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



January 19, 2021

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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, DC 20503

THE DIRECTOR

January 19, 2021

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 2021*, 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 2021 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 2021*.

Based on the estimates in this report, enacted appropriations are within the discretionary spending limits for 2021 and a sequestration of discretionary budget authority pursuant to section 251 of BBEDCA is not required.

Sincerely,

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

Russell T. Vought
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. This report updates the current legal limits for adjustments included in enacted appropriations Acts since OMB last reported on the caps in its 2021

sequestration update report that was released on August 20, 2020.¹ The regular 12 appropriations Acts for 2021 and a 2021 emergency supplemental appropriations Act were enacted as separate divisions in the Consolidated Appropriations Act, 2021 (CAA of 2021; Public Law 116-260). The President signed the Act on December 27, 2020, and OMB completed its scoring estimates for the appropriations Act and transmitted its Seven-Day-After Reports detailing those estimates to the Congress on January 15, 2021 in accordance with the requirements of section 251(a) (7) of BBEDCA and section 9 of the CAA of 2021.²

This final fiscal year 2021 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 2021 discretionary appropriations in the Act described 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 2021*. As required by BBEDCA, OMB's scoring for 2021 relies on the same economic and technical assumptions used in the 2021 Budget that was transmitted to the Congress on February 10, 2020. This report covers appropriations legislation enacted through January 15, 2021, and indicates that no sequestration of discretionary budget authority is required.

¹ OMB's sequestration update report for 2021 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

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.

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 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	.....	.....	.....	.....	.....	.....

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
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	+69.0
Non-Defense Category	N/A	N/A	+6.5	+9.3	+14.9	+20.8	+12.0	+8.0	+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	+0.1
Non-Defense Category	N/A	N/A	.....	+5.3	+1.7	+19.4	+103.8	+22.6	+501.4	+193.0
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	+1.9
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	+17.3
Wildfire Suppression:										
Non-Defense Category	N/A	N/A	.....	.....	.....	.....	.....	.....	+2.3	+2.4
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	.....	+0.1
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	756.6	740.7
Non-Defense Category	N/A	N/A	504.8	514.9	544.4	568.8	704.6	641.5	1,155.5	849.0

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, division C of Public Law 116-93, and division E of Public Law 119-260.

eliminate the excess funding. This report meets the requirement for OMB to issue a final sequestration report for 2021. As BBEDCA requires, the estimates rely on the same economic and technical assumptions used in the President's 2021 Budget.

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 led to the 2021 update report caps, which are mostly due to enacted emergency supplemental appropriations Acts for 2020. The 2020 limits already reflect adjustments to the caps from 2020 appropriations Acts that were made in OMB's 2020 final sequestration report.⁴ Table 2 also lists the adjustments from enacted 2021 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 (where applicable) and 2021. 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, a general provision, enacted as section 747 of both the Financial Services and General Government Appropriations Act, 2020 (2020 FSGG Act; division C of the Public Law 116-93) and the Financial Services and General Government Appropriations Act, 2021 (2021 FSGG Act; division E of the CAA of 2021), requires an adjustment for OMB estimating differences with CBO for 2020 and 2021, respectively, 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 2021 enacted, the adjustments listed below are now made to the 2020 and 2021 defense and non-defense caps in Table 2. Each of these adjustments are presented on Table 2 in millions of dollars.

⁴ OMB's 2020 final sequestration report can be found on OMB's website: <https://www.whitehouse.gov/omb/legislative/sequestration-reports-orders/>.

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 2021.

Emergency Requirements.—For 2021, a net total of more than \$193 billion (including rescissions) was provided as emergency requirements. These funds were mostly for expenses related to responding to the coronavirus pandemic, including supplemental appropriations for some accounts that saw a significant reduction in collections for certain activities. The component amounts appropriated are as follows:

- \$635 million in non-defense funds in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2021 (division A of the CAA of 2021);
- \$604 million in funds (split with \$106 million for defense and \$498 million for non-defense) provided in the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2021 (division B of the CAA of 2021);
- \$2,300 million in non-defense funds provided and an equal amount of prior-year emergency appropriations rescinded (netting to \$0 overall) in the Energy and Water Development and Related Agencies Appropriations Act, 2021 (2021 EW Act; division D of the CAA of 2021);
- \$50 million in non-defense funds provided in the 2021 FSGG Act (division E of the CAA of 2021);
- \$840 million in non-defense funds provided in the Department of Homeland Security Appropriations Act, 2021 (2021 DHS Act; division F of the CAA of 2021);
- \$638 million in non-defense funds provided in the Departments of Labor, Health and Human Services, and Education, and Related Agencies

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
Adjustments for the 2021 Final Sequestration Report:		
Overseas Contingency Operations/Global War on Terrorism .....	.....	+69,001
Emergency Requirements .....	.....	+106
Technical allowance for estimating differences with CBO .....	.....	+128
Subtotal, Defense Category Adjustments .....	.....	+69,235
2021 Final Sequestration Report Spending Limits	756,606	740,735
<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
Adjustments for the 2021 Final Sequestration Report:		
Emergency Requirements .....	.....	+192,959
Overseas Contingency Operations/Global War on Terrorism .....	.....	+7,999
Social Security Dedicated Program Integrity .....	.....	+1,302
Health Care Fraud and Abuse Control .....	.....	+496
Disaster Relief .....	.....	+17,285
Reemployment Services and Eligibility Assessments .....	.....	+83
Wildfire Suppression .....	.....	+2,350
Technical allowance for estimating differences with CBO	+21	.....
Subtotal, Non-Defense Category Adjustments	+21	+222,474
2021 Final Sequestration Report Spending Limits	1,155,512	848,974
<u>TOTAL DISCRETIONARY FUNDING</u>		
2021 Preview Report, Total Discretionary Spending	1,400,602	1,298,000
2021 Update Report, Total Discretionary Spending	1,912,097	1,298,000
2021 Final Sequestration Report, Total Discretionary Spending	1,912,118	1,589,709

Appropriations Act, 2021 (2021 LHHS Act; division H of the CAA of 2021);

- \$10 million in non-defense funds provided in the Legislative Branch Appropriations Act, 2021 (division I of the CAA of 2021);
- \$5,270 million in non-defense funds provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 (2021 State Act; division K of the CAA of 2021);
- \$718 million in non-defense funds provided in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2021 (division L of the CAA of 2021); and
- \$184,300 million in non-defense funds provided in the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (COVID Relief Act; division M of the CAA of 2021).

OCO/GWOT.—Final 2021 appropriations provided a total of \$77 billion (including rescissions) for OCO/GWOT purposes for 2021. The component amounts appropriated are as follows:

- \$68,651 million in defense funds provided in the Department of Defense Appropriations Act, 2021 (2021 Defense Act; division C of the CAA of 2021);
- \$350 million in defense funds provided in the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2021 (2021 MILCON Act; division J of the CAA of 2021); and
- \$7,999 million in non-defense funds provided in the 2021 State Act.

The Congress designated as emergency requirements or as OCO/GWOT these amounts in Public Law 116-260, 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 27, 2020.⁵ The com-

⁵ 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/>.

bined adjustments in 2021 for all of these amounts (for OCO/GWOT and emergency requirements) increases the defense category by \$69,107 million and the non-defense category by \$200,958 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 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 2021 LHHS Act provided the base level of \$273 million and \$1,302 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2021 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 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 2021 LHHS Act provided the base level of \$311 million and \$496 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2021 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 of any unused portion of the disaster ceiling 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*,⁶ 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 and OMB calculated a preview estimate of \$17,285 million for the ceiling in 2021. The calculation in that report was based on the following three components: the 10-year average including

enacted 2020 appropriations (\$8,691 million); 5 percent of Stafford Act emergencies since 2012 (\$8,594 million); and carryover from the previous year (\$0). However, the CAA of 2021 includes an emergency appropriation of \$2,000 million to the Federal Emergency Management Agency’s Disaster Relief Fund (FEMA DRF) in the 2021 COVID Relief Act that is for Stafford Act emergencies. The enactment of this appropriation necessitates an update to the 5 percent component of the 2021 preview estimate by adding an additional \$100 million and this results in a disaster relief ceiling of \$17,385 million.

The Congress provided disaster relief appropriations totaling the amount of the original ceiling with \$143 million for the Disaster Loans Program Account in the Small Business Administration in the 2021 FSGG Act and \$17,142 million for the FEMA DRF in the 2021 DHS Act. This amount is \$100 million below the new ceiling for 2021. The adjustment for enacted appropriations totaling \$17,285 million is allocated to the non-defense category in Table 2.

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 2021 LHHS Act provided the base level of \$117 million and \$83 million as a cap adjustment for these purposes—the maximum allowable adjustment specified for 2021 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 ac-

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

tivities. 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, 2021 (division G of the CAA of 2021) provided for the base activities and the total \$2,350 million as a cap adjustment for wildfire suppression purposes—the maximum allowable adjustment specified for 2021 in BBEDCA. The adjustment is split with USDA receiving \$2,040 million and DOI receiving \$310 million. The adjustment is allocated entirely to the non-defense category in Table 2.

Technical Allowance for Estimating Differences.—This allowance, which is enacted with the annual FSGG appropriations bill (currently section 747 in both the 2020 FSGG Act and the 2021 FSGG Act), requires OMB to adjust the spending limit for either category in a given year 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. For 2020, as noted in OMB’s sequestration update report for 2021, a maximum technical adjustment of more than \$3.8 billion is permitted, of which \$471 million has been used due to estimating differences with CBO. For 2021, after accounting for the adjustments included in this report, OMB estimates that the adjusted defense and non-defense caps for 2021 total \$1,589,709 million, which permits a maximum technical adjustment for 2021 of \$3,179 million.

In 2020, an adjustment is required to the non-defense category due to a provision enacted in the Continuing Appropriations Act, 2021 (the 2021 CR; division A of Public Law 116-159). In the 2020 Seven-Day-After Report for the 2021 CR, OMB scores a cost of \$21 million for section 127, which does result in a breach of the non-defense cap. However, since CBO does not score the provision, OMB is adjusting the non-defense cap in 2020 on Table 2 by \$21 million to eliminate the

breach. This \$21 million adjustment, when combined with the earlier adjustments of \$471 million for 2020, remains within the maximum technical adjustment for 2020.

In 2021, OMB currently estimates a breach of \$128 million in the defense category. However, this estimate is also entirely due to scoring differences with CBO based on the estimates and explanations published in OMB’s Seven-Day-After reports for the CAA of 2021 and this overage is within the maximum allowable technical adjustment for 2021 identified above. As a result, the defense cap is adjusted upward by \$128 million in Table 2 and this adjustment effectively eliminates any breach in 2021.

Harbor Maintenance Trust Fund (HMTF) Appropriations.—Section 14003 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; Public Law 116-136) made appropriations for the Corps of Engineers from the HMTF no longer subject to discretionary cap enforcement pursuant to BBEDCA. Section 14003 was amended by section 101 of Water Resources Development Act of 2020 (division AA of the CAA of 2021) to further specify a maximum amount of appropriations that may be excluded from being counted toward the discretionary caps starting in 2021. This change does not create a new cap adjustment, but rather treats appropriations from the

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 (-) limit	-7
Non-Defense Category	
Adjusted discretionary spending limit	1,155,512
Total enacted appropriations	1,155,512
Spending over (+)/under (-) limit .....	.....
Total Discretionary Spending—All Categories	
Adjusted discretionary spending limits	1,912,118
Total enacted appropriations	1,912,111
Spending over (+)/under (-) limits	-7

Table 4. SUMMARY OF 2021 APPROPRIATIONS ACTION¹

(Budget authority in millions of dollars)

	Budget Authority
<u>DEFENSE CATEGORY</u>	
Defense Appropriations:	
Commerce, Justice, Science, and Related Agencies	5,964
Defense	695,809
Energy and Water Development	27,509
Financial Services and General Government	35
Homeland Security	2,550
Military Construction and Veterans Affairs	8,544
Transportation and Housing and Urban Development	324
Total, Defense Appropriations	740,735
Final Sequestration Report Defense Category Limit	740,735
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT .....	.....
<u>NON-DEFENSE CATEGORY</u>	
Non-Defense Appropriations:	
Agriculture and Rural Development	24,161
Commerce, Justice, Science, and Related Agencies	65,387
Defense	152
Energy and Water Development	20,888
Financial Services and General Government	24,592
Homeland Security	67,369
Interior and Environment	38,355
Labor, HHS, and Education	176,668
Legislative Branch	5,312
Military Construction and Veterans Affairs	104,708
State and Foreign Operations	60,180
Transportation and Housing and Urban Development	76,892
Coronavirus Response and Relief Supplemental Appropriations Act	184,300
Total, Non-Defense Appropriations	848,964
Final Sequestration Report Non-Defense Category Limit	848,974
CONGRESSIONAL ACTION OVER(+)/UNDER(-) LIMIT	-10
<u>TOTAL DISCRETIONARY</u>	
Total, Discretionary	1,589,699
Final Sequestration Report Total Category Limits	1,589,709
CONGRESSIONAL ACTION OVER(+)/UNDER(-) TOTAL OF LIMITS	-10
<i>Memorandum: Appropriations counted outside of discretionary caps</i>	
<i>21st Century Cures appropriations²</i>	
<i>Agriculture and Rural Development</i>	<i>70</i>
<i>Labor, HHS, and Education</i>	<i>404</i>
<i>Harbor Maintenance Trust Fund appropriations³</i>	
<i>Energy and Water Development</i>	<i>1,015</i>

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, and Wildfire Suppression.

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 Harbor Maintenance Trust Fund appropriations are not counted towards the discretionary caps pursuant to section 14003 of the CARES Act, as amended by section 101 of the 2020 WRDA Act.

HMTF more like 21st Century Cures Act appropriations, which are also not counted towards the discretionary caps (see footnote 2 on Table 4). Since this is not a cap adjustment, no adjustment for this change is shown on Table 2. However, Table 4 displays OMB’s estimate of HMTF appropriations for 2021 in the 2021 EW Act that are not counted for purposes of cap enforcement. The estimate of \$1,015 million matches the level of appropriations from the HMTF that OMB included in the President’s 2021 Budget for the Corps of Engineers.

Summary of current year (Fiscal Year 2020) 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 2020 discretionary appropriations, relative to the discretionary caps for 2020. The caps include all adjustments made to 2020 in the 2020 final sequestration report, the 2021 sequestration update report,

and this 2021 final sequestration report. The scoring for enacted budget authority for both the defense and non-defense categories for 2020 remains at or below the adjusted cap levels.

Summary of enacted budget year (Fiscal Year 2021) 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 2021 appropriations Acts as measured against the 2021 caps. OMB estimates that discretionary appropriations are at the defense cap and \$10 million below 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 2021 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.

Table 5. COMPARISON OF OMB AND CBO DISCRETIONARY SPENDING LIMITS

(Budget authority in millions of dollars)

	2021
<u>DEFENSE CATEGORY</u>	
CBO Final Report Limit	740,606
OMB Final Report Limit	740,735
<u>Difference +/-</u>	<u>+129</u>
<u>NON-DEFENSE CATEGORY</u>	
CBO Final Report Limit	849,900
OMB Final Report Limit	848,974
<u>Difference +/-</u>	<u>-926</u>
<u>TOTAL DISCRETIONARY</u>	
CBO Final Report, Total Discretionary	1,590,506
OMB Final Report, Total Discretionary	1,589,709
<u>Difference +/-</u>	<u>-797</u>

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 year 2021. OMB and CBO begin with the defense and non-defense caps enacted in the BBA of 2019. Both OMB and CBO make adjustments to the 2021 caps pursuant to section 251(b)(2) of BBEDCA based on their respective scoring estimates of enacted 2021 appropriations. CBO's estimate of the defense cap is \$129 million lower than OMB's estimate due to the \$128 million adjustment required by section 747 of the 2021 FSGG Act for technical differences with CBO and an additional \$1 million difference is due to rounding of OCO/GWOT appropriations in the 2021 Defense Act. For the non-defense cap, CBO's estimate is \$926 million above OMB's estimate, which is nearly entirely attributable to CBO scoring a contingent appropriation of \$925 million that OMB does not score for the

Average Weekly Insured Unemployment program that was designated as an emergency requirement in the 2021 LHHS Act. An additional \$1 million difference is due to rounding of OCO/GWOT appropriations in the 2021 State Act.

In addition to the different estimates of the 2021 caps, there are many differences between OMB's and CBO's respective account-by-account scoring of enacted 2021 discretionary budget authority that is counted against the caps. Detailed explanations of the differences in enacted, full-year discretionary budget authority, including the Average Weekly Insured Unemployment program and other differences that result in an adjustment to caps under section 747 of the 2021 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/>).