories for that fiscal year. As detailed in its 2020 Seven-Day-After Reports for enacted 2020 appropriations, OMB has estimating differences in 2020 with CBO totaling \$465 million for appropriations provided under the non-defense category, which would cause OMB estimates to exceed the non-defense cap. With the adjustments included above, OMB estimates that the adjusted defense and non-defense caps for 2020 total \$1,400,137 million, which permits a maximum technical adjustment for 2020 of \$2,800 million. Since the \$465 million non-defense overage is within the maximum allowable technical adjustment for 2020, the non-defense cap is adjusted upward by \$465 million in Table 2. This adjustment effectively eliminates any breach.

Table 3. STATUS OF 2019 DISCRETIONARY APPROPRIATIONS
(Discretionary budget authority in millions of dollars)

	Budget Authority
Defense Category	
Adjusted discretionary spending limit	718,842
Total enacted appropriations	718,842
Spending over (+)/under (-) limit .....	....
Non-Defense Category	
Adjusted discretionary spending limit	641,450
Total enacted appropriations	640,628
Spending over (+)/under (-) limit	-822
Total Discretionary Spending—All Categories	
Adjusted discretionary spending limits	1,360,292
Total enacted appropriations	1,359,470
Spending over (+)/under (-) limits	-822

Table 4. SUMMARY OF 2020 APPROPRIATIONS ACTION¹

(Budget authority in millions of dollars)

	Budget Authority
<u>DEFENSE CATEGORY</u>	
Defense Appropriations:	
Commerce, Justice, Science, and Related Agencies	5,695
Defense	694,956
Energy and Water Development	24,249
Financial Services and General Government	35
Homeland Security	2,569
Military Construction and Veterans Affairs	18,188
Transportation and Housing and Urban Development	300
Total, Defense Appropriations	745,992
Final Sequestration Report Defense Category Limit	745,999
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT	-7
<u>NON-DEFENSE CATEGORY</u>	
Non-Defense Appropriations:	
Agriculture and Rural Development	24,020
Commerce, Justice, Science, and Related Agencies	67,502
Defense	143
Energy and Water Development	23,967
Financial Services and General Government	23,950
Homeland Security	65,481
Interior and Environment	38,298
Labor, HHS, and Education	184,938
Legislative Branch	5,041
Military Construction and Veterans Affairs	92,183
State and Foreign Operations	54,177
Transportation and Housing and Urban Development	74,895
2019 Disaster Relief Supplemental (Emergency Requirement)	8
Total, Non-Defense Appropriations	654,603
Final Sequestration Report Non-Defense Category Limit	654,603
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT	---
<u>TOTAL DISCRETIONARY</u>	
Total, Discretionary	1,400,595
Final Sequestration Report Total Category Limits	1,400,602
CONGRESSIONAL ACTION OVER(+)/UNDER(-) TOTAL OF LIMITS	-7
<i>Memorandum: Appropriations counted outside of discretionary caps</i>	
<i>21st Century Cures appropriations²</i>	
Agriculture and Rural Development	75
Labor, HHS, and Education	492
<i>Non-BBEDCA emergency appropriations³</i>	
Transportation and Housing and Urban Development	-7

¹ OMB scoring includes funds provided in each Act that have been designated as being for Overseas Contingency Operations/Global War on Terrorism, Emergency Requirements, Program Integrity, Disaster Relief, Wildfire Suppression, or the 2020 Census.

² The 21st Century Cures Act permitted funds to be appropriated for certain activities and not counted towards the discretionary caps so long as the appropriations were specifically provided for the authorized purposes. These amounts are displayed outside the discretionary totals for this reason.

³ This amount was not designated pursuant to section 251(b)(2)(A) of BBEDCA, therefore, it is not counted towards any totals relative to the caps.

Rescission of Non-BBEDCA Emergency Funding.

Section 237 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2020 (Division H of the FCAA of 2020) rescinds approximately \$7 million in funds in the Department of Housing and Urban Development’s Tenant-based and Project-based Rental Assistance accounts, consistent with the 2020 Budget proposal. These amounts had previously been designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget but not pursuant to BBEDCA. OMB scored these rescissions in its seven-day-after report for the FCAA of 2020 as a reduction in non-BBEDCA emergency funding. However, OMB neither counts the reduction as savings under the non-defense cap nor adjusts the non-defense cap for the reduction since the provision was not designated as an emergency requirement pursuant to section 251(b)(2)(A)(i) of BBEDCA.

Summary of current year (Fiscal Year 2019) discretionary appropriations.

Section 254(f)(2) of BBEDCA requires the final sequestration report to summarize the status of enacted “current year” discretionary appropriations, relative to the discretionary caps. Table 3 summarizes the status of enacted 2019 discretionary appropriations, relative to the discretionary caps for 2019. The caps include all adjustments made to 2019 in the 2019 final sequestration and 2020 sequestration update reports. The scoring for enacted budget authority for both the defense and non-defense categories for 2019 remains at or below the adjusted cap levels.

Summary of enacted budget year (Fiscal Year 2020) discretionary appropriations.

Section 254(f)(2) of BBEDCA requires the final sequestration report to summarize the status of enacted “budget year” discretionary appropriations, relative to the discretionary caps. Table 4 summarizes OMB scoring of the fiscal year 2020 appropriations Acts as measured against the 2020 caps. OMB estimates that discretionary appropriations are \$7 million below the defense cap and equal to the non-defense cap. As a result, OMB estimates that sequestration will not be required for either of the discretionary categories.

However, it should be noted that a breach could still occur if additional appropriations for 2020 are enacted in excess of the caps before the end of September without the offsets necessary to eliminate the breach or without modifying the existing caps. If a breach occurs late in the fiscal year (after June 30), the caps for the following budget year (2021) will be reduced by the amount of the excess.

Comparison of OMB and CBO discretionary limits.

Section 254(f)(4) of BBEDCA requires this report to include an explanation of the differences between OMB and CBO estimates for the discretionary caps. Table 5 compares OMB and CBO limits for fiscal years 2020 and 2021. For both 2020 and 2021, both OMB and CBO begin with the defense and non-defense caps enacted in the BBA of 2019. Both OMB and CBO then make adjustments to the 2020 caps pursuant to section 251(b)(2) of BBEDCA based on their respective scoring estimates of enacted 2019 appropriations. CBO’s estimate of the defense cap is \$1 million higher than OMB’s estimate due to rounding of emergency requirement appropriations in the 2020 MILCON Act. For the non-defense cap, CBO’s estimate is \$465 million below OMB’s estimate, which is attributable to the adjustment required by section 747 of the 2020 FSGG Act for technical differences with CBO.

In addition to the different estimates of the 2020 caps, there are many differences between OMB’s and CBO’s respective account-by-account scoring of enacted 2020 discretionary budget authority that is counted

Table 5. COMPARISON OF OMB AND CBO DISCRETIONARY SPENDING LIMITS

(Budget authority in millions of dollars)

	2020	2021
DEFENSE CATEGORY		
CBO Final Report Limit	746,000	671,500
OMB Final Report Limit	745,999	671,500
Difference +/-	-1	....
NON-DEFENSE CATEGORY		
CBO Final Report Limit	654,138	626,500
OMB Final Report Limit	654,603	626,500
Difference +/-	+465	....
TOTAL DISCRETIONARY		
CBO Final Report,		
Total Discretionary	1,400,138	1,298,000
OMB Final Report,		
Total Discretionary	1,400,602	1,298,000
Difference +/-	+464	---

N/A = Not Applicable

OMB FINAL SEQUESTRATION REPORT TO THE PRESIDENT AND CONGRESS FOR FISCAL YEAR 2020

against the caps. Detailed explanations of the differences in enacted, full-year discretionary budget authority, including those which result in an adjustment to caps under section 747 of the 2020 FSGG Act, are available in the separate seven-day-after reports that

were issued subsequent to enactment of each discretionary appropriations Act (see these “Seven-Day-After Reports” on OMB’s website: <https://www.whitehouse.gov/omb/legislative/budget-enforcement-act-7-day-reports/>).