
OMB Sequestration Update Report to the President and Congress for Fiscal Year 2021



August 20, 2020

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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

THE DIRECTOR

August 20, 2020

The President
The White House
Washington, DC 20500

Dear Mr. President:

Enclosed please find the *OMB Sequestration Update Report to the President and Congress for Fiscal Year 2021*. The Office of Management and Budget (OMB) has prepared it pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This report updates information contained in the OMB sequestration preview report regarding enforcement of the discretionary spending caps for 2020 and 2021. The report includes updates to the 2020 caps for enacted emergency supplemental legislation. The report also provides the status of OMB scoring of the action by the House of Representatives on 2021 discretionary appropriations bills, comparisons with the cap estimates provided by the Congressional Budget Office (CBO) in its August update report, and OMB's preview estimate of the 2021 adjustment for disaster relief. OMB must issue a final sequestration report for 2021 after the Congress adjourns.

To date, no 2021 appropriations bills have been enacted into law, and 2021 caps remain at the levels included in OMB's sequestration preview report. Based on the current caps, this report estimates that actions to date by the House of Representatives, if enacted, will breach the non-defense cap by more than \$1 billion. No assessment of Senate action is included since the Senate had not begun consideration of 2021 appropriations legislation at the time this report was prepared.

Sincerely,

Russell T. Vought
Director

Enclosure

Identical Letter Sent to The Honorable Michael R. Pence
and The Honorable Nancy Pelosi

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), which had expired in 2002, by reinstating limits on discretionary budget authority for 2012 through 2021. Since enactment of the BCA, these spending limits have been revised a number of times due to reductions required by the BCA to enforce deficit targets (often referred to as “Joint Committee enforcement”) followed by bipartisan legislation to restore much of the reductions. These bipartisan agreements have occurred in the form of two-year budget deals: 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 OMB to issue a sequestration update report by August 20 each year. This report provides OMB’s current estimates of the discretionary spending limits, including updates to the limits since OMB last reported on the caps in its 2021 sequestration preview report that was issued on February 10, 2020. The most significant update is for adjustments to the 2020 caps in this report to account for discretionary supplemental appropriations that

have been enacted since the 2021 sequestration preview report was issued. These supplemental appropriations were enacted to implement the United States-Mexico-Canada Agreement (USMCA) and to respond to the public health emergency resulting from the COVID-19 pandemic. This report also contains OMB’s scoring estimates of pending appropriations legislation as measured against the 2021 caps as of August 15, 2020. The report also lists anticipated adjustments to the caps based on the requested amounts in the President’s 2021 Budget.

As required by BBEDCA, OMB’s estimates are based on the economic and technical assumptions used in the President’s 2021 Budget and cover the 12 annual appropriations bills for 2021 that have been reported or passed by the House of Representatives. Pursuant to section 254(e) of BBEDCA, this report also contains OMB’s calculation of the 2021 preview estimate of the adjustment for disaster relief funding.

If the discretionary caps for 2021 remain unchanged, OMB’s preliminary estimates of House action to date for the 12 annual appropriations bills for 2021 show an estimated breach of \$1.1 billion in the non-defense category. At the time this report was prepared, the Senate had not begun consideration of 2021 appropriations legislation; therefore, no assessment of Senate action is included. The preliminary House estimates are summarized in Table 4 of this report.

II. DISCRETIONARY SEQUESTRATION UPDATE REPORT

Discretionary programs are funded through the annual appropriations process. BBEDCA set limits (or caps) on the amount of new budget authority available for discretionary programs each year through 2021 but does not require that the Congress appropriate the full amount available under the discretionary limits. OMB is required to provide regular reports regarding the status of the discretionary spending limits as the Congress works on the annual appropriations bills. Within seven working days of enactment of an appropriations bill, BBEDCA requires OMB to report its estimates of the enacted discretionary new budget authority. BBEDCA also requires OMB to issue reports three times during the year on the overall status of the discretionary caps, including this August update report. This update report adjusts the defense and non-defense caps for the changes enacted in 2020 supplemental appropriations Acts to implement the USMCA and to respond to the public health emergency resulting from the COVID-19 pandemic. This report also provides OMB’s mid-year assessment of pending 2021 appropriations legislation as of August 15, 2020 under current scoring estimates, and discusses an estimated breach of the non-defense category that could occur if the actions taken to date by the House of Representatives on discretionary spending bills were to become law. Appropriations that OMB estimates would exceed the current caps would trigger an across-the-board reduction (or sequestration) pursuant to section 251(a) of BBEDCA

to eliminate the breach. As required by law, OMB’s estimates are based on the economic and technical assumptions used in the President’s 2021 Budget, and cover the 12 annual appropriations bills for 2021 that have been reported or passed by the House.

Section 251 of BBEDCA specifies two categories for discretionary funding.¹ The revised security category includes only the discretionary programs in the defense budget function 050 (the “defense” category), 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 non-security category consists of all discretionary programs not in the revised security category—essentially all non-defense (or non-050) budget functions (the “non-defense” category).

OMB is required by law to report on the current discretionary limits in this report. The following discussion focuses on required or possible adjustments under current law to those limits. Table 1 summarizes

¹ For more information on the structure of the BBEDCA spending caps and how they have changed over time, see Table 1 of this report, or consult any of the OMB’s sequestration reports to the President and the Congress during this Administration on OMB’s website (<https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>) or during the previous administration at the archive site (https://obamawhitehouse.archives.gov/omb/legislative_reports/sequestration).

Table 1. OVERVIEW OF CHANGES TO DISCRETIONARY SPENDING LIMITS

(Discretionary 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 (Public Law 112-240):										
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

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

(Discretionary budget authority in billions of dollars)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
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 (Public Law 113-67):										
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 (Public Law 114-74):										
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 (Public Law 115-123):										
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	+18.6	.....
Non-Defense Category	N/A	N/A	.....	+5.3	+1.7	+19.4	+103.8	+22.6	+501.4	.....
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	.....
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 OMB Sequestration Update 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	756.6	671.5
Non-Defense Category	N/A	N/A	504.8	514.9	544.4	568.8	704.6	641.5	1,155.5	626.5

N/A = Not Applicable

¹ These 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.

the original caps enacted in the BCA and all changes to date that have been made to those caps.

Adjustments to discretionary limits.—Since enactment of the BBA of 2019 in August of 2019, there have been no further changes to the base caps for 2020 and 2021. The 2020 caps, including adjustments made in OMB’s final sequestration report for 2020, are at

the levels included in OMB’s 2021 preview report with \$746.0 billion for defense and \$654.6 billion for non-defense, while the 2021 caps remain unchanged from the levels set in the BBA of 2019 with \$671.5 billion for defense and \$626.5 billion for non-defense.² However,

² OMB’s final sequestration report for 2020 and preview report for 2021 are available at: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

Table 2. DISCRETIONARY SPENDING LIMITS

(Discretionary budget authority in millions of dollars)

	2020	2021
<u>DEFENSE (OR “REVISED SECURITY”) CATEGORY</u>		
2021 Preview Report Spending Limits	745,999	671,500
Defense Adjustments for the 2021 Sequestration Update Report:		
Emergency Requirements	+10,607	.....
2021 Sequestration Update Report Spending Limits	756,606	671,500
Anticipated Adjustments for the 2021 Final Sequestration Report:		
Overseas Contingency Operations/Global War on Terrorism .....	.....	+69,000
<i>Anticipated 2021 Final Sequestration Report Defense Spending Limits</i>	756,606	740,500
<u>NON-DEFENSE (OR “REVISED NONSECURITY”) CATEGORY</u>		
2021 Preview Report Spending Limits	654,603	626,500
Non-Defense Adjustments for the 2021 Sequestration Update Report:		
Technical allowance for estimating differences with CBO	+6	.....
Emergency Requirements	+500,882	.....
Subtotal, Non-Defense Adjustments for the 2021 Update Report	+500,888	.....
2021 Sequestration Update Report Spending Limits	1,155,491	626,500
Anticipated Adjustments for the 2021 Final Sequestration Report:		
SSA Dedicated Program Integrity .....	.....	+1,302
Health Care Fraud and Abuse Control .....	.....	+496
Disaster Relief .....	.....	+5,060
Reemployment Services and Eligibility Assessments .....	.....	+83
Wildfire Suppression .....	.....	+2,350
Subtotal, Anticipated Non-Defense Adjustments for the 2021 Final Sequestration Report .....	.....	+9,291
<i>Anticipated 2021 Final Sequestration Report Non-Defense Spending Limits</i>	1,155,491	635,791
2021 Preview Report, Total Discretionary Spending	1,400,602	1,298,000
2021 Sequestration Update Report, Total Discretionary Spending	1,912,097	1,298,000
Anticipated 2021 Final Sequestration Report, Total Discretionary Spending	1,912,097	1,376,291

adjustments to the 2020 caps are required pursuant to section 251 of BBEDCA due to enacted discretionary supplemental appropriations legislation. These adjustments are described in the next section.

Section 251 of BBEDCA adjustments to discretionary limits.—Table 2 shows the effect of adjustments pursuant to section 251(b) of BBEDCA on the discretionary limits for 2020 and 2021. Section 251(b)(1) allows adjustments for changes in concepts and definitions to be made in the preview report, which is transmitted with the President’s Budget, and section 251(b)(2) authorizes certain adjustments after the enactment of appropriations.

Enacted Emergency Requirements. Section 251(b)(2)(A) of BBEDCA authorizes adjustment to the caps for appropriations that are designated by the Congress, and subsequently designated by the President, as emergency requirements. Since the 2021 sequestration preview report was released, five discretionary supplemental appropriations Acts have been enacted, which require adjustments for emergency requirements to the 2020 caps pursuant to section 251(b)(2)(A)(i) of BBEDCA. These supplemental appropriations Acts have provided a total of \$511.5 billion in emergency requirements for 2020 with \$10.6 billion provided in defense funding and \$500.9 billion provided in non-defense funding. Table 2 displays these adjustments for 2020 and the components of these adjustments are described below.

The first of these supplemental appropriations Acts is the USMCA Supplemental Appropriations Act, 2019, which was enacted in the United States-Mexico-Canada Agreement Implementation Act (title IX of Public Law 116-113). This Act provided \$843 million in non-defense emergency funding to implement the new trade agreement. The Congress designated as emergency requirements the amounts provided in the Act and the President’s subsequent designations were transmitted to the Congress on January 29, 2020. The amounts provided in this Act are part of the 2020 non-defense adjustment on Table 2.

The remaining four emergency supplemental appropriations Acts enacted since the Budget was released were provided primarily to respond to the

COVID-19 public health emergency. The emergency supplemental appropriations Acts enacted in response to the COVID-19 public health emergency are as follows:

- The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Division A of Public Law 116-123) was enacted on March 6, 2020 and provided nearly \$7.8 billion in non-defense emergency funding;
- The Second Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Division A of Public Law 116-127, the Families First Coronavirus Response Act or “FFCR Act”) was enacted on March 18, 2020 and provided a total of \$11.3 billion with \$82 million in defense emergency funding and \$11.2 billion in non-defense emergency funding;
- The Emergency Appropriations for Coronavirus Health Response and Agency Operations (Division B of Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act or the “CARES Act”) was enacted on March 27, 2020 and provided a total of \$329.5 billion with \$10.5 billion in defense emergency funding and \$318.9 billion in non-defense emergency funding; and
- The Additional Emergency Appropriations for Coronavirus Response (Division B of Public Law 116-139, the Paycheck Protection Program and Health Care Enhancement Act) was enacted on April 24, 2020 and provided \$162.1 billion in non-defense emergency funding.

The Congress designated as emergency requirements the amounts provided in each of the COVID-19 supplemental appropriations Acts and the President transmitted his emergency designations for each Act to the Congress on the day those Acts were enacted into law.³ The 2020 defense cap is adjusted upwards by \$10.6 billion and the non-defense cap is adjusted upwards by \$500.0 billion for these emergency requirements. These adjustments are included in Table 2.

³ The President’s designations are available on OMB’s website: <https://www.whitehouse.gov/omb/supplementals-amendments-and-releases/>.

Technical Allowance for 2020 Estimating Differences.—This allowance, specified in section 747 of the Financial Services and General Government Appropriations Act, 2020 (division C of Public Law 116-93), 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. In the final sequestration report for 2020, OMB included an adjustment of \$465 million to the non-defense category due to such differences with CBO. This was below the maximum technical adjustment for 2020 estimated at that time of \$2.8 billion. As noted in its 2020 Seven-Day-After Report for the CARES Act,⁴ OMB's scoring includes \$6 million in base funding for 2020 due to a provision that CBO does not score. This places OMB scoring \$6 million above the non-defense cap but since this overage is due to an estimating difference with CBO, OMB is again applying the technical estimating allowance. With the adjustments included in this report, OMB estimates that the adjusted defense and non-defense caps for 2020 total nearly \$1.912 trillion (excluding the \$465 million allowance adjustment already made), which permits a maximum technical adjustment for 2020 of more than \$3.8 billion. Since the combination of the remaining \$6 million overage due to the CARES Act provision is within the maximum allowable technical adjustment for 2020 when combined with the first adjustment of \$465 million, the non-defense cap is adjusted upward by an additional \$6 million in Table 2. This adjustment effectively eliminates any breach.

Anticipated section 251 of BBEDCA adjustments to discretionary limits.—In addition to actual adjustments required at this time, Table 2 shows *anticipated* adjustments for 2021 that are available under current law and equal to the levels proposed in the 2021 Budget. These anticipated adjustments are described in the text below. In all cases, the level of adjustments provided in the current appropriations

billings reported or passed by the House are also provided. At this time, the Senate has not reported or passed any 2021 appropriations bills nor has it released any allocations laying out its 2021 appropriations framework, so no levels for the Senate are noted. However, these are only anticipated adjustments. The actual adjustments will be determined at the end of this session of the Congress based on appropriations enacted by the Congress and the Administration and will be reflected in OMB's 2021 final sequestration report. The section 251(b)(2) anticipated adjustments include:

Emergency Requirement and Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT) Appropriations.—Emergency requirements, as noted above, and OCO/GWOT appropriations are permitted adjustments to the caps pursuant to section 251(b)(2)(A) of BBEDCA so long as the Congress designates the funding in law, and the President subsequently designates, as being either for emergency requirements or for OCO/GWOT activities, on an account-by-account basis. The detail below specifies each of the adjustments already made for 2020 (excluding the new emergency adjustments described previously) and the anticipated adjustments for 2021, respectively.

Emergency Requirements. In OMB's final sequestration report for 2020, net total adjustments of \$8.0 billion and \$0.5 billion were made to the defense and non-defense caps, respectively, in 2020 for emergency requirements provided in either the Consolidated Appropriations Act, 2020 (CAA; Public Law 116-93) or the Further Consolidated Appropriations Act, 2020 (FCAA; Public Law 116-94). The 2021 Budget does not include any other funding designated as a BBEDCA emergency requirement for 2021 or beyond. However, the 2021 Budget does propose to eliminate the Title 17 Innovative Technology Loan Guarantee Program and the Advanced Technology Vehicles Manufacturing Loan Program in the Department of Energy. These proposals include a permanent cancellation of the remaining balances of emergency funding, which were never designated pursuant to BBEDCA. These proposed cancellations are not re-designated in the Budget as emergency; therefore, the Budget does not show any savings being achieved under the caps, nor does the Budget adjust the caps for these cancellations.

⁴ See OMB's Seven-Day-After Report for CARES Act on OMB's website for more information behind the scoring difference: <https://www.whitehouse.gov/omb/legislative/budget-enforcement-act-7-day-reports/>.

In its reported or passed 2021 appropriations bills, the House includes more than \$247 billion in proposed BBEDCA emergency requirements for 2021 for various purposes. This net amount of emergency funding is provided in the following bills:

- the House 2021 Energy and Water Development bill provides \$43.5 billion (\$3.2 billion for defense programs and \$40.3 billion for non-defense) for water and energy infrastructure programs;
- the House 2021 Financial Services and General Government bill provides more than \$67.0 billion (all non-defense) for broadband infrastructure and maintenance of Federal buildings;
- the House 2021 Homeland Security bill reflects a net \$50 million reduction in emergency funding due to a transfer and rescission of funds;
- the House 2021 Interior and Environment bill provides \$15.5 billion for infrastructure programs;
- the House 2021 Labor, HHS and Education bill provides more than \$23.5 billion for public health infrastructure activities;
- the House 2021 Military Construction and Veterans Affairs appropriations bill includes nearly \$12.5 billion (all non-defense) for Veterans health care;
- the House 2021 State and Foreign Operations bill includes more than \$10.0 billion for COVID-19 response; and
- the House 2021 Transportation and Housing bill provides \$75.0 billion (all non-defense) for transportation and housing infrastructure programs.

These amounts are reflected on Table 4. House appropriations action so far includes no other emergency requirements.

OCO/GWOT. In OMB’s final sequestration report for 2020, a total net adjustment of \$79.5 billion (including rescissions) was made to the 2020 caps, with \$71.5 billion allocated to the defense category

and \$8.0 billion allocated to the non-defense category. These adjustments are already reflected in the 2020 caps. For 2021, the President’s Budget requests a total for OCO/GWOT of \$69.0 billion for defense programs. Table 2 reflects the OCO/GWOT level from the 2021 Budget as an anticipated adjustment for 2021. House action so far also provides a total of \$69.0 billion for defense programs with \$68.4 billion in the House 2021 Defense bill, \$0.2 billion in the House 2021 Homeland Security bill, and \$0.35 billion in the House 2021 Military Construction and Veterans Affairs bill. The House also provides \$8.0 billion for non-defense OCO/GWOT activities in the State and Foreign Operations bill for a total of \$77.0 billion. Table 4 reflects the current House action.

Social Security Dedicated Program Integrity Activities.—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 an 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 before the adjustment. The intent of this adjustment is to ensure sufficient resources for the Social Security Administration to reduce improper payments and achieve significant deficit savings in future years.

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2020 (division A of Public Law 116-94) (the “2020 LHHS Act”) fully funded the \$273 million base and provided \$1.3 billion as a cap adjustment – the maximum allowable adjustment specified for 2020 in BBEDCA. This amount is already included in the 2020 non-defense cap. The 2021 Budget

provides both the base funding level of \$273 million and the cap adjustment level specified in BBEDCA of \$1.3 billion through discretionary appropriations in 2021. The House has provided the full cap adjustment level of \$1.3 billion for these activities in their passed version of the 2021 Labor, Health and Human Services, Education, and Related Agencies appropriations (“2021 LHHS”) bill. Consistent with the 2021 Budget, Table 2 reflects the full, authorized amount for SSA’s dedicated program integrity work as an anticipated adjustment for 2021. Table 4 also reflects this same adjustment for the House allocations in 2021.

Health Care Fraud and Abuse Control (HCFAC).—Section 251(b)(2)(C) of BBEDCA authorizes an adjustment to the caps by amounts appropriated for HCFAC activities, which include efforts to reduce the Medicare improper payment rate, support the Health Care Fraud Prevention and Enforcement Action Team initiative, and reduce the Medicaid improper payment rates. 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 before the adjustment. The 2020 LHHS Act provided the base \$311 million level and the maximum cap adjustment level of \$475 million. The 2021 Budget fully funds the base amount for this program and includes the full cap adjustment of \$496 million permitted by BBEDCA for 2021. The House also provides the full cap adjustment level of \$496 million in its passed version of the 2021 LHHS bill. Consistent with the 2021 Budget, Table 2 reflects the full authorized amount for HCFAC as an anticipated adjustment for 2021. Table 4 also reflects this same adjustment for the House allocations in 2021.

Disaster 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,” which 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 (42 U.S.C. 5122(2)). Section 254(e) of BBEDCA requires OMB to include in this report a preview estimate of the adjustment for disaster funding for 2021. That estimate is currently \$17.3 billion (see section III of this report). For

2020, the Congress provided appropriations in divisions C and D of Public Law 116-93 with \$17.4 billion for the Federal Emergency Management Agency’s (FEMA’s) Disaster Relief Fund (DRF) and \$0.2 billion for the Small Business Administration’s (SBA’s) Disaster Loans Program Account. The total amount of \$17.5 billion was added to the 2020 non-defense cap in OMB’s final sequestration report for 2020. This amount is equal to the maximum allowable adjustment that was calculated in last year’s sequestration update report for 2020.

The 2021 Budget requests \$5.1 billion in FEMA’s DRF to cover the costs of Presidentially-declared major disasters, including identified costs for previously declared catastrophic events and the estimated annual cost of non-catastrophic events expected to obligate in 2021. This amount is shown as an anticipated adjustment to the non-defense category in 2021 on Table 2. The Administration’s request continues to address the significant and unprecedented recovery needs of the recent hurricanes and wildfires that have devastated our Nation. Consistent with past practice, the 2021 request level does not seek to pre-fund anticipated needs in other programs arising out of disasters that have yet to occur. If necessary, the President may transmit a request for additional funding to fund prior or future disasters, in the form of either 2020 supplemental appropriations or amendments to the 2021 Budget. At present, the House has fully funded the 2021 FEMA request in its reported 2021 Homeland Security appropriations bill and provided \$143 million for SBA in its passed 2021 Financial Services appropriations bill for a total of \$5.2 billion for disaster relief. These amounts are reflected on Table 4.

Reemployment Services and Eligibility Assessments.—Section 30206(c) of title II of the Bipartisan Budget Act of 2018 (BBA of 2018; Public Law 115-123) created a new cap adjustment for program integrity efforts under section 251(b)(2)(E) of BBEDCA for Reemployment Services and Eligibility Assessments (RESEA). Similar to the SSA dedicated program integrity and HCFAC cap adjustments, an adjustment is permitted up to a maximum amount specified in BBEDCA if the underlying appropriations bill first provides 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 was allocated to the non-defense category in OMB’s final sequestration report for 2020. The 2021 Budget fully funds the base amount for this program and includes the full cap adjustment permitted by BBEDCA of \$83 million for 2021. The House provides the full cap adjustment level of \$83 million in its passed version of the 2021 LHHS bill. Consistent with the 2021 Budget, Table 2 reflects the full authorized amount for RESEA as an anticipated adjustment for 2021. Table 4 also reflects this same adjustment for the House allocation in 2021.

Wildfire Suppression Operations.— Division O of Public Law 115-141, as amended by section 7 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. BBEDCA permits this adjustment 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 USDA Forest Service and for the Department of the Interior (DOI). These amounts have been determined to be \$1.011 billion for the Department of Agriculture’s Forest Service and \$0.384 billion for DOI. The 2020 Department of the Interior, Environment, and Related Agencies Appropriations Act (division D of Public Law 116-94) provided the base amounts for wildfire suppression and \$2.25 billion as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2020 in BBEDCA. This adjustment was allocated to the non-defense category in OMB’s final sequestration report for 2020. The 2021 Budget requests these base amounts for wildfire suppression and seeks the full \$2.35 billion adjustment authorized in BBEDCA for 2021 with \$2.04 billion included for Forest Service and \$0.31 billion included for DOI. Providing the full level authorized in 2021 will ensure that adequate resources are available to fight wildland fires, protect communities, and safeguard human life during the most severe wildland fire season.

The House also provides the full cap adjustment level of \$2.35 billion in its passed version of the

2021 Interior and Environment appropriations bill. Consistent with the 2021 Budget, Table 2 reflects the full authorized amounts for Wildfire Suppression as an anticipated adjustment for 2021. Table 4 also reflects this same adjustment for the House allocation in 2021.

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 \$2.5 billion. 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 \$2.5 billion cap. The Congress provided the full amount for this adjustment for 2020 in division B of Public Law 116-93 and this amount was added to the non-defense cap in OMB’s final sequestration report for 2020. This adjustment is not available for 2021 and there are no proposals regarding this adjustment in the 2021 Budget or in the 2021 House appropriations bills.

Status of 2020 discretionary appropriations.— Table 3 summarizes the status of enacted 2020 discretionary appropriations, relative to the discretionary caps for 2020. The caps include all adjustments made in OMB’s 2020 final sequestration report and the adjustments made in this report. Using the same economic and technical assumptions underlying the 2020 Budget, OMB’s estimates of enacted budget authority for the defense category remains below the 2020 spending cap while OMB’s estimate of budget authority for the non-defense category remains at the 2020 spending cap. If appropriations are enacted before the end of 2020 that lead to a 2020 category breach, then in its 2021 final sequestration report, OMB would adjust the 2021 limit for that category downward by the amount of the breach, pursuant to section 251(a)(5) of BBEDCA.

Status of 2021 discretionary appropriations.— Table 4 presents preliminary OMB scoring for each of the 12 annual appropriations bills that have been reported or passed by the House. OMB estimates of House action include the following assumptions and caveats:

Table 3. STATUS OF 2020 DISCRETIONARY APPROPRIATIONS
(Discretionary budget authority in millions of dollars)

	Budget Authority
Defense Category	
Adjusted discretionary spending limit	756,606
Total enacted appropriations	756,599
Spending over (+)/under (-) limits	-7
Non-Defense Category	
Adjusted discretionary spending limit	1,155,491
Total enacted appropriations	1,155,491
Spending over (+)/under (-) limits .....	.....
Total Discretionary Spending—All Categories	
Adjusted discretionary spending limits	1,912,097
Total enacted appropriations	1,912,090
Spending over (+)/under (-) limits	-7

- OMB scoring of the House bills includes, where appropriate, the cap adjustments that are currently available pursuant to section 251(b) (2) of BBEDCA for Emergency Requirements, Overseas Contingency Operations/Global War on Terrorism, Program Integrity for SSA, HCFAC, and RESEA, Disaster Relief, and Wildfire Suppression.
- While the 2021 appropriations bills for Energy and Water Development and Labor, HHS, and Education were passed by the House as separate divisions (C and E) in H.R. 7617, OMB estimates for these divisions are still under development at the time this report is being prepared so OMB includes scoring for the bills reported by the House Appropriations Committee.

- The House-reported 2021 Legislative Branch appropriations bill, holding to tradition, does not include items from the Senate since the House moved its bill before the Senate released its own bill. For a more comparable bill total, OMB adds the Senate items from its 2021 Budget to its House scoring as a placeholder until a Legislative Branch bill with Senate items is released.

OMB estimates of House 2021 appropriations are under the defense cap but over the non-defense cap by \$1.1 billion – a difference that appears attributable to technical estimating differences OMB has with CBO. However, OMB continues to review the House appropriations legislation and CBO estimates of that legislation, so the estimates in Table 4 remain preliminary and subject to change.

Comparison of OMB and CBO discretionary limits.—Section 254(e) of BBEDCA requires this report to explain the difference between OMB and CBO estimates for the discretionary spending limits. Table 5 compares OMB and CBO limits for 2020 and 2021. CBO uses the discretionary limits from OMB’s 2021 sequestration preview report as a starting point for adjustments in its sequestration update report. CBO’s estimate for the 2020 non-defense cap is \$8.6 million lower than OMB’s estimate. This difference is entirely due to OMB scoring, on net, an \$8.9 billion higher cost for the FFCR Act and a \$0.2 billion lower cost for the CARES Act.⁵ For the defense category in 2020 and for both categories in 2021, CBO’s estimates are the same as OMB’s estimates.

⁵ See OMB’s Seven-Day-After Reports for the FFCR Act and CARES Act on OMB’s website for more information behind the net scoring differences: <https://www.whitehouse.gov/omb/legislative/budget-enforcement-act-7-day-reports/>.

Table 4. STATUS OF 2021 APPROPRIATIONS ACTION

(Discretionary budget authority in millions of dollars)

	House Action	
	BA	
<u>DEFENSE CATEGORY</u>		
Defense Base Appropriations:		
Commerce, Justice, Science, and Related Agencies	5,879	F
Defense	626,033	F
Energy and Water Development	26,502	C ¹
Financial Services and General Government	37	F
Homeland Security	2,633	C
Military Construction and Veterans Affairs	10,091	F
Transportation and Housing and Urban Development	324	F
Subtotal, Defense Base Discretionary	671,499	
Defense Cap Adjustments: ²		
Defense (OCO/GWOT)	68,437	F
Energy and Water Development (Emergency Requirement)	3,235	C ¹
Homeland Security (OCO/GWOT)	215	C
Military Construction and Veterans Affairs (OCO/GWOT)	350	F
Subtotal, Defense Cap Adjustments	72,237	
Total, Defense Discretionary	743,736	
Estimated Final Sequestration Report Defense Category Limit	743,737	
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT	-1	
<u>NON-DEFENSE CATEGORY</u>		
Non-Defense Base Appropriations:		
Agriculture and Rural Development	24,007	F
Commerce, Justice, Science, and Related Agencies	65,218	F
Defense	152	F
Energy and Water Development	23,105	C ¹
Financial Services and General Government	24,603	F
Homeland Security	48,115	C
Interior and Environment	36,657	F
Labor, HHS, and Education	183,158	C ¹
Legislative Branch ³	5,317	C
Military Construction and Veterans Affairs	92,559	F
State and Foreign Operations	47,256	F
Transportation and Housing and Urban Development	77,430	F
Subtotal, Non-Defense Base Discretionary	627,577	
Non-Defense Cap Adjustments: ²		
Energy and Water Development (Emergency Requirement)	40,265	C ¹
Financial Services and General Government (Emergency & Disaster Relief)	67,184	F
Homeland Security (Emergency & Disaster Relief)	5,010	C
Interior and Environment (Emergency & Wildfire Suppression)	17,850	F
Labor, HHS, and Education (Emergency & Program Integrity)	25,381	C ¹
Military Construction and Veterans Affairs (Emergency Requirement)	12,492	F
State and Foreign Operations (Emergency & OCO/GWOT)	18,017	F
Transportation and Housing and Urban Development (Emergency Requirement)	75,002	F
Subtotal, Non-Defense Cap Adjustments	261,201	
Total, Non-Defense Discretionary	888,778	
Estimated Final Sequestration Report Non-Defense Category Limit	887,701	
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT	+1,077	

Table 4. STATUS OF 2021 APPROPRIATIONS ACTION—Continued

(Discretionary budget authority in millions of dollars)

	House Action	
	BA	
<u>TOTAL DISCRETIONARY SPENDING</u>		
Total, Discretionary	1,632,514	
Estimated Final Sequestration Report Total Category Limits	1,631,438	
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMITS	+1,076	
Memorandum - Appropriations Counted Outside of Discretionary Caps:		
<i>21st Century CURES Appropriations:</i> ⁴		
<i>Agriculture and Rural Development</i>	70	<i>F</i>
<i>Labor, HHS, and Education</i>	404	<i>C</i> ¹

Key: C = OMB scoring of bill reported out by committee; F = OMB scoring of bill passed by House

NOTE: OMB scoring of House action is preliminary and subject to change.

¹ Although the Energy and Water and Labor, HHS, and Education bills were passed by the House as separate divisions in H.R. 7617, OMB estimates for these divisions are still under development at the time this report is being prepared so OMB includes its scoring of the reported bills.

² The House bills include the cap adjustments that are currently available pursuant to section 251(b)(2) of BBEDCA for Emergency Requirements, Overseas Contingency Operations/Global War on Terrorism, Program Integrity for SSA, HCFAC, and RESEA, Disaster Relief, and Wildfire Suppression.

³ Holding to tradition, the House-reported Legislative Branch bill does not include items from the Senate since the House moved its bill before the Senate released its own bill. For a more comparable bill total, OMB adds the Senate items from its 2021 Budget to its House scoring as a placeholder until a Legislative Branch bill with Senate items is released.

⁴ 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.

**Table 5. COMPARISON OF OMB AND CBO
DISCRETIONARY SPENDING LIMITS**

(Discretionary budget authority in millions of dollars)

	2020	2021
DEFENSE (OR "REVISED SECURITY") CATEGORY		
CBO 2021 Update Report Limits	756,606	671,500
OMB 2021 Update Report Limits	756,606	671,500
Difference +/- .....	.....	.....
NON-DEFENSE (OR "REVISED NONSECURITY") CATEGORY		
CBO 2021 Update Report Limits	1,146,860	626,500
OMB 2021 Update Report Limits	1,155,491	626,500
Difference +/-	+8,631	.....
CBO 2021 Update Report, Total Discretionary	1,903,466	1,298,000
OMB 2021 Update Report, Total Discretionary	1,912,097	1,298,000
Difference +/-	+8,631	.....

III. PREVIEW ESTIMATE OF THE DISASTER FUNDING ADJUSTMENT FOR FISCAL YEAR 2021

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 of 2018 (Public Law 115-141), BBEDCA set an annual limit for the adjustment (or “funding ceiling”) that was calculated by adding the 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 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. With respect to the portion of discretionary amounts designated as emergency funding, the revised calculation permits an adjustment of five percent of the total appropriations (net of any rescissions) that were designated after 2011 (or in the previous 10 years, whichever is less) as emergency requirements pursuant to section 251(b)(2)(A) (i) of BBEDCA for Stafford Act emergencies. 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*⁶, which specified the methodology and criteria OMB is using for estimating the emergency appropriations for Stafford Act disasters that will apply in the new formula under step 2.

Section 254(e) of BBEDCA requires this sequestration update report to include a preview estimate (or funding ceiling) of the adjustment for disaster funding for the upcoming year under the formula, in this case 2021. The first part of the calculation of the ceiling in 2021 is outlined in Table 6. The total budget authority appropriated for disaster relief over the 2011 through 2020 period is \$89.5 billion. The low value dropped was for 2011 (\$2.5 billion), and the high value dropped was for 2020 (\$17.5 billion). The average for 2021 is therefore \$8.7 billion.

Table 6. SUMMARY OF AVERAGE FUNDING PROVIDED FOR DISASTER RELIEF FOR 2011 THROUGH 2020

(Discretionary budget authority in millions of dollars)

Fiscal Year	Budget Authority
2011	2,473
2012	10,453
2013	11,779
2014	5,626
2015	6,529
2016	7,643
2017	8,129
2018	7,366
2019	12,000
2020	17,503

Average 2011–2020	
Total Budget Authority	89,501
Low (2011)	2,473
High (2020)	17,503
Average (dropping high/low)	8,691

Calculation of 2020 Carryover	
2020 Preview Estimate	17,503
2020 Enacted	17,503
2020 Carryover	.....

Calculation of 2021 Preview Estimate	
Average	8,691
2020 Carryover	.....
Emergency Adjustment (see Table 7)	8,594
2021 Preview Estimate	17,285

⁶ The report is available on the OMB website: <https://www.whitehouse.gov/omb/legislative/omb-reports/>.

The second part of the calculation requires the determination of the 2021 emergency adjustment funding that should be added to the average. Table 7 summarizes the amounts used for determining this adjustment. The amounts for 2012 through 2018 come from the April 23, 2018 report to the Congress referenced above. The 2019 amount comes from Stafford Act emergency requirements enacted in two supplemental appropriations Acts: (1) \$1.7 billion provided in the Supplemental Appropriations for Disaster Relief Act, 2018 (division I of the FAA Reauthorization Act of 2018; Public Law 115-254) and (2) \$4.3 billion enacted in the 2019 Disaster Relief Supplemental. The 2020 amount of \$40 billion comes from the Stafford Act emergency requirement enacted in FEMA’s DRF account in the CARES Act. The 2021 Emergency adjustment is determined by adding up the total budget authority designated since 2012 as emergency requirements for Stafford Act disasters, or \$171.9 billion, and taking five percent of that amount, or \$8.6 billion.

The third part of the calculation requires determining the amount of any carryover from 2020 that should be applied to the ceiling. As noted earlier in this report, the funding ceiling originally calculated for 2020 was \$17.5 billion and the Congress provided this entire amount for FEMA’s DRF program and SBA’s Disaster Loans Program Account. Since the Congress provided the full amount of the allowable adjustment for 2020, there is no carryover from 2020 into 2021 (see this calculation in Table 6).

After accounting for each of the components of the adjustment for the preview estimate for disaster relief, OMB calculates a funding ceiling in 2021 of nearly \$17.3 billion. This is the result of taking the average (\$8.7 billion) and adding the emergency adjustment for 2021 (\$8.6 billion) and the carryover from 2020 (\$0). It is important to note that no actual adjustment to the caps will occur unless the Congress enacts appropriations that it specifically designates as being for disaster relief pursuant to BBEDCA.

Table 7. SUMMARY OF FUNDING PROVIDED FOR DISASTERS DECLARED PURSUANT TO THE STAFFORD ACT AND DESIGNATED AS EMERGENCY PURSUANT TO BBEDCA, 2012-2020

(Discretionary budget authority in millions of dollars)

Fiscal Year	Budget Authority	Five Percent
2012 .....	.....	.....
2013	22,301	1,115
2014 .....	.....	.....
2015 .....	.....	.....
2016 .....	.....	.....
2017	14,800	740
2018	88,821	4,441
2019	5,958	298
2020	40,000	2,000

2021 Emergency Adjustment	
Total Budget Authority	171,880
Five Percent	+8,594