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May 2014

# 2013 SEQUESTRATION

## Selected Federal Agencies Reduced Some Services and Investments, While Taking Short-Term Actions to Mitigate Effects

# GAO Highlights

Highlights of [GAO-14-452](#), a report to the Chairman, Committee on the Budget, House of Representatives

## Why GAO Did This Study

On March 1, 2013 the President ordered a sequestration of \$85.3 billion across federal government accounts. Final appropriations enacted on March 26, 2013 reduced this amount to \$80.5 billion. Under current law, a sequestration of direct spending will occur through fiscal year 2024 and another sequestration of discretionary appropriations could occur in any fiscal year through 2021.

GAO was asked to evaluate how agencies prepared for and implemented sequestration in fiscal year 2013. GAO's March 2014 [report](#) broadly examined fiscal year 2013 sequestration at 23 large federal agencies. This report examines in greater depth: (1) the effects of fiscal year 2013 sequestration on the operations, performance, or services to the public for selected components within federal agencies; and (2) how those selected components planned for and implemented the fiscal year 2013 sequestration.

GAO reviewed programs and activities operated by four components of federal agencies: CBP, CMS, OESE, and PIH. GAO selected these case studies based on factors such as the share of total sequestered funds and level of direct services provided to the public. GAO also incorporated findings from a November 2013 [report](#) that addressed similar objectives for select operations at DOD. GAO's case study selections account for about 77 percent of the total defense funding sequestered and 36 percent of the total nondefense funding sequestered in fiscal year 2013.

*(Continued on following page.)*

View [GAO-14-452](#). For more information, contact Michelle Sager at (202) 512-6806 or [sagerm@gao.gov](mailto:sagerm@gao.gov) or Edda Emmanuelli Perez at (202) 512-2853 or [emmanuellipereze@gao.gov](mailto:emmanuellipereze@gao.gov)

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## What GAO Found

Fiscal year 2013 sequestration reduced funding to selected components of federal agencies and their program partners—such as state and local governments—that assist in carrying out agency missions. As a result, the selected components and their partners reduced or delayed some services to the public and operations in 2013. For example:

- Public housing authorities reported providing rental assistance to about 41,000 fewer very low-income households compared to 2012—a 2.2 percent reduction—because the authorities received less program funding from the Department of Housing and Urban Development's Office of Public and Indian Housing (PIH).
- The Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS) reported reducing the frequency of surveys to determine quality of care and compliance with federal standards at psychiatric hospitals from once every three years to once every four to five years and specialized organ transplant centers from once every three years to once every four to six years.
- The Department of Homeland Security's U.S. Customs and Border Protection (CBP) reported that sequestration reductions did not leave them with sufficient funds to provide the overtime necessary to fully staff inspection booths which resulted in increased average wait times for international passengers. From fiscal years 2012 to 2013, wait times increased from 19.7 minutes to 22.8 minutes at one airport and from 20.9 minutes to 26.8 minutes at another.
- School districts GAO spoke with reported that reduced funding from the Department of Education's Office of Elementary and Secondary Education (OESE) resulted in less resources for specialists providing extra instruction to students and an increase in the average number of students per elementary school class. For example, one district reported an average increase of two or three students per elementary school class from the prior school year.
- The Department of Defense (DOD) reported that canceled or limited military training and readiness activities could increase the number of nondeployable units, decrease surge capacity to meet additional requirements with ready forces, and lead to skills gaps.

In some cases, program partners reported increasing reliance on other federal, state, and local funding sources, where available, to mitigate sequestration's effects on their services to the public. Certain state agencies reported that they relied on additional state funds to inspect and investigate health care facilities on behalf of CMS. However, in other cases, program partners reported that reductions in other funding sources magnified sequestration's effects on services to the public. For example, officials at 7 school districts that receive federal education grants reported that sequestration compounded prior-year reductions in state funding.

## What GAO Recommends

GAO is not making new recommendations in this report.

We provided a draft of this product to the selected case study agencies and the Office of Management and Budget (OMB) for comment. DHS, Education, HHS, and HUD provided technical comments that were incorporated, as appropriate. OMB did not provide comments.

However, GAO found in some cases the effects of sequestration could not be isolated from the effects of other changes in funding. For example:

- The effects of the 2 percent sequestration of Medicare payments are difficult to quantify due to the challenge of isolating the effects of sequestration from other factors that increased or decreased payments to providers, as well as possible changes in provider behavior to compensate for the sequestration reductions.
- It is difficult to isolate the specific effects of sequestration on Title I school districts because Title I funding typically makes up a small portion of the school district's total funding compared to state and local sources. A district's Title I formula allocation could also be reduced as a result of factors other than sequestration.

GAO found that sequestration planning and implementation varied among the selected components. In some cases, agencies directed components' efforts, while in others components provided guidance and set priorities for program offices. Consistent with GAO's March 2014 report, officials from all federal agency components reported that uncertainty regarding the timing and amount of sequestration and technical questions about how to apply sequestration to certain complex accounts presented challenges for planning and implementation. For example:

- CMS officials had difficulty determining all of the types of provider payments that would need to be cut and which funding was subject to special sequestration rules.
- According to CBP budget officials, applying sequestration to fee-based accounts was more difficult than applying sequestration to other accounts.

In addition, uncertainty surrounding the timing and amount of sequestration limited some components' ability to substantively communicate with program partners and recipients, making it difficult for partners to plan and execute their budgets during the fiscal year. For example, recipients of Indian Housing Block grants from PIH did not receive the full amount of funds until several months into the calendar year.

Components that had initiated efficiency efforts prior to sequestration reported that they were better positioned to plan for and implement sequestration in fiscal year 2013. For example, CMS officials reported that savings from a 2011 initiative to improve the efficiency of its facility inspections helped the component plan for and implement sequestration.

In reviewing how agencies implemented sequestration, GAO also selected five programs, projects, and activities (PPAs) from each of the four nondefense case study components based on the specific programs or activities reviewed within each component and other factors and found that components complied with the provision in the Balanced Budget and Emergency Deficit Control Act of 1985 that specifies how PPAs should be identified for the purpose of sequestration.

In cases where officials had some discretion in implementing sequestration reductions, components reported that they sought to protect higher priority activities, either by using funding flexibilities or modifying or canceling contracts or other ongoing activities. For example, within DOD, the military services sought to protect training requirements for deployed and next-to-deploy forces by canceling or limiting training for forces not preparing to deploy in fiscal year 2014.

However, for some programs, officials reported having limited options to implement sequestration. For example, some of the case study components' largest programs—such as HUD's Housing Choice Voucher Program and Education's Title I grants—are based on eligibility formulas and the funds are disbursed to program partners to provide services to the public. As a result, these program partners had to identify specific actions—such as limiting the number of housing vouchers issued and increasing classroom size—to absorb the reductions and mitigate their effects on the public.

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**Abbreviations**

AUO	Administratively Uncontrollable Overtime
BBEDCA	Balanced Budget and Emergency Deficit Control Act of 1985
BCA	Budget Control Act of 2011
BWPMO	Balanced Workforce Program Management Office
CBP	U.S. Customs and Border Protection
CCSQ	Center for Clinical Standards and Quality
CHIP	Children’s Health Insurance Program
CLIA	clinical laboratory improvement amendments
CMS	Centers for Medicare & Medicaid Services
COPRA	Customs Officer Pay Reform Act
CR	continuing resolution
DHS	Department of Homeland Security
DOD	Department of Defense
Education	Department of Education
ESEA	Elementary and Secondary Education Act of 1965
FEPA	Federal Employees Pay Act
FTE	full-time equivalent
HCFAC	Health Care Fraud and Abuse Control
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
IHBG	Indian Housing Block Grant
IT	information technology
Joint Committee	Joint Select Committee on Deficit Reduction
LEA	local education agency
MAC	Medicare Administrative Contractors
Medi-Medi	Medicaid Data Match Project
NAHASDA	Native American Housing Assistance and Self-Determination Act of 1996
NAFIS	National Association of Federally Impacted Schools
OA	Office of Administration
OESE	Office of Elementary and Secondary Education
OFM	Office of Financial Management
OFO	Office of Field Operations

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OMB	Office of Management and Budget
ONAP	Office of Native American Programs
PACE	Program of All-inclusive Care for the Elderly
PIH	Office of Public and Indian Housing
PHA	public housing authorities
PPA	programs, projects, and activities
PPACA	Patient Protection and Affordable Care Act
SFF	special focus facility
SMI	Federal Supplementary Medical Insurance
TDHE	tribally designated housing entities
USBP	U.S. Border Patrol
Voucher	Housing Choice Voucher program
ZPIC	Zone Program Integrity Contractor

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May 28, 2014

The Honorable Paul Ryan  
Chairman  
Committee on the Budget  
House of Representatives

Dear Mr. Chairman:

In our recent report that broadly examined fiscal year 2013 sequestration at 23 of 24 Chief Financial Officers Act agencies,<sup>1</sup> we found that the automatic, across-the-board cancellation of budgetary resources had a wide range of effects on federal agency operations and services to the public. Agencies reported that sequestration reduced assistance for education, housing, and nutrition, as well as grants for health and science research and development. Agencies also reported delaying investments such as information technology and facilities projects. Some federal agencies also reported backlogs and delays as a result of personnel actions, such as limiting hiring and furloughing employees.

This was the first sequestration in more than two decades. The President ordered the sequestration on March 1, 2013—5 months into the fiscal year—to achieve \$85.3 billion in reductions across federal government accounts and their subunits, known as programs, projects, and activities (PPA). Subsequently, on March 26, 2013, Congress and the President enacted the Consolidated and Further Continuing Appropriations Act, 2013, which reduced the amount of reductions agencies were required to achieve to \$80.5 billion. The uncertainty over the timing and amount of sequestration as well as how to apply sequestration to complex programs made it particularly challenging for federal agencies to plan and implement the cuts. Under current law, a sequestration of direct spending, including Medicare payments, will occur through fiscal year 2024 and

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<sup>1</sup>In March 2014 we reported on the planning, implementation, and effects of sequestration at 23 federal agencies. See GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Actions to Mitigate Effects*, [GAO-14-244](#) (Washington, D.C.: Mar. 6, 2014). CFO Act agencies are those covered by the Chief Financial Officers Act of 1990, as amended. 31 U.S.C. § 901(b). We excluded the Department of Veterans Affairs from our report, because its accounts were exempt from sequestration. 2 U.S.C. § 905(b).



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another sequestration of discretionary appropriations could occur in any fiscal year through 2021.

You asked that we evaluate how agencies prepared for and implemented sequestration for fiscal year 2013. This report, which builds on our March report, examines in greater depth: (1) the effects of fiscal year 2013 sequestration on the operations, performance, and services to the public for selected components within federal agencies;<sup>2</sup> and (2) how those selected components planned and prepared for and implemented fiscal year 2013 sequestration.

To achieve these objectives, we selected six components within federal agencies for case study review. In these case studies, we sought to cover a significant share of the sequestered funding, as well as programs with a high level of public interaction. We also sought to cover a range of federal missions and the different program delivery tools the federal government uses to achieve its missions, such as grants, vouchers, contracts, and direct services. Based on these criteria, we selected the following components:

- the Department of Defense's (DOD) Operation and Maintenance accounts;
- DOD's Procurement accounts;
- the Department of Education's (Education) Office of Elementary and Secondary Education (OESE);
- the Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS);
- the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP); and
- the Department of Housing and Urban Development's (HUD) Office of Public and Indian Housing (PIH).

Together, our case study selections account for about 77 percent of the total defense funding and 36 percent of the total nondefense funding that

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<sup>2</sup>For the purposes of this report, the term "component" refers to an agency, bureau, or operating division (e.g., U.S. Customs and Border Protection) within a cabinet-level department (e.g., the Department of Homeland Security). When we refer to "agency," we are referring to a cabinet-level department or an independent agency (e.g., the Environmental Protection Agency).

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the President ordered to be sequestered on March 1, 2013.<sup>3</sup> We reported on our review of DOD's Operation and Maintenance and Procurement accounts along with our review of DOD's Research, Development, Test, and Evaluation account separately in November 2013.<sup>4</sup> We used the results of that work to inform our overall findings for this report. This report provides the results of the four remaining case studies, which are reported in appendixes I through IV. Within these four nondefense case studies, we selected a limited number of programs, activities, or offices for more in-depth data gathering and analysis. Table 1 provides an overview of the four case studies presented in this report and the programs and activities within these components selected for more in-depth review. We selected these programs and activities based on the size of their budget, level of interaction with the public, the availability of measurable estimates of the effects of sequestration, and other factors. For details on how we selected programs and activities within individual case study components, see appendixes I through IV.

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<sup>3</sup>The defense spending category consists of budgetary resources in the national defense budget function. In addition to the Department of Defense, several other agencies received funding classified under the national defense budget function, including the Departments of Energy and Homeland Security. The nondefense spending category consists of budgetary resources in budget functions other than national defense.

<sup>4</sup>GAO, *Sequestration: Observations on the Department of Defense's Approach in Fiscal Year 2013*, [GAO-14-177R](#) (Washington, D.C.: Nov. 7, 2013).

**Table 1: Four Case Studies of Fiscal Year 2013 Sequestration**

Department and component	Overview and selected programs and activities
Department of Homeland Security, U.S. Customs and Border Protection (CBP)	Our CBP case study focuses on the Office of Field Operations (OFO), U.S. Border Patrol (USBP), and certain user fees. CBP officers are responsible for securing the border at U.S. ports of entry, while Border Patrol agents are responsible for securing the border between ports of entry. We also examined CBP fees for customs inspection, including inspection of air passengers and commercial vessel passengers arriving at U.S. ports of entry.
Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS)	The CMS case study focuses on Medicare payments, Medicare Administrative Contractors (MAC), CMS program integrity, survey and certification including clinical laboratory improvement amendments surveys, personnel funds, and state insurance exchange grants. Medicare pays health care providers and plans for services provided to beneficiaries—primarily individuals age 65 and older and certain individuals with disabilities. CMS uses MACs to process Medicare claims, enroll health care providers in the Medicare program, and conduct certain program integrity activities, among other functions. CMS program integrity aims to reduce fraud in CMS programs and is supported by Health Care Fraud and Abuse Control funding. CMS, through contracts with states, also oversees inspections of facilities that participate in Medicare and Medicaid to ensure safety and compliance with federal standards. Affordable insurance exchange grants are awarded to states to implement insurance exchanges for health care reform. If a state does not elect to operate an exchange or is not certified or approved to operate one, HHS is to operate the exchange in that state.
Department of Education, Office of Elementary and Secondary Education (OESE)	The OESE case study focuses on two formula grant programs administered under the Elementary and Secondary Education Act of 1965, as amended: Title I and Impact Aid. Formula grants are distributed using defined formulas. In the case of Title I and Impact Aid, the grant formulas are established by statute. Title I funds are provided through state educational agencies to local educational agencies with high concentrations of students from low-income families. Impact Aid grants assist school districts that have lost property tax revenue due to the presence of tax-exempt federal property or that have experienced increased expenditures due to the enrollment of federally-connected children, such as children with parents in the military and children living on Indian lands. Impact Aid funds are awarded directly to school districts.
Department of Housing and Urban Development, Office of Public and Indian Housing (PIH)	<p>The PIH case study focuses on the following programs:</p> <ul style="list-style-type: none"> <li>• The Housing Choice Voucher (voucher) Program subsidizes private-market rents for low-income households with a subsidy that generally equals the difference between the unit's rent and 30 percent of the household's income.</li> <li>• The Public Housing Operating Fund provides subsidies to public housing authorities (PHA) to operate and maintain public housing.</li> <li>• The Indian Housing Block Grant (IHBG) Program provides formula grants to federally-recognized Indian tribes or their tribally designated housing entity for a range of affordable housing activities.</li> </ul>

Source: GAO analysis of agency information.

To assess the effects of sequestration on the selected components, as well as how they planned for and implemented sequestration, we

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reviewed documents obtained during our agency-level review,<sup>5</sup> including a list of sequestered PPAs, total discretionary and mandatory funding levels, and total amount sequestered. We also reviewed additional agency documents and analyzed budget and financial data for fiscal year 2013. We asked agencies to identify the source of any information provided and a description of any known limitations or purposes for which the data being provided should not be used. In addition, we interviewed agency officials from each component, including officials in budget and management offices as well as officials in program offices. We asked agency officials to isolate the effects of sequestration from other factors such as operating under a continuing resolution (CR) and the rescissions enacted in the Consolidated and Further Continuing Appropriations Act, 2013, to the degree possible. We recognize that these other factors could also contribute to budget uncertainty and affect components' operations, performance, and services to the public. We also interviewed program partners that help carry out some of the selected components' missions by providing services to recipients of federal funding or the general public. Program partners for the four selected components include state, local, and tribal governments, school districts, and others. We also interviewed certain recipients of component support and services or their representatives. Appendixes I through IV describe how we selected these recipients or representatives.

We reviewed supporting documents to assess the reasonableness of components' estimates of the effects of sequestration on operations, performance, and services to the public. Specifically, we reviewed the data and methodology used to calculate these estimates, and we reported the estimates when they met our evidentiary standards. In some cases we found it appropriate to report agency estimates, as long as we also included significant contextual information and information about limitations regarding the estimates. We did not assess the appropriateness of actions agencies or components took to implement sequestration.

In reviewing how agencies implemented sequestration, we also examined the extent to which selected components identified PPAs in accordance with the criteria set out in section 256(k)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended. We

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<sup>5</sup>[GAO-14-244](#).

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reviewed a purposeful sample of five PPAs from each of the four nondefense components discussed in this report. We traced each of the selected PPAs back to the applicable source and conducted follow-up interviews with agency officials to further understand how the agency or component made its determination, as needed. Because we used a nonrandom, purposeful sample, the results of our analysis of the selected PPAs cannot be generalized to other PPAs within the component or department or to the federal government as a whole.

We conducted our work from April 2013 to May 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For additional details on our scope and methodology, see appendix V.

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## Background

The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) established sequestration to enforce discretionary spending limits and control the deficit. In August 2011, Congress and the President enacted the Budget Control Act of 2011 (BCA), amending BBEDCA.<sup>6</sup> Among other things, the BCA established the Joint Select Committee on Deficit Reduction (Joint Committee), which was tasked with proposing legislation to reduce the deficit by \$1.2 trillion or more through fiscal year 2021. The absence of such legislation triggered the sequestration process in section 251A of BBEDCA, known as the Joint Committee sequestration, which is the subject of this report.<sup>7</sup> During fiscal year 2013, several laws changed the timing and amount of sequestration. As a result of those changes, the President ultimately ordered a sequestration on

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<sup>6</sup>Pub. L. No. 112-25, 125 Stat. 240 (Aug. 2, 2011). BBEDCA has been amended many times, including by the Budget Enforcement Act of 1990, the Statutory Pay-As-You-Go Act of 2010, the Budget Control Act of 2011, the American Taxpayer Relief Act of 2012, and the Bipartisan Budget Act of 2013. This body of law is classified in sections 900 through 907d in title 2 of the United States Code.

<sup>7</sup>The BCA also imposed discretionary spending limits for fiscal years 2012 to 2021 to reduce projected spending by about \$1 trillion. If the discretionary spending caps are not met in a given fiscal year, they will be enforced by an “after session sequestration” within 15 days after the end of a congressional session. This report focuses on the Joint Committee sequestration.

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March 1, 2013, to achieve \$85.3 billion in budget reductions. Consistent with BBEDCA, the Office of Management and Budget (OMB) calculated the following percentage sequestration reductions based on the funding level set by the CR in effect at that time:

- 7.9 percent for defense direct spending,
- 7.8 percent for defense discretionary spending,
- 5.1 percent for nondefense direct spending—other than Medicare payments and certain health programs, which are limited to 2 percent under BBEDCA, and
- 5 percent for nondefense discretionary spending.<sup>8</sup>

BBEDCA required that the sequestration reductions ordered on March 1, 2013, be applied uniformly, across the board, to nonexempt accounts and their sub-units, known as PPAs.<sup>9</sup> BBEDCA provides that PPAs are identified by appropriation acts or accompanying reports for the relevant fiscal year or, for accounts not included in appropriation acts, with reference to the most recently submitted President's budget. On March 26, 2013, Congress and the President enacted the Consolidated and Further Continuing Appropriations Act,<sup>10</sup> which provided full-year appropriations to federal agencies and had the effect of reducing the sequestered amount for fiscal year 2013 from \$85.3 billion to \$80.5 billion.<sup>11</sup> The final sequestered amount for fiscal year 2013 is dependent on total sequestered amounts for programs that are funded by permanent

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<sup>8</sup>Discretionary appropriations are budgetary resources provided in appropriations acts. By contrast, direct spending, often referred to as mandatory spending, consists of budgetary resources provided by entitlement authority and laws other than appropriations acts. For a glossary of budget terms, see appendix VI.

<sup>9</sup>In April 2012, we reported on the meaning of PPA under the BCA. See GAO, *Agency Operations: Agencies Must Continue to Comply with Fiscal Laws Despite the Possibility of Sequestration*, [GAO-12-675T](#) (Washington, D.C.: Apr. 25, 2012).

<sup>10</sup>Pub. L. No. 113-6, 127 Stat. 198 (Mar. 26, 2013). The Consolidated and Further Continuing Appropriations Act also required an across-the-board cancellation of budget authority—known as a rescission—to eliminate any amount by which the new budget authority provided in the act exceeded the fiscal year 2013 discretionary spending limits. Accordingly, OMB calculated a rescission of 0.032 percent for all security PPAs and 0.2 percent for all nonsecurity PPAs, as well as additional rescissions for specific categories of spending that were also required by the act.

<sup>11</sup>The Consolidated and Further Continuing Appropriations Act reduced the amount of sequestration because BBEDCA provides for a reduction to the amount of sequestration for accounts funded by discretionary appropriations when the full-year appropriation is less than the annualized CR amount minus the sequestration amount. (2 U.S.C. § 903(f)).

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indefinite budget authority, such as entitlement programs like Medicare payments where obligations depend on the number of eligible beneficiaries receiving benefits.<sup>12</sup>

Our March 2014 report found that one of the ways agencies responded to sequestration was by using funding flexibilities to mitigate the effects of sequestration where available. These funding flexibilities include reprogramming and transferring funds and using unobligated balances. Reprogramming is the shifting of funds from one program activity to another within an appropriation account for purposes other than those contemplated at the time of appropriation, while transferring is the shifting of funds between appropriation accounts.<sup>13</sup> Unobligated balances that remain legally available from prior year appropriations could provide agencies with funding flexibility to respond to sequestration.<sup>14</sup> If a multiyear or no-year appropriation is not fully obligated by the end of the fiscal year, the unobligated balance may be carried forward into the next fiscal year and may remain available for obligation.<sup>15</sup>

Looking forward, agencies face the prospect of ongoing budget constraints as well as the possibility of future sequestrations. BBEDCA established discretionary spending limits for both defense and nondefense discretionary appropriations for fiscal years 2014 through 2021. If either defense or nondefense discretionary appropriations exceed the limit, sequestration would occur 15 days after the end of the next congressional session. The fiscal year 2014 discretionary appropriations

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<sup>12</sup>For programs that are funded by permanent indefinite budget authority, OMB calculated sequestration using estimated outlays for fiscal years 2013 and 2014. Further, while agencies were generally required to implement the cuts by the end of fiscal year 2013, sequestration of Medicare payments extends through March 2014.

<sup>13</sup>For more information on reprogrammings and transfers, see the glossary of budget terms in appendix VI.

<sup>14</sup>Carryover balances may consist of funds that have not been obligated—known as unobligated balances—or obligations for which payment has not been made—known as unliquidated obligations—that are carried forward into future fiscal years. We recently reported on unobligated balances, see GAO, *Budget Issues: Key Questions to Consider When Evaluating Balances in Federal Accounts*, [GAO-13-798](#) (Washington, D.C.: Sept. 30, 2013).

<sup>15</sup>Multiyear appropriations provide budget authority for a fixed period of time in excess of one year, while no-year appropriations provide budget authority for an indefinite period of time.

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enacted on January 17, 2014, did not exceed defense or nondefense spending limits, and therefore did not trigger a sequestration of discretionary appropriations. Nonexempt direct spending, including Medicare payments, will continue to be sequestered automatically for fiscal years 2014 through 2024, as it was in fiscal year 2013.<sup>16</sup>

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## Sequestration Reduced Selected Federal Components' Services to the Public and Increased Some Partners' and Recipients' Reliance on Other Funding Sources

The selected components and their partners reduced or delayed some services to the public and operations in 2013 as a result of sequestration. For example, components of federal agencies reported that their actions included the following:

- Due in part to personnel actions taken in response to sequestration, international passenger wait times for CBP inspections increased at some airports, and CBP delayed some air cargo inspections. For example, CBP officials reported that sequestration reductions did not leave them with sufficient funds to provide the overtime necessary to fully staff inspection booths, which resulted in increased average wait time for international passengers. From fiscal years 2012 to 2013, wait times increased from 19.7 minutes to 22.8 minutes at one airport and from 20.9 minutes to 26.8 minutes at another. Meanwhile, officials at one CBP field office stated that in some instances, officers could not inspect all cargo in the queue during their normal shift, which meant that some cargo was not inspected until the next shift began, which delayed the release of cargo for shipment.
- CMS reduced the frequency of certain medical facility inspections. For example, to implement sequestration reductions, CMS reported reducing the frequency of surveys to determine the quality of care and compliance with federal standards at psychiatric hospitals from once every 3 years to once every 4 to 5 years. Surveys of specialized organ transplant centers were reduced from once every 3 years to

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<sup>16</sup>Pub. L. No. 113-82, § 1, 128 Stat. 1009 (Feb. 15, 2014). OMB has calculated and is to continue to calculate the annual reductions to nonexempt direct spending in its sequestration preview reports for fiscal years 2014 to 2024. 2 U.S.C. § 901a. The sequestration preview report must be issued the same day as the President's budget submission. 2 U.S.C. § 904. For fiscal year 2014, OMB calculated that defense direct spending will be reduced by 9.8 percent and nondefense direct spending will be reduced by 7.2 percent. Medicare and certain health programs will be reduced by 2 percent, per the limitations in BBEDCA. OMB, *OMB Sequestration Preview Report to the President and Congress for Fiscal Year 2014 and OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2014* (May 20, 2013). This corrected previous versions of the reports issued on April 10, 2013.



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once every 4 to 6 years. We do not know the effect of the reduced oversight on patient safety or the quality of care provided by the health care facilities.

- Impact Aid and Title I school districts reduced some services to students. For example, three of the Impact Aid districts reported having to increase class sizes. Officials from one of the districts specifically reported an average increase of two or three students per elementary school class from the prior school year. Meanwhile, officials from one district that received Title I funding told us that the loss of funding contributed to the decision to reduce the number of reading and math specialists who provide extra instruction to students and assist teachers in improving their teaching methods.
- PIH reduced funding for the Housing Choice Voucher program. As a result, the number of very low-income households receiving rental housing assistance through the program at the end of calendar year 2013 declined by about 41,000 (2.2 percent) compared to the end of calendar year 2012 primarily due to sequestration.
- DOD reduced military training and readiness activities, such as canceling or limiting training, which the agency reported could increase the number of non-deployable units, decrease surge capacity to meet additional requirements with ready forces, and lead to skills gaps.

In some instances, the effects of sequestration compounded other reductions in federal, state, and local funding sources. Representatives of a medical provider association have reported that the 2 percent reductions to Medicare payments required by sequestration compounded other reductions in payments. Payment reductions can result from the annual rate setting process for providers or specific legislative actions. Further, all of the seven Title I and Impact Aid school districts we spoke to told us that cuts to state funding in prior years had already reduced their budgets, which were further cut as a result of sequestration. In other cases, program partners supplied resources, where available, to mitigate the effects of sequestration. Officials at certain state survey agencies that we spoke to, which carry out health care facility safety inspections and investigations on behalf of CMS, said they would use additional state funds when necessary to compensate for lower federal funding levels and

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complete high-priority inspections.<sup>17</sup> Similarly, some PHAs used funding reserves accumulated from prior years to avoid terminating housing vouchers. In addition, officials at one of the four PHAs we interviewed told us their local government provided funding for public housing—which it does not usually do—to mitigate the effects of sequestration.

However, we found that in some cases the effects of sequestration were unknown because it is difficult to isolate the effects for some programs and activities that receive funding from multiple sources. For example, the effects of the 2 percent sequestration of Medicare payments are difficult to quantify due to difficulty in isolating the effects of sequestration from other factors that increased or decreased payments to providers, as well as possible changes in provider behavior to compensate for the sequestration reductions. Similarly, it is difficult to isolate the specific effects of sequestration on Title I school districts because Title I funding typically makes up a small portion of the school district's total funding compared to state and local sources. In addition, because of the statutory formula for Title I, a reduced Title I allocation could be a result of factors other than sequestration, such as decreases in the formula count of children or reduced state per pupil expenditures.

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## Federal Components' Sequestration Planning and Implementation Efforts Varied and Were Hindered by Uncertainty and Other Challenges

Planning for sequestration varied among the selected federal components. Some planning efforts were more centralized and occurred primarily at the agency level. For example, OESE and PIH largely followed sequestration plans set by Education and HUD, respectively. By contrast, CMS planned for sequestration primarily at the component level by identifying certain activities as spending priorities, in consultation with the HHS budget office. CBP headquarters generally managed planning for the required budgetary reductions and delegated implementation decisions affecting operations to program offices.

In some cases where sequestration planning primarily occurred at the component level, technical questions posed challenges. CMS faced technical challenges in applying sequestration in accordance with the law

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<sup>17</sup>CMS contracts with and provides federal funding allocations to state survey agencies to carry out the majority of survey functions for facilities participating in Medicare and Medicaid. States generally rely on their own funds when they spend more than their initial federal allocations on survey activities and may be reimbursed when CMS redistributes Medicare funds from states that spent less than their allocations.

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and changing budget parameters. Specifically, CMS had difficulty determining all of the types of provider payments that would need to be cut and which funding was subject to special sequestration rules. Similarly, CBP budget officials told us that applying sequestration to fee accounts was more difficult than other accounts due to uncertainty over whether fee accounts would be exempt from sequestration, as well as uncertainty about how to apply sequestration cuts to fee accounts.

Our March 2014 report similarly found that many agencies faced challenges in applying sequestration to certain programs, such as those funded through user fees and trust funds.<sup>18</sup> We made two recommendations that could help alleviate some of the uncertainty for potential future sequestrations. Specifically, we recommended that OMB document and make publicly available its decisions regarding how sequestration was implemented and issue guidance directing agencies to formally document the decisions and principles used to implement sequestration for potential future application. OMB agreed with our recommendation and plans to publish its criteria used for making determinations about how sequestration was implemented in its guidance to agencies, OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, but did not specify when this guidance would be available.

In addition, uncertainty surrounding the timing and amount of sequestration limited the components' ability to provide substantive communication to its program partners and recipients. For example, CMS officials told us that, because sequestration took effect late in the fiscal year, it was difficult to provide timely communication to state survey agencies that would allow them to adequately plan their budgets. Recipients of PIH Indian Housing Block grants told us that uncertainty surrounding the fiscal year 2013 federal budget process presented challenges because they did not receive the full amount of their grants from HUD until several months into the calendar year. These findings are consistent with our March 2014 report, which found that uncertainty over if and when sequestration would occur limited agencies' communication with stakeholders.

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<sup>18</sup>[GAO-14-244](#).

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To implement sequestration, federal agencies and components had to analyze each budget account separately to determine its PPAs in accordance with section 256(k)(2) of BBEDCA. Section 256(k)(2) of BBEDCA provides that PPAs shall be identified within the appropriation act or accompanying report for the relevant fiscal year covering the budget account, or for accounts not included in appropriations acts, as delineated within the most recently submitted President's Budget. We reviewed a purposeful, nonrandom sample of five PPAs from each of the four nondefense components. We found that agencies complied with the criteria set forth in section 256(k)(2) in identifying each of the PPAs in our sample.

In some cases, certain program characteristics limited the actions available to components for implementing sequestration. Officials from OESE and PIH told us that they had few options for implementing sequestration because some of their largest programs are based on eligibility formulas—established by law in some cases—or the funds are disbursed to program partners to fund various services to the public. As a result, the component could only achieve the required spending reductions by reducing the amount of the funds distributed to eligible partners or recipients. Partners and recipients therefore had reduced federal funds available for services. For example, eligibility criteria and formulas for allocating Title I grant funds are established by law and sequestration generally reduced the grant amounts that states and eligible school districts would have received absent sequestration.<sup>19</sup> Similarly, CMS had little flexibility in applying sequestration cuts to Medicare payments because, with few exceptions, under BBEDCA all types of Medicare payments were subject to the 2 percent sequestration. Therefore, Medicare fee-for-service providers and Medicare Advantage and prescription drug plans had to absorb the reduction.<sup>20</sup> In addition, some agencies had legal mandates that constrained their implementation

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<sup>19</sup>Education officials reported that sequestration caused the fiscal year 2013 Title I appropriation to be less than the fiscal year 2012 appropriation, which was a primary factor in many states and eligible school districts receiving fewer Title I funds than they received from the fiscal year 2012 appropriation.

<sup>20</sup>Medicare Advantage is the private plan alternative to Medicare fee-for-service under which private plans provide Medicare benefits to enrolled beneficiaries. Medicare prescription drug plans, also operated by private plans, provide the Medicare Part D outpatient prescription drug benefit. Medicare pays Medicare Advantage and Medicare prescription drug plans a per enrollee amount each month.

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options. For example, CBP is required to maintain a certain number of Border Patrol agents, which limited available personnel actions.<sup>21</sup>

In cases where officials did have some discretion in applying sequestration reductions, components reported that they had to make trade-offs to protect higher priority activities in their resource allocation decisions. For example, the Border Patrol did not apply the required reductions evenly across sectors because operational demands were higher in some sectors than others. Further, CMS chose to maintain funding for implementation of the federal health insurance exchanges despite the reductions. Similarly, within DOD, the military services sought to protect training requirements for deployed and next-to-deploy forces. To do this, DOD took actions such as canceling or limiting training for forces not preparing to deploy in fiscal year 2014. Furthermore, similar to our March 2014 report, case study components implemented sequestration cuts by, for example, reducing training and travel, reducing program management and support services, and rescoping or delaying grants.

Previously initiated efficiency efforts helped components absorb some of the required reductions. For example, CBP was better positioned for sequestration, according to officials, due to efficiencies implemented over the past several years in response to declining budgets. Similarly, according to CMS officials, an initiative to improve the efficiency of its facility inspections that began in 2011 helped CMS plan for the fiscal year 2013 sequestration.

Consistent with our March 2014 report, we found that actions components took to mitigate the effects of sequestration on mission priorities will not be available to the same extent, if at all, in future years. Specifically, CBP officials told us that it will be more difficult to implement sequestration in future years without adverse effects on their missions because actions taken in fiscal year 2013—such as reducing funding for equipment and fuel—will be difficult to replicate. CMS officials also told us that future cuts would be more difficult to implement because, for example, carryover balances may not be available to the same extent in future years. Similarly, DOD used portions of available unobligated balances from prior

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<sup>21</sup>The Consolidated and Further Continuing Appropriations Act, 2013, required CBP to maintain 21,370 Border Patrol agents. Pub. L. No. 113-6, div. B, title II, 127 Stat. 198, 345 (Mar. 26, 2013).

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years to mitigate fiscal year 2013 sequestration reductions, but the agency may have lower prior year unobligated balances available to rely on in future years. Further, in some cases program partners, such as tribally designated housing entities and PHAs, used funding carried over from the previous year or their own reserve funds, but they may have fewer of these funds available in future fiscal years.

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## Concluding Observations

Sequestration reduced funding for the partners and recipients that carry out federal programs, affecting services to the public and federal agency operations. These case studies illustrate how some spending reductions at the federal level ultimately reduced funding for program partners operating at the local level, which resulted in effects such as less frequent inspections of certain medical facilities; fewer households receiving housing vouchers; and reduced services for students in some school districts. In addition, these case studies provide further evidence that the uncertainty surrounding the timing and amount of sequestration hampered communication with program partners and recipients. This uncertainty limited the abilities of states, tribes, and other partners to effectively plan to manage their operations with limited resources. OMB's implementation of the recommendations in our March 2014 report would facilitate agencies' planning and implementation for a potential future sequestration by documenting federal agencies' and OMB's decisions and principles for planning for and implementing sequestration. Publicly available documentation would allow agencies and their program partners and recipients to build institutional knowledge that could better position them to implement a potential future sequestration.

Some cost-savings strategies used by components and their program partners—such as deferring maintenance for schools, public housing units, and Border Patrol vehicles—cannot be continued indefinitely. There is a limit to agencies' ability to achieve efficiencies and budget reductions by deferring or reducing funding for lower priority activities and agencies have limited authority to reprioritize many activities. As we previously reported, implementing future budget reductions will likely require Congress and the executive branch to reexamine how agencies carry out their missions.

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## Agency Comments and Our Evaluation

We provided a draft of this product to the Secretaries of DHS, Education, HHS, and HUD, and the Director, OMB for comment. DHS, Education, HHS, and HUD provided technical comments that were incorporated, as appropriate. OMB did not provide comments.

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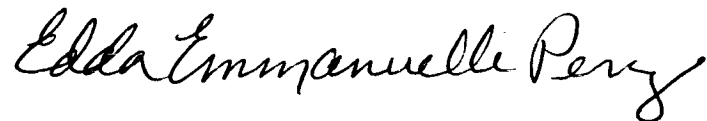
We are sending copies of this report to DHS, Education, HHS, HUD, OMB, and other interested parties. In addition, the report will be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Michelle Sager at (202) 512-6806 or [sagerm@gao.gov](mailto:sagerm@gao.gov) or Edda Emmanuelli Perez at (202) 512-2853 or [emmanuellipereze@gao.gov](mailto:emmanuellipereze@gao.gov). Contact points for our work at individual agencies are shown appendixes I through IV of this report. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

Sincerely yours,



Michelle Sager  
Director, Strategic Issues



Edda Emmanuelli Perez  
Managing Associate General Counsel

# Appendix I: Fiscal Year 2013 Sequestration at U.S. Customs and Border Protection

## Mission and Budget Overview

**Figure 1: U.S. Customs and Border Protection Mission and Fiscal Year 2013 Sequestered Funding**



Sources: GAO analysis of CBP information; Josh Denmark, CBP (image).

CBP, a component of DHS, is the largest uniformed law enforcement agency in the United States, with approximately 21,400 Border Patrol agents patrolling between the nation's ports of entry and more than 21,000 CBP officers stationed at airports, seaports, and ports of entry on land nationwide.<sup>1</sup> We focused our analysis on two CBP offices—the U.S. Border Patrol (USBP) and the Office of Field Operations (OFO)—and one fee account within CBP's budget, the COBRA fee account, which among other things, the government levies for air and commercial vessel

<sup>1</sup>Ports of entry are locations at which individuals and merchandise may seek legal entry into the United States.



passenger customs inspections.<sup>2</sup> We selected these two offices and the COBRA fee account based on the magnitude of their respective budgets and sequestration's effects, as well as the degree to which their activities provide a service to the public, among other things. Within USBP, we interviewed officials from 4 of the office's 20 sectors—Blaine sector, Washington; Rio Grande Valley sector, Texas; Yuma sector, Arizona; and San Diego sector, California—which were selected based on factors such as location, size, and workload.<sup>3</sup> Within OFO, we interviewed officials from 6 of the office's 20 field offices—Los Angeles, California; Chicago, Illinois; Houston, Texas; Detroit, Michigan; New York, New York; and San Diego, California—which were selected based on factors such as location, size, number and type of ports of entry, and volume of cargo and passengers processed.<sup>4</sup> While information we obtained from these locations cannot be generalized to all sectors and field offices, the visits provided us with insights into the planning, implementation, and effects of sequestration. In addition, we interviewed officials from the Airports Council International-North America, Airlines for America, the American Association of State Highway and Transportation Officials, and the American Trucking Associations to gain various industry perspectives on sequestration's effects on industry in fiscal year 2013, as well as perspectives on CBP's planning for and implementation of sequestration. We assessed the reliability of data related to CBP's budget, transfer and reprogramming actions, enforcement actions, miles driven by USBP personnel, air passenger wait times, allocation of overtime, and sector budgetary reductions. Specifically, we questioned knowledgeable agency officials, reviewed documentation, and examined the data for obvious errors or inconsistencies. We determined that the data collected from

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<sup>2</sup>The COBRA fee account is named for its authorizing legislation, the Consolidated Omnibus Budget Reconciliation Act of 1985. Pub. L. No. 99-272, 100 Stat. 82 (1986). The law provides that the fees are to reimburse CBP accounts for a specific set of reimbursable expenses. 19 U.S.C. § 58c(f)(3).

<sup>3</sup>USBP has divided geographic responsibility among 20 sectors. Each sector has a varying number of stations, with Border Patrol agents responsible for patrolling within defined geographic areas.

<sup>4</sup>There are 20 field operations offices in the United States that provide centralized management oversight and operational assistance to 329 U.S. ports of entry, among other things. At ports of entry, CBP enforces the federal import and export laws and regulations and carries out immigration policy and programs, as set forth in federal statutes and regulations. CBP Agricultural Specialists perform agriculture inspections aimed at protecting the United States from potential carriers of animal and plant pests or diseases that could cause serious damage to America's crops, livestock, pets, and the environment.

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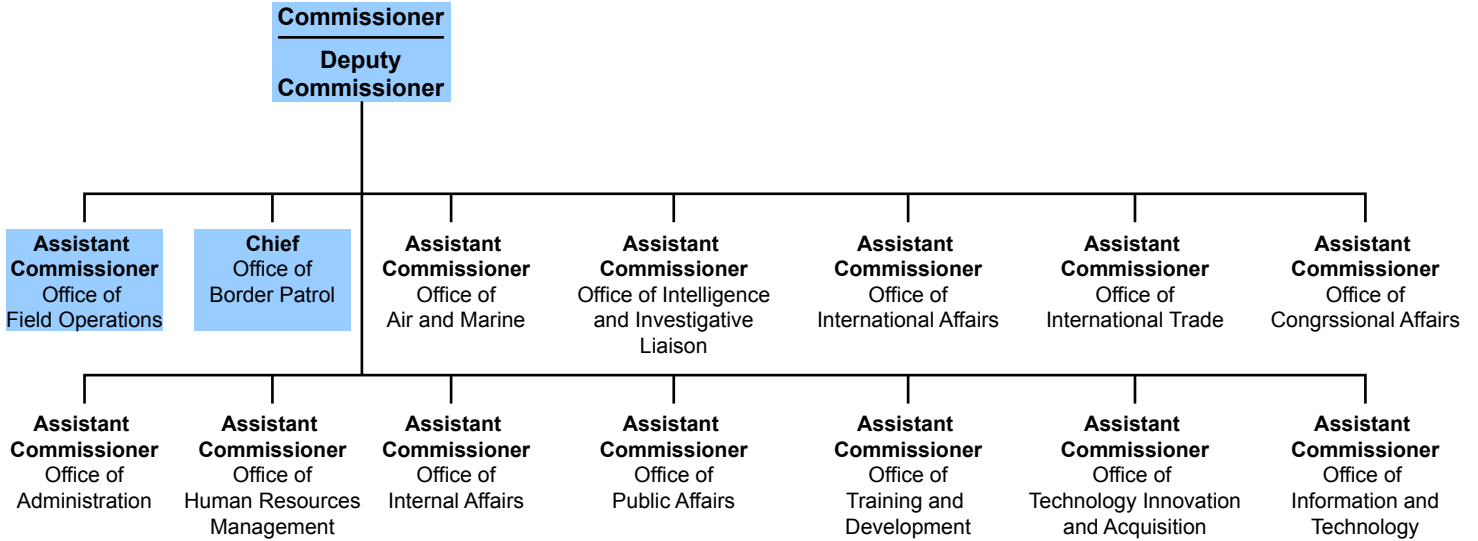
CBP for this review were sufficiently reliable for the purposes used in this report.

CBP's priority mission is to prevent terrorists and terrorist weapons from entering the United States and to ensure the security of U.S. borders and ports of entry while also facilitating legitimate travel and trade. Figure 2 illustrates CBP's organization and funding levels during fiscal year 2013 for USBP, OFO, and the COBRA fee account (see also Appendix VII).

**Appendix I: Fiscal Year 2013 Sequestration at  
U.S. Customs and Border Protection**

**Interactive graphic** **Figure 2: U.S. Customs and Border Protection Organization Chart and Fiscal Year 2013 Funding Levels**

Move mouse over blue highlighted organizations for more information. See appendix VII for noninteractive version.



Source: GAO.

<sup>a</sup> Explanatory Statement, Consolidated and Further Continuing Appropriations Act, 2013, 159 Cong. Rec. S1287, S1549 (daily ed. Mar. 11, 2013).

<sup>b</sup> According to CBP's budget office, the \$3.2 billion represents funding for CBP's Border Security Inspections and Trade Facilitation Programs, Projects, and Activities (PPA). Funding for OFO comprises the majority of this PPA.

<sup>c</sup> This amount represents the fiscal year 2013 budget authority as stated in the explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act, 2013. The OMB baseline established in its March 1 report for this account was \$529.4 million.

<sup>d</sup> Pub. L. No. 113-6, 127 Stat. 198, 345 (2013).

<sup>e</sup> According to CBP's budget office, the \$3.7 billion represents funding for CBP's Border Security and Control between Ports of Entry PPA. Funding for USBP comprises the majority of this PPA.

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## Sequestration Cuts Had Short-Term and May Have Long-Term Effects on CBP's Services to the Public, Operations, and Workforce

CBP headquarters, Border Patrol sector, and OFO field office officials cited effects resulting from sequestration in three areas: (1) services to the public, (2) operations, and, (3) CBP's workforce.<sup>5</sup>

Services to the public: OFO officials from the Houston, Los Angeles, and New York field offices cited effects on cargo operations resulting from sequestration. Specifically, to ensure that international air passenger wait times were kept to a minimum in fiscal year 2013, these three field offices chose to shift officers who typically inspected cargo to the air passenger environment.<sup>6</sup> According to officials from the Los Angeles field office, this shift in resources, compounded by reductions in overtime, led to some delays in air cargo inspections. Officials from this field office stated that in some instances, officers could not inspect all cargo in the queue during their normal shift. As a result, some cargo was not inspected until the next shift began, delaying the release of cargo for shipment.

Further, from fiscal year 2012 to fiscal year 2013, some domestic airports experienced an increase in international passenger wait times. For example, OFO reported that at Logan International Airport in Boston, Massachusetts, the average wait time increased from 19.7 minutes in fiscal year 2012 to 22.8 minutes in fiscal year 2013. During the same time frame, at Dallas Fort Worth International Airport, the average wait time increased from 20.9 minutes to 26.8 minutes, as reported by OFO. According to OFO headquarters officials, staff typically work overtime to meet the need imposed by an increase in travelers during daily peak arrival times, as well as outside of normal business hours. OFO uses two types of overtime to compensate its employees for additional hours worked. The first type, COPRA overtime, instituted by the Customs Officer Pay Reform Act, is available for CBP officers and agricultural specialists and provides an hourly rate of pay that is equal to two times the hourly rate of the basic pay of the officer.<sup>7</sup> The second type, known as

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<sup>5</sup>The Office of Administration reported that CBP met most of its established fiscal year 2013 Government Performance and Results Act performance measures. According to written responses from this office, the performance measures that were not met by CBP in fiscal year 2013 were not attributed to sequestration.

<sup>6</sup>CBP generally calculates air passenger wait times as the time interval between the arrival of the aircraft and the processing of the passenger by a CBP officer at the primary booth, less the passenger's walk time.

<sup>7</sup>See 19 U.S.C. § 267; 19 C.F.R. § 24.16.

FEPA because it was instituted by the Federal Employees Pay Act, applies to all other positions in OFO (about 20 percent of the workforce, according to OFO).<sup>8</sup> According to officials from the Airports Council International-North America, wait times had been a persistent issue over the last several years. OFO headquarters officials explained that sequestration reduced funding available to pay overtime necessary to fully staff inspection booths, which resulted in these increased wait times.

#### Administratively Uncontrollable Overtime

Agencies are authorized by 5 C.F.R § 550.151 to pay AUO annually to an employee in a position in which the hours or duty cannot be controlled administratively and which requires substantial amounts of irregular or occasional overtime work, with the employee generally being responsible for recognizing, without supervision, circumstances that require the employee to remain on duty.

AUO pay is calculated as a percentage of an employee's base pay and can range from not less than 10 percent to no more than 25 percent. AUO is base pay for purposes of retirement, including Thrift Savings Plan contributions and life insurance. The rate of AUO authorized for a position is based on the average number of irregular or occasional overtime hours worked per week.

Source: GAO analysis of AUO regulations and policies.

**Operations:** According to USBP officials, sequestration affected agents' ability to patrol remote borders because it resulted in reduced funding for overtime, among other things. USBP officials stated that Border Patrol agents typically need to work beyond their 8-hour shifts and claim overtime for the additional hours they spend on duty.<sup>9</sup>

Border Patrol agents often earn administratively uncontrollable overtime (AUO) for these additional work hours, according to USBP officials. USBP reported that at the end of fiscal year 2013, AUO expenditures within USBP were about \$5 million lower than the amount included in CBP's original financial plan for fiscal year 2013.<sup>10</sup> According to CBP budget officials, this expenditure reduction was in addition to other planned reductions to AUO and other overtime expenditures over the last few fiscal years. According to officials from 2 of the 4 Border Patrol sectors we interviewed, the reductions to AUO affected their ability to perform certain mission-critical activities, such as apprehending individuals attempting to enter the United States illegally. Specifically, according to sector officials, as a result of the reduction in AUO agents were unable to routinely patrol outlying border areas because of the length of time it takes to reach these areas. For example, officials from the Yuma sector in Arizona stated that it is about a 45 minute drive from Yuma to its San Luis station. Yuma officials stated that when an agent arrives at this station, the agent that he or she is relieving may already be 1 hour into AUO. Other stations within

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<sup>8</sup>See 5 U.S.C. §§ 5542-5550b.

<sup>9</sup>According to CBP budget officials, agents may claim other types of overtime pay, other than AUO, for hours worked beyond their 8-hour shifts depending on the type of duties performed during this time and whether the work was scheduled in advance. However, AUO is the primary overtime for Border Patrol agents.

<sup>10</sup>In January 2014, for reasons unrelated to sequestration, DHS suspended AUO for certain positions, including those for full-time instructors and employees working in component headquarters offices, pending further review of AUO policies and practices.

the Yuma sector are more than 3 hours away from Yuma sector headquarters, requiring significant use of AUO, according to sector officials.<sup>11</sup>

Likewise, USBP reported that a reduction to its vehicle maintenance, repair, and fuel funding resulted in agents traveling less frequently to remote sector locations, which led to reported effects on CBP's operations.<sup>12</sup> In fiscal year 2013, 14 of CBP's 20 sectors reported a decrease in miles driven compared with miles driven in fiscal year 2012. For example, the Yuma sector reported about 13.27 million miles driven in fiscal year 2013 compared with about 19.80 million miles driven in fiscal year 2012; the Grand Forks sector in North Dakota reported about 2.4 million miles driven in fiscal year 2013 compared with about 3 million miles in fiscal year 2012. Yuma officials we spoke with stated that they discontinued the use of vehicles in need of repairs to reduce fleet-related costs in fiscal year 2013. Yuma officials stated that, as a result, their sector went from 90 percent vehicle availability before sequestration to 70 to 80 percent availability afterwards, thus limiting the number of miles patrolled. Officials from the Blaine sector stated that they placed two agents per vehicle to reduce fuel usage, which affected the miles of border patrolled in a given day. Blaine officials stated that they could not patrol one of their distant zones with optimal frequency as a result of the reductions to fuel.

Effective March 1, 2013, USBP also suspended home-to-work vehicle authorizations for all employees with the exception of canine units and resident agents. This action had the effect of requiring some agents to travel from their homes to their assigned duty stations before traveling out to the field.<sup>13</sup> According to Border Patrol sector officials we interviewed,

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<sup>11</sup>For the purposes of this review, we did not assess whether this was an appropriate use of AUO. We have work underway reviewing DHS's administration and use of AUO and expect to report on the results of our work later this year.

<sup>12</sup>According to CBP's Office of Administration, operational offices manage fuel and maintenance budgets for their vehicles. Accordingly, the Office of Administration was not able to provide definitive data to support reduced fuel and maintenance funding due to sequestration.

<sup>13</sup>A resident agent is assigned to a specific Border Patrol station, but lives and works at an assigned location away from the station. According to CBP, the number of home-to-work vehicle authorizations across all operational offices was reduced by about 1,295 as of March 2013.

this also had an effect on staffing and operations because home-to-work authorizations allow personnel to use a government vehicle for official purposes, which may include travel between the individual's residence and various locations required for the performance of field work.<sup>14</sup> Between March and June 2013, 9 sectors reported to Border Patrol headquarters that these reductions had led to delays in agents' response times. For example, the Big Bend sector reported that an agent was delayed in arriving at a scene and subsequently county officials were required to release 10 subjects believed to be illegally in the United States.

Documentation provided by OFO indicated that, in fiscal year 2013, OFO experienced a reduction in some enforcement actions at ports of entry, such as those related to the inspection of cargo and, seizures of inbound ammunition and drugs.<sup>15</sup> For example, between April and July 2013, OFO reported that inspections of regulated cargo declined by about 21 percent, inbound ammunition seized decreased by about 79 percent, fraudulent documents intercepted at ports of entry decreased by about 15 percent, and heroin confiscations decreased by about 21 percent.<sup>16</sup> For example, Chicago field office officials stated that to prioritize the processing of people and goods and keep air passenger wait times down, as directed by OFO headquarters, the office limited its enforcement efforts in fiscal year 2013. Chicago officials expressed concern regarding potential long-term effects of declining enforcement efforts; their field office conducted fewer contraband exams per month, as well as passenger interviews, and outbound currency seizures during fiscal year 2013. According to Chicago field office officials, Chicago O'Hare International Airport experienced a 6 percent increase in arriving passenger volume in fiscal year 2013, so they would have expected these enforcement numbers to increase, not decrease.

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<sup>14</sup>See 31 U.S.C. § 1344.

<sup>15</sup>According to documentation provided by OFO, some enforcement actions, such as those related to the inspections of ferries, small vessels, and train passengers, increased in fiscal year 2013.

<sup>16</sup>We did not analyze the effects on fiscal year 2013 enforcement actions to determine whether sequestration was the sole or primary cause of these reductions.

**CBP workforce:** As of April 1, 2013, CBP suspended all nonmandatory training as a result of sequestration.<sup>17</sup> Between March and June 2013, 6 Border Patrol sectors reported the cancellation of training classes ranging in topics from hazardous materials operations to employee supervision. Border Patrol and OFO officials we spoke with expressed concern regarding the effects of this canceled training on employees' skill sets. Officials from the Blaine sector stated that nonmandatory training is essential to their workforce. For instance, Blaine sector officials stated that nonmandatory training classes that were canceled in fiscal year 2013 provided valuable skills, such as training in high-speed pursuit, leadership, weapons of mass effect, and incident command system. Officials from the Rio Grande Valley sector stated that some specialty training, such as canine training, was also canceled in fiscal year 2013 as a result of limited travel funding for their agents.

Border Patrol and OFO officials—those in headquarters and in the field—also expressed concern regarding the effect of sequestration on employee morale. As a result of CBP hiring restrictions for positions other than agents and officers, officials from the Rio Grande Valley and San Diego sectors stated that agents were asked to perform administrative tasks, outside of their scope of responsibility.<sup>18</sup> Officials from the Chicago, Los Angeles, and New York field offices stated that employee morale was affected as a result of asking officers and support staff to do more with fewer resources, including performing duties typically completed by mission support staff.<sup>19</sup>

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<sup>17</sup>According to a March 5, 2013 e-mail to CBP executives from CBP's Office of Training & Development, the office planned to resume classes in a prioritized manner when funding became available.

<sup>18</sup>CBP was required to maintain an active duty presence of not less than 21,370 full-time equivalent Border Patrol agents in the Consolidated and Further Continuing Appropriations Act, 2013, and directed to maintain no less than 21,775 CBP officers in the explanatory statement accompanying the fiscal year 2013 appropriations act. Pub. L. No. 113-6, 127 Stat. 198, 345; Explanatory Statement, Consolidated and Further Continuing Appropriations Act, 2013, 159 Cong. Rec. S1287, S1549 (daily ed. Mar. 11, 2013).

<sup>19</sup>During fiscal year 2013, CBP suspended the hiring of operational and mission support staff from outside of CBP. According to officials from the Chicago field office, officers and specialists either volunteered to fill these support roles or these roles were assigned as collateral duties.



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## CBP Headquarters Centrally Managed Planning for Sequestration and Delegated Many Implementation Decisions Affecting Operations to Program Offices

According to CBP budget officials, CBP was better positioned to plan for and address further budget reductions in fiscal year 2013 because prior to sequestration it had taken efforts aimed at reducing costs and streamlining operations. As it became more certain sequestration would occur, CBP's headquarters initiated planning as the reductions necessary to comply with sequestration evolved. After the sequestration order, CBP headquarters generally managed budgetary reductions and delegated implementation decisions affecting operations to program offices. According to CBP headquarters officials, it would be challenging for CBP to replicate some of these actions in future years depending on the levels of and conditions on any future funding.

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## Cost Efficiency Efforts Implemented Prior to Sequestration Helped Absorb Some Budget Reductions

According to CBP officials, cost savings measures implemented prior to sequestration helped the component address reductions resulting from sequestration. For example, prior to sequestration, CBP implemented or expanded initiatives, such as Automated Passport Control and trusted traveler programs, to expedite screening procedures at ports of entry.<sup>20</sup> OFO and air travel association officials stated that the implementation of Automated Passport Control had an effect on efficiently processing international air passengers at airports and managing wait times. In addition, CBP took steps prior to sequestration to reduce spending, such as limiting hiring and reducing operating expenses. Specifically, beginning in July 2012, CBP restricted non-agent/officer hiring and filled open positions only from within CBP. In addition, individual sectors and field offices took steps to operate more efficiently in fiscal year 2013 and beyond. For example, in August 2011 the Rio Grande Valley sector partnered with CBP's Office of Air and Marine to institute a bulk fuel program that, according to this sector, saved CBP an average of

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<sup>20</sup>Automated Passport Control is an expedited CBP entry process that allows arriving eligible international passengers to clear customs more efficiently by allowing entry of passport information at a self-service kiosk. CBP's trusted traveler programs provide expedited travel for pre-approved, low risk travelers through dedicated lanes and kiosks. We have ongoing work reviewing several of CBP's trusted travel programs and plan to report on the results of our work later this year.

approximately \$1,200 per month through reduced fuel costs.<sup>21</sup> In addition, officials at OFO's Chicago field office stated that they chose to reduce overtime usage by about one-third from February through May 2013, prior to the sequestration order, to ensure that the Chicago field office would have enough funding to cover overtime costs in the peak summer travel period.

### CBP's Headquarters Initiated Planning as the Reductions Necessary to Comply with Sequestration Evolved

According to CBP budget officials, CBP headquarters began to plan for sequestration in November 2012 and led planning efforts across CBP's program offices by providing the offices with estimated funding reductions that they could use to prepare for sequestration. CBP adapted its sequestration plan as its anticipated reductions changed prior to and after the March 1, 2013, sequestration order. Table 2 provides a timeline of the anticipated sequestration reductions prior to and during fiscal year 2013.

**Table 2: U.S. Customs and Border Protection's Anticipated Funding Reductions in Fiscal Year 2013**

Date	Anticipated funding reduction (millions)
September 14, 2012	\$955
February 19, 2013	\$754
March 1, 2013	\$595
March 27, 2013	\$601
April 29, 2013	\$576

Source: GAO analysis of CBP budget data.

According to officials from CBP's Offices of Administration and Program Development, in November, 2012, they developed a planned budget using CBP's enacted fiscal year 2012 budget with a reduction of 8.2 percent from each discretionary program, project, and activity (PPA), and 7.6 percent for each direct spending PPA.<sup>22</sup> CBP budget officials stated

<sup>21</sup>CBP's Office of Air and Marine deploys the largest law enforcement air force in the world. In support of homeland security missions, the Office of Air and Marine provides aircraft, vessels, and crew at the request of its customers, primarily USBP, and tracks its ability to meet requests.

<sup>22</sup>The Office of Management and Budget (OMB) produced these preliminary estimates as directed by the Sequestration Transparency Act of 2012. See Pub. L. No. 112-155, § 2, 126 Stat. 1210 (2012). Because a fiscal year 2013 appropriation had not been enacted, OMB based the estimates on the fiscal year 2012 appropriation level, as required.

that in late November 2012 they provided this tentative budget to the program offices and asked them to provide actions to meet these reductions, assuming funds could not be transferred or reprogrammed.<sup>23</sup> According to officials from CBP's Office of Program Development, they instructed program offices to look for cuts to less critical areas first and focus on preserving personnel by implementing furloughs only if necessary.

Program offices provided CBP headquarters with their proposed cuts by December 5, 2012, according to CBP headquarters officials. Some offices identified specific cuts to non-personnel areas, while others considered reductions to overtime or proposed furlough days. According to CBP budget officials, they worked with program offices that anticipated heavy employee furloughs to identify other options for achieving reductions. Although CBP ultimately mitigated the need to furlough employees in fiscal year 2013, CBP budget officials stated that furloughs were difficult to avoid given the initial estimates for the sequestered funding and projected full year budget authority. A major factor is that payroll-related costs consume a large percentage of CBP's available funding; for example, OFO's payroll expenses comprise more than 90 percent of its funds. According to DHS's and CBP's early sequestration and budget authority assumptions, OFO anticipated the equivalent of nearly 50 furlough days.

The sequestration amount changed in January 2013 when the anticipated percentage reductions were revised to 5 percent. At this point, CBP's internal preparations for potential reductions revealed that significant changes were likely to occur. See table 3 for CBP's considered reductions to meet sequestration, as of January 2013.

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<sup>23</sup>Reprogramming is the shifting of funds within an appropriation account for purposes other than those contemplated at the time of appropriation. A transfer is the shifting of funds between appropriation accounts.

**Table 3: Reductions Considered, as of January 2013, by U.S. Customs and Border Protection to Meet Sequestration Requirements**

Area	Amount of considered reduction (millions)
Overtime and premium pay	\$288
Contract support and services	\$85
Training	\$25
Relocation compensation and travel	\$23
Home-to-work and fuel, maintenance, and repair for regular vehicle operations	\$21
Facilities-related contracts or services	\$21
Initiatives	\$13
Equipment and supplies	\$9
Furlough days	18 days <sup>a</sup>

Source: GAO analysis of CBP data.

Notes: These considered reductions do not reflect any subsequent transfer or reprogramming actions that CBP took later in the fiscal year.

<sup>a</sup>CBP mitigated the need to furlough any of its employees in fiscal year 2013.

In January 2013, the Office of Management and Budget (OMB) issued a memorandum directing agencies to intensify efforts to prepare for sequestration; however, sequestration reductions were not finalized and it remained unclear whether certain accounts would be exempt, according to CBP budget officials.<sup>24</sup> On February 21, 2013, the CBP Deputy Commissioner provided guidance on planning, with guiding principles of protecting critical missions, mitigating the disruption to employees, and maintaining operations and programs. This guidance specified that sequestration cuts, through furloughs and reductions to overtime, could decrease the number of equivalent work hours by more than 5,000 Border Patrol agents and 2,750 CBP officers.<sup>25</sup> After receiving this

<sup>24</sup>According to OMB officials, budget uncertainty at this point in the fiscal year was not specific to CBP; rather, OMB officials stated that most federal agencies sought additional clarification on the application of sequestration to their enacted 2013 appropriations.

<sup>25</sup>Such a decrease in equivalent work hours would not reduce the number of on-board Border Patrol agents and CBP officers by 5,000 and 2,750, respectively, and thereby result in levels below the numbers set in the appropriations act and the accompanying explanatory statement, according to CBP budget officials. However, in its planning for sequestration CBP expressed concerns about hiring new agents to sustain its agent and officer levels while having to furlough experienced agents and officers to meet sequestration reductions.

guidance, Border Patrol and OFO headquarters provided planning priorities for sequestration to sectors and field offices. According to Border Patrol headquarters officials, sectors communicated their sequestration implementation plans with Border Patrol headquarters and worked with them to find appropriate reductions. Some sectors identified sector-specific areas that were most mission-critical to maintain during sequestration, including health and safety for agents and detainees, as well as maintaining control of the border between ports of entry.

OFO field offices had discretion to determine specific reductions within the field office budgets and to prioritize their own actions, in consultation with OFO headquarters. According to OFO headquarters officials, they asked the field offices to outline port contingency plans in the event of severe reductions and to identify possible results and effects, including those related to public services. Field offices provided this information to OFO headquarters, which consolidated them into a formal memorandum that was distributed back to the field offices on February 26, 2013. The memorandum instructed field offices to focus on preserving essential services—such as the clearing of goods and persons—and to consider reductions to lower priority spending and operational activities—such as secondary training and enforcement activities, respectively.

The effect of sequestration on specific fee accounts remained uncertain as of January 2013, according to CBP budget officials. Budget officials stated that fee accounts, such as the COBRA fee account, play an integral role in CBP's planning and budget process because they reimburse CBP's Salaries and Expenses account for certain expenses, such as overtime pay for CBP officers, that comprises about 30 percent of that account. According to CBP budget officials, they had a better understanding of their plans for sequestration with respect to fee accounts by late February 2013, but officials still needed additional clarification on how the cuts would be applied. Although OMB issued official guidance based upon input received from agencies in the summer of 2012, CBP remained uncertain about how this guidance would be applied to each of the unique fee accounts that it relied upon to fund its operations until August 2013. Ultimately, OMB determined that sequestration would be applied to the amount of fees collected and that, for COBRA fees, the funds would be available in future years.

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CBP Headquarters  
Generally Managed  
Reductions and Delegated  
Implementation Decisions  
Affecting Operations to  
Program Offices

CBP headquarters coordinated the components' reductions in funding and implemented some component-wide actions to meet sequestration; CBP's program offices had the flexibility to determine many implementation decisions. USBP's implementation of sequestration reductions varied among its sectors based on mission needs. Similarly, OFO's reductions varied across its field offices. Because of the complexity of CBP's fee accounts, reductions to the COBRA fee account remained unclear until late in fiscal year 2013.

CBP Headquarters  
Coordinated Funding  
Reductions and Implemented  
Some CBP-Wide Actions

Although the final sequestration reduction of 5 percent was lower than the initial 8.2 percent reduction estimated by OMB, CBP budget officials reported that it was challenging to absorb this reduction in the last half of the fiscal year. Budget officials specifically mentioned that implementing sequestration was difficult because of the large percentage of CBP's available funding dedicated to payroll—about 70 percent, or \$8 billion. On the basis of its anticipated funding and sequestration reductions, CBP began to issue notices to all employees beginning on March 7, 2013, that they may be furloughed.<sup>26</sup> Though sequestration went into effect on March 1, the amount of CBP's anticipated reductions and resulting actions evolved over the course of the fiscal year. For example, although CBP issued furlough notices in early March 2013, the component subsequently mitigated the need for furlough days as a result of reprogramming, transfers, and increased funding available to CBP through the enactment of the Consolidated and Further Continuing Appropriations Act, 2013.<sup>27</sup> Transfers included \$36 million from other CBP accounts and \$24 million from other DHS components to CBP's Salaries and Expenses account. At the recommendation of the House Committee on Appropriations, CBP transferred an additional \$7 million in unobligated balances from its 2011 and 2012 Border Security Fencing Infrastructure and Technology accounts to its Salaries and Expenses account. These unobligated balances had been set aside for emerging requirements and pilot programs, but were used instead, along with a transfer from the DHS Office of Intelligence and Operations account, to maintain minimum numbers of Border Patrol agents and CBP officers.

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<sup>26</sup>As of March 4, 2013, CBP estimated that it would need to implement a component-wide furlough of up to 14 nonconsecutive work days for each employee.

<sup>27</sup>The Consolidated and Further Continuing Appropriations Act, 2013, enacted on March 26, 2013, increased funding by over \$253 million above the level that had been assumed as CBP's baseline. See Pub. L. No. 113-6, 127 Stat. 198.

To meet the remaining reductions required by sequestration, CBP reported that it implemented the following actions:

- suspended the hiring of operational and mission support staff from outside of CBP
- minimized travel to only that which was mission critical;
- reduced temporary duty station assignments;
- reduced retention, recruitment, and relocation expenditures;
- canceled the remaining nonmandatory training classes scheduled in fiscal year 2013;
- delayed or reduced the scope of certain contracts; and
- deferred the replacement of over 800 motor vehicles, increasing these affected vehicles' lifecycle by a minimum of 1 year.

#### USBP Implemented Cuts to Sectors Relative to Mission Needs

USBP reported that reductions varied across its sectors relative to mission needs in an effort to implement sequestration with limited effects on personnel. For example, as of May 2013 CBP's budget office estimated that the post-sequestration non-payroll reduction to the Yuma sector was 23 percent, whereas the estimated nonpayroll reduction to the Spokane sector was about 9 percent.<sup>28</sup> To provide additional funds to sectors with increased mission requirements, USBP redirected funds away from one or two sectors that were able to operate on less than they had originally received, according to USBP officials. According to USBP officials, some sectors made significant cuts in the first and second quarters of fiscal year 2013 in anticipation of a possible sequestration. The funding for these sectors was redirected to other sectors later in the fiscal year. According to USBP officials, it was challenging to implement sequestration without affecting employees because salary and benefits for USBP represent 93 percent of total budget authority.

USBP initially anticipated discontinuing its agents' use of AUO; however, USBP ultimately chose to reduce non-pay expenditures and maintain existing overtime and premium pay reductions, resulting in a cost avoidance of about \$5 million to AUO in fiscal year 2013.<sup>29</sup> According to

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<sup>28</sup>These reductions do not reflect final end of fiscal year 2013 expenditures.

<sup>29</sup>On March 4, 2013, CBP's Director of Labor Management Relations notified the National Border Patrol Council of CBP's intent to decertify AUO beginning April 7, 2013. On March 7, 2013, the CBP Acting Chief Operating Officer issued a memorandum indicating that CBP was taking the initiative to de-authorize AUO payments to employees assigned to positions that were authorized to earn AUO, effective April 7, 2013, on an emergency basis due to sequestration. However, CBP did not take action pursuant to the March 4, 2013 notice or the March 7, 2013 memorandum.

USBP, it closely managed, monitored, and updated overtime projections each pay period so the reduction efforts were successful and in July 2013, USBP determined it would continue its agents' use of AUO.<sup>30</sup> Border Patrol headquarters and sector officials stated that the reductions to AUO were challenging to implement because of the unpredictability of patrolling the border and the need for agents to frequently work beyond their 8-hour shifts to complete their duties. In addition to overtime reductions, USBP made reductions in nonpayroll expenditures, such as vehicle fleet fuel, maintenance, and acquisition. USBP also reduced a large detainee transportation contract, as well as specialized and supplemental training. Officials from the Blaine sector explained that to reduce costs in fiscal year 2013, they delayed necessary repairs on some vehicles, and used other modes of transportation such as snow mobiles, bicycles, and motorcycles to the extent possible. These officials stated, however, that eventually their sector will need to repair its aging vehicles and purchase new ones to maintain operations.

#### OFO Reductions Varied Across Its Field Offices

Similar to USBP's implementation of sequestration, reductions within OFO varied across its field offices. OFO determined specific reductions to each field office based on factors such as travel and trade facilitation, seasonality, and wait time data. Overall, according to OFO headquarters officials, field offices made reductions to the following: overtime for administrative personnel, CBP officers, and agriculture specialists; travel; and training, among other areas. In some field offices, management shifted uniformed officers from cargo processing to passenger processing and vice versa to minimize wait times because of limited overtime funding. As OFO approached the end of the fiscal year, it determined that additional overtime hours—for both FEPA and COPRA overtime—would be required to fulfill operational needs such as processing people and goods at ports of entry. In August 2013, OFO reprogrammed \$623,019 that was available as a result of CBP's hiring pause in fiscal year 2013 to fund additional FEPA overtime.<sup>31</sup> In addition, OFO was able to make additional COPRA overtime funds available to each field office during the peak summer travel season, which resulted in additional hours officers

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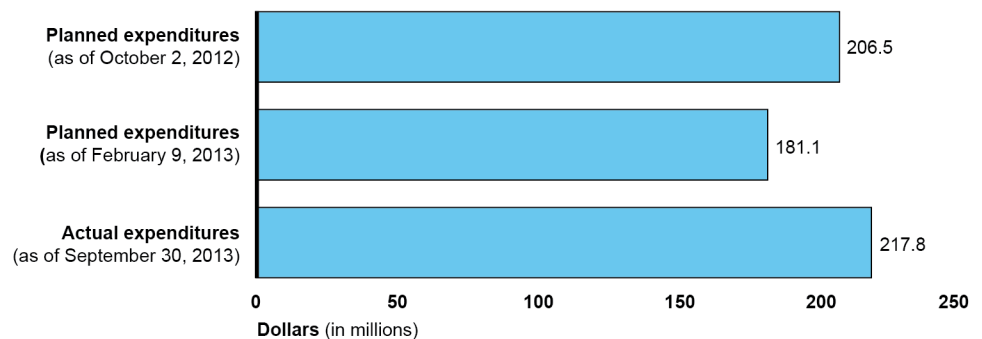
<sup>30</sup>In January 2014, for reasons unrelated to sequestration, DHS suspended AUO for certain positions, including those for full-time instructors and employees working in component headquarters offices, pending further review of AUO policies and practices.

<sup>31</sup>This funding was intended for other than full-time hiring, but CBP could not bring students or temporary/seasonal workers on board during the hiring pause.



could inspect passengers and cargo. OFO's actual expenditures on overtime for its officers and agriculture specialists at the end of fiscal year 2013 exceeded its initial planned overtime budget. Figure 3 illustrates the fluctuations in COPRA overtime expenditures for OFO in fiscal year 2013.

**Figure 3: Office of Field Operations COPRA Overtime Expenditures during Fiscal Year 2013**



Source: GAO analysis of CBP data.

Note: This figure reflects reductions in COPRA overtime, instituted by the Customs Officer Pay Reform Act, which is available to CBP officers and agricultural specialists. FEPA overtime is not included in this figure.

### COBRA Fee Account Reductions Remained Unclear Until Late in Fiscal Year 2013

According to CBP budget officials, it was complicated to apply sequestration to fee accounts, including the COBRA fee account. Though OMB issued guidance in the summer of 2012, CBP budget officials stated that CBP remained uncertain about how this guidance would be applied to its fee accounts, including the COBRA fee account, until August 2013. For instance, CBP budget officials stated there was uncertainty about which fees were exempt from sequestration. According to CBP budget officials, OMB determined that the sequestration percentage reduction would be applied to fiscal year 2013 collected fees, and for the COBRA account, OMB determined that the sequestered funds would be available in fiscal year 2014. In fiscal year 2013, CBP collected about \$647 million for the COBRA fee account.<sup>32</sup>

<sup>32</sup>Fiscal year 2013 collections included \$198 million that CBP collected pursuant to the Colombia Free Trade Agreement, which was not available to CBP. See Pub. L. No. 112-42, § 601, 125 Stat. 462, 495 (2011).

In September 2013, CBP budget officials stated that for fee accounts where the sequestered funds would be made available in the following fiscal year and not permanently reduced, the sequestered balances would be apportioned to CBP for use, that is, reimbursement of the Salaries and Expenses account, in the first quarter of fiscal year 2014. However, CBP was not apportioned the sequestered COBRA fee balances until December 2013. CBP's budget office reported that the delayed availability of the sequestered COBRA fees created financial challenges for CBP during the first 2 months of fiscal year 2014. As a result of the delay, CBP was unable to reimburse certain costs in the Salaries and Expenses account, which delayed some procurement actions until the COBRA fee balances were apportioned.

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### Actions Taken to Implement Sequestration in Fiscal Year 2013 Would Be Difficult to Replicate in Future Years

According to CBP officials, some of the actions taken in fiscal year 2013 to address sequestration would be difficult or impossible to replicate in future fiscal years to address additional budget cuts.<sup>33</sup> For example, CBP Office of Administration and Office of Program Development officials expressed concern over USBP's ability to sustain nonpay cuts taken in fiscal year 2013 such as those related to equipment and fuel. Further, CBP's transfer and reprogramming actions were key to its ability to mitigate furloughs in fiscal year 2013; however, CBP budget officials stated that, depending on the levels of and conditions on any future funding, such actions may not be possible in future years to absorb additional reductions in funding.<sup>34</sup> Nevertheless, according to CBP Office of Administration and Office of Program Development officials, CBP is in a better position to respond to possible future budget cuts as a result of its planning and implementation of the fiscal year 2013 sequestration. In addition, CBP officials noted some lessons learned from implementing sequestration in fiscal year 2013. For example, while planning and implementing sequestration, CBP maintained open communication internally, which CBP officials credited as a factor to the success in planning for sequestration. Border Patrol sector and OFO field office officials highlighted the importance of communication in planning for the

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<sup>33</sup>Actions CBP officials identified as difficult to replicate include delaying construction and acquisitions and implementing reductions in spending for equipment and fuel.

<sup>34</sup>In particular, in fiscal year 2013, DHS transferred \$36 million from other CBP accounts and \$24 million from other DHS agencies to CBP's Salaries and Expenses account. DHS also transferred an additional \$11 million into CBP's Salaries and Expenses account to maintain 21,370 Border Patrol agents and 21,775 CBP officers.

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fiscal year 2013 sequestration. Within OFO, field office officials said coordination internally and with stakeholders was an important aspect of their sequestration planning.<sup>35</sup>

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## GAO Contact

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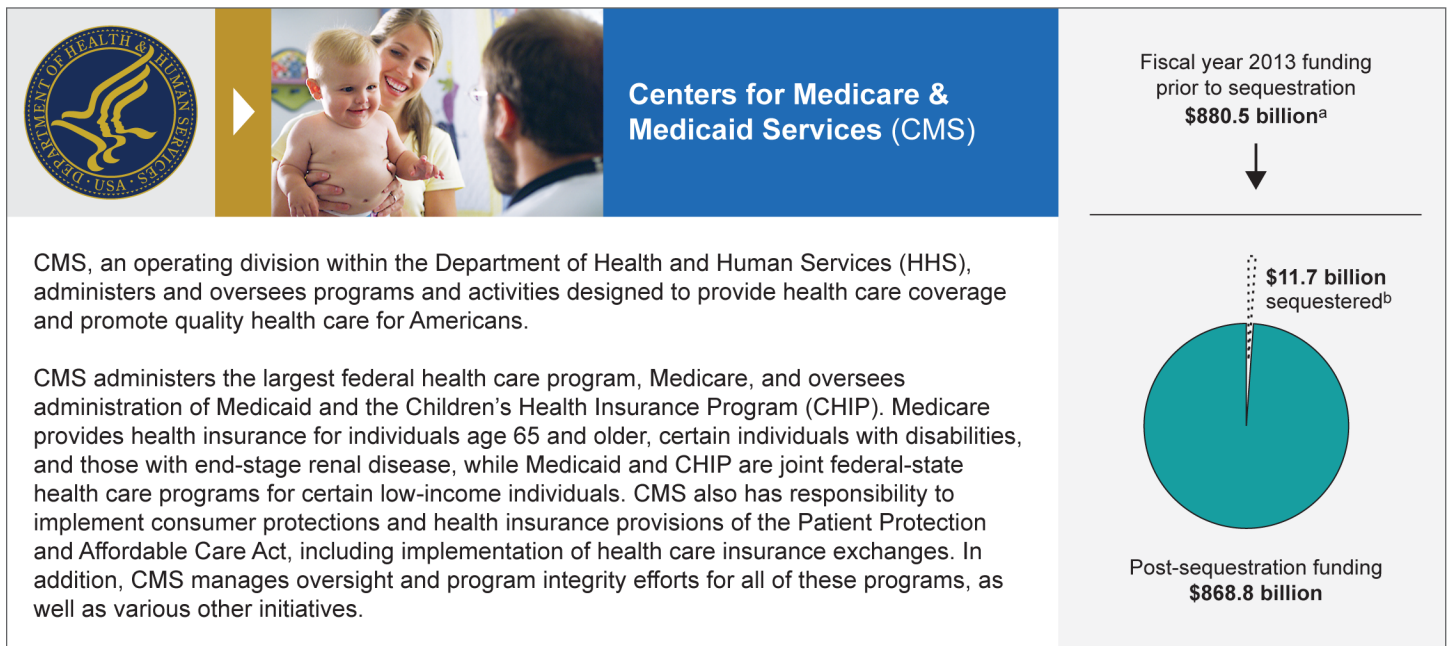
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<sup>35</sup>To facilitate communication between OFO headquarters and the field, OFO established a Communication Action Team to track and report specific operational impacts of sequestration, effective March 1, 2013. The Communication Action Team was to respond to inquiries from the field and disseminated policy guidance from OFO component offices, as needed.

# Appendix II: Fiscal Year 2013 Sequestration at the Centers for Medicare & Medicaid Services

## Mission and Budget Overview

**Figure 4: Centers for Medicare & Medicaid Services Mission and Fiscal Year 2013 Sequestered Funding**



Sources: GAO analysis of CMS information; PhotoDisc (image).

<sup>a</sup>Funding prior to sequestration as reported by CMS.

<sup>b</sup>Estimated sequestered amount as of March 1, 2013. Actual amount sequestered will depend on Medicare claims submitted for the fiscal year 2013 Medicare sequestration period which ended March 31, 2014.

Direct spending primarily for Medicare, Medicaid, and CHIP entitlement benefits accounted for most of CMS’s funding in fiscal year 2013 and Medicare benefits were the largest of those costs. Medicare is expected to provide health insurance coverage to more than 50 million individuals

in fiscal year 2014.<sup>1</sup> Due to its size, complexity, and susceptibility to mismanagement and improper payments, Medicare has been on our high-risk list since 1990.<sup>2</sup> Medicare payments to providers and plans were sequestered under special rules at a rate of 2 percent.<sup>3</sup> By law, the Medicaid and CHIP programs were exempt from sequestration.<sup>4</sup> Sequestration also reduced direct spending for grants to states to establish affordable insurance exchanges, certain Medicare program integrity activities, certain other initiatives, and some administrative activities, though these amounts were small compared to benefit payments. The majority of CMS's funding for management and oversight of the three health insurance programs and other activities was subject to the discretionary nondefense sequestration percentage in fiscal year 2013. CMS exercises most of its budgetary decision making through management of programs, projects, and activities (PPA) in the discretionary program management account.<sup>5</sup>

To examine how CMS prepared for and implemented sequestration and the effects of sequestration on CMS's operations, performance, and services to the public, we collected information from CMS's Office of Financial Management, which is responsible for developing the operating division's budget and leading sequestration planning and implementation, as well as from program offices and centers that administer aspects of

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<sup>1</sup>Medicare consists of four parts. Parts A and B are known as Medicare fee-for-service and pay providers based on claims for services rendered. Part A covers hospital and other inpatient stays and Part B covers hospital outpatient, physician, and other services. Part C, also known as Medicare Advantage, is the private plan alternative to Medicare fee-for-service under which beneficiaries receive benefits through private health plans. Part D is the outpatient prescription drug benefit. Medicare pays Parts C and D plans a per enrollee amount.

<sup>2</sup>GAO, *High-Risk Series: An Update*, [GAO-13-283](#) (Washington, D.C.: February 2013).

<sup>3</sup>We refer to payments made to providers and plans for the provision of Medicare benefits as "Medicare payments" for the purposes of this review. The law limited sequestration reductions of Medicare payments to 2 percent, unlike the percentage for other direct spending. Consistent with BBEDCA, the Office of Management and Budget (OMB) calculated percentage sequestration reductions of 5.1 percent for nondefense direct spending other than Medicare payments and of 5 percent for nondefense discretionary spending. Further, while agencies generally applied sequestration reductions to spending completed by the end of fiscal year 2013, reductions were applied to Medicare payments from April 1, 2013 through March 31, 2014.

<sup>4</sup>2 U.S.C. § 905(h).

<sup>5</sup>The program management account also includes certain mandatory PPAs.

seven case study activities we chose for examination—Medicare payments, state insurance exchange grants, Medicare Administrative Contractors (MAC), federal administration, Medicare provider survey and certification, clinical laboratory improvement amendments (CLIA) surveys, and CMS program integrity. To assess the reliability of data related to budget and program outcomes (provided by CMS) we reviewed information from knowledgeable officials and relevant documentation and compared budgetary information to published data, as appropriate. We determined that the data were sufficiently reliable for the purposes used in this report. We chose Medicare payments because they were sequestered at a special rate of 2 percent and accounted for 96 percent of CMS's estimated sequestered funds. We chose the other activities because they represented the variety of CMS's functions funded by discretionary and direct spending that were subject to sequestration. Specifically, we reviewed Medicare fee-for-service operations carried out by MACs because they administer Medicare payments and these contracts typically consume large portions of CMS's discretionary funding. We chose federal administration because CMS funds the majority of its staff through this PPA and chose CMS program integrity because Medicare is on our high-risk list. Medicare provider survey and certification and CLIA surveys are relevant because of the influence of these surveys on patient safety. (See table 4 for more information on selected activities.) We interviewed officials from a purposeful sample of Medicare contractors—two MACs and a Zone Program Integrity Contractor (ZPIC)—and state survey agencies to obtain information on CMS's planning and implementation of sequestration, as well as effects on the operating division's fee-for-service operations, CMS program integrity activities, and state survey and certification oversight activities. We chose contractors responsible for large portions of Medicare business in geographically varied states identified as having a high potential for Medicare fraud. We chose 5 of the 52 state survey agencies for each state, the District of Columbia, and Puerto Rico based on variation in geographic location and population—Connecticut, Florida, Ohio, Utah, and West Virginia. In addition, to gain Medicare providers' perspectives regarding sequestration of Medicare payments, we interviewed two provider associations. Results from our interviews with CMS contractors, state survey agencies, and provider associations cannot be generalized to other CMS program partners.

**Appendix II: Fiscal Year 2013 Sequestration at  
the Centers for Medicare & Medicaid Services**

**Table 4: Overview of Selected Centers for Medicare & Medicaid Services (CMS) Activities**

<b>Selected activities</b>	<b>Overview</b>	<b>Funding type<sup>a</sup></b>	<b>Fiscal year 2013 sequestration</b>
Medicare payments	Medicare is the federal program that helps pay for health care services for individuals age 65 years and older, certain individuals with disabilities, and those with end-stage renal disease. <sup>b</sup>	Direct spending	Estimated funding prior to sequestration: \$564.9 billion <sup>c</sup> Estimated sequestered amount: \$11.3 billion
State affordable insurance exchange grants	The Patient Protection and Affordable Care Act (PPACA) required the federal government to assist states in preparing to set up health insurance exchanges. To do so, PPACA established affordable insurance exchange grants. The Department of Health and Human Services was authorized to award multiple grants to states from 2010 through 2014. <sup>d</sup>	Direct spending	Funding prior to sequestration: \$628 million <sup>e</sup> Sequestered amount: \$44 million
Medicare Administrative Contractors (MAC)	CMS uses MACs to process Medicare fee-for-service claims, enroll health care providers in the Medicare program, and conduct certain program integrity activities, among other functions.	Discretionary	Funding prior to sequestration: \$873 million <sup>f</sup> Sequestered amount: \$24 million
Federal administration	The majority of CMS's expenses for staff and operating expenses for routine activities are funded through federal administration. <sup>g</sup>	Discretionary	Funding prior to sequestration: \$771 million <sup>h</sup> Sequestered amount: \$39 million
Survey and certification	To ensure that health care facilities participating in Medicare and Medicaid—including nursing homes, hospitals, dialysis facilities, and home health agencies—provide quality care in a safe environment in accordance with federal standards, CMS contracts with state survey agencies to conduct periodic inspections, known as surveys, investigate complaints, and initiate enforcement actions against facilities that fail to comply with federal standards. CMS also contracts with national vendors to carry out certain specialized surveys and support activities.	Discretionary	Funding prior to sequestration: \$374 million <sup>i</sup> Sequestered amount: \$19 million
Clinical laboratory improvement amendments (CLIA)	The CMS office responsible for survey and certification activities also manages the CLIA program, which is funded entirely by user fees. Under CLIA, state survey agencies conduct inspections of clinical laboratories.	Discretionary	Funding prior to sequestration: \$43 million Sequestered amount: \$2 million
CMS program integrity	CMS uses a variety of contractors to perform program integrity activities, such as provider audits and prepayment and postpayment review of Medicare claims. <sup>j</sup>	Discretionary and direct spending	Funding prior to sequestration: \$1.1 billion <sup>k</sup> Sequestered amount: \$25 million

Source: GAO analysis of CMS information.

<sup>a</sup>Discretionary appropriations are budgetary resources provided in appropriations acts. Direct spending, often referred to as mandatory spending, consists of budgetary resources provided by entitlement authority and laws other than appropriations acts.

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**Appendix II: Fiscal Year 2013 Sequestration at  
the Centers for Medicare & Medicaid Services**

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<sup>b</sup>Subject to special sequestration rules, Medicare payments were sequestered at 2 percent, including fee-for-service payments to providers (Parts A and B), as well as payments to Medicare Advantage and prescription drug plans (Parts C and D)—private plans that CMS contracts with to provide services to enrolled beneficiaries. Qualified individual premiums, Medicare Part D low income subsidies, and Part D catastrophic subsidies were exempt from sequestration.

<sup>c</sup>Funding and sequestered amounts reflect estimates from the Office of Management and Budget (OMB) baseline as reported in its March 1, 2013 report. CMS will not know its final sequestered amount until the fiscal year 2013 reduction of Medicare payments ends on March 31, 2014, and CMS has reconciled final Medicare payments from April 2013 through March 2014. Funding for Medicare payments is provided through trust fund accounts through three CMS programs, projects, and activities (PPA)—Federal Hospital Insurance Trust Fund, Federal Supplementary Medical Insurance (SMI) Trust Fund, and the Medicare Prescription Drug Account of the SMI Trust Fund, according to CMS.

<sup>d</sup>Pub. L. No. 111-148, § 1311(a), 124 Stat. 119, 173 (2010) (codified at 42 U.S.C. § 18031(a)). If a state does not elect to operate an exchange or is not certified or approved to operate one, HHS will operate the exchange in that state. See Pub. L. No. 111-148, § 1321(c), 124 Stat. 186 (codified at 42 U.S.C. § 18041(c)). To establish the federally operated exchanges, CMS reported that it aggregated funding from several sources including \$300 million from its discretionary program management account in fiscal year 2012.

<sup>e</sup>CMS awarded a total of \$2.1 billion in grants in fiscal year 2013, but only the amount estimated to be available for obligation after March 1, 2013 based on OMB's baseline—\$628 million—was subject to sequestration, according to CMS. Sequestration also reduced another PPA of administrative costs associated with these grants by \$2 million. The estimated OMB baseline established in its March 1 report for both PPAs in this account was \$868 million.

<sup>f</sup>Medicare fee-for-service contracting operations are primarily funded through CMS's program operations PPA within its discretionary program management account. Funding and sequestered amount reflect actual spending for this activity as reported by CMS. The amount sequestered from the entire program operations PPA was \$134 million.

<sup>g</sup>The federal administration PPA within CMS's discretionary program management account is the primary source of funding for staff salaries and benefits; however, other accounts also provide funding to hire employees for specific purposes.

<sup>h</sup>Funding and sequestered amount represent amounts enacted in the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. No. 113-6, 127 Stat. 198) as reported by CMS. The sequestrable base and reduction amounts that CMS calculated based on the annualized amount set out in the continuing resolution in effect as of March 1, 2013, were slightly higher (\$778 million).

<sup>i</sup>Funding and sequestered amount represent amounts enacted in the Consolidated and Further Continuing Appropriations Act, 2013 as reported by CMS. The sequestrable base and reduction amounts that CMS calculated based on the annualized amount set out in the continuing resolution in effect as of March 1, 2013, were slightly higher (\$378 million).

<sup>j</sup>To carry out Medicare program integrity activities, CMS uses several contractors, two of which include (1) the MACs that process and pay claims and are responsible for taking actions to reduce payment errors in their jurisdictions; and (2) Zone Program Integrity Contractors (ZPIC) that investigate potential fraud, which can result in referrals to law enforcement or administrative actions.

<sup>k</sup>CMS program integrity activities are funded from the Health Care Fraud and Abuse Control (HCFAC) account through PPAs funded by direct spending and discretionary appropriations. Certain direct spending for Medicare program integrity was sequestered at 2 percent, of which only amounts obligated after April 1, 2013 were subject to sequestration. Funding and sequestered amount represent mandatory apportionments and amounts enacted in the Consolidated and Further Continuing Appropriations Act, 2013 for CMS activities as reported by CMS. The reported amounts do not include HCFAC funding for other agencies including the HHS Office of Inspector General or the Department of Justice. The sequestrable base and reduction amounts that CMS calculated based on the OMB baseline and annualized amount set out in the continuing resolution in effect as of March 1, 2013, were higher.



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## Sequestration Affected Some CMS Activities, but Effects of the 2 Percent Reduction to Medicare Payments and Cuts to Other Activities Are Difficult to Quantify

Spending reductions required by sequestration had effects on some CMS activities, such as Medicare beneficiary outreach, in fiscal year 2013. However, the effects of reductions to some activities, such as Medicare payments, are difficult to quantify in part because they are difficult to isolate from other changes that took place in fiscal year 2013.

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## Sequestration Affected Some Survey and Certification Activities and Beneficiary Outreach Activities

### Survey and Certification

CMS actions taken to implement sequestration reductions affected the frequency of certain surveys and affected certain state survey agencies' budgets in fiscal year 2013. Specifically, officials from the Center for Clinical Standards and Quality (CCSQ), which is responsible for federal oversight of survey and certification, made policy changes that meant certain Medicare participating medical facilities were inspected less frequently.<sup>6</sup> CMS officials told us that they made these policy changes to ensure that state survey agencies were able to complete statutorily

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<sup>6</sup>CMS contracts with and provides federal funding allocations to state survey agencies to carry out the majority of survey functions for facilities participating in Medicare and Medicaid. States also contribute funds for the benefit they derive from facility compliance with federal quality standards and for determining compliance with state licensing requirements. Home health agencies, ambulatory surgical centers, hospices, and hospitals can choose to be inspected by an accrediting organization, such as the Joint Commission, or by states. CMS also has national contracts to carry out federally-directed surveys to either directly assist state survey agencies, substitute for state surveys in certain specialized areas (such as organ transplant hospitals or psychiatric hospitals), or assist CMS Regional Offices in conducting comparative surveys designed to check the accuracy and adequacy of surveys done by states.

required surveys.<sup>7</sup> Except for frequency requirements that are mandated in statute, CMS establishes survey frequencies for other facility types based on available funding. For example, to implement sequester reductions, CMS officials reported that CMS reduced the frequency of psychiatric hospital surveys it conducts through a national contractor from once every 3 years to once every 4 to 5 years, which officials said freed funding for other activities.<sup>8</sup> In a memorandum issued April 5, 2013, CMS instructed state survey agencies on how to prioritize their workloads in response to sequestration.<sup>9</sup> For example, to cut down states' workload, the operating division moved specialized organ transplant center surveys from states to a national contractor and reduced the frequency of these surveys from once every 3 years to once every 4 to 6 years. CMS also instructed states not to add nursing homes to the special focus facility (SFF) program in their state when an existing SFF nursing home has graduated from the program or has been terminated from Medicare participation. SFF nursing homes are poorly performing nursing homes within each state that are subject to two on-site surveys per year instead of one survey. As a result of the instruction not to replace SFF nursing homes, the number of such homes nationwide decreased from 152 when sequestration began to 62 as of March 2014, according to CMS officials. By reducing national contracts and support services, CMS limited the sequestration reduction of states' Medicare provider survey and inspection funding, known as Medicare allocations, to an average of 3.2 percent rather than imposing the full reduction on states, according to officials. We do not know the effect of the reduced oversight from state survey agencies and national contractors on patient safety or the quality of care provided by the health care facilities.

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<sup>7</sup>42 U.S.C. § 1395-3(g) (nursing home); 42 U.S.C. § 1395bbb(c) (home health agency). The frequency of surveys of Medicare participating nursing homes and home health agencies are identified in statute. States must survey each nursing home in their state at least every 15 months and, on average, all nursing homes every 12 months, and each home health agency at least every 36 months.

<sup>8</sup>These surveys assess whether psychiatric hospitals meet special conditions of participation. CMS also reduced funding for other national contracts to implement sequestration reductions.

<sup>9</sup>The memorandum included changes in addition to those described. See Department of Health & Human Services, Centers for Medicare & Medicaid Services, *S&C 13-23-ALL, FY2013 Sequestration Adjustments for Survey & Certification* (Baltimore, Md.: Apr. 5, 2013).

Several state survey agency officials that we spoke to reported that, because they had little time to adjust their staffing and budget plans after CMS established their fiscal year 2013 Medicare allocations, the state survey agencies used state funds to mitigate some of the effects of reduced federal allocations. Specifically, officials from four of the five state survey agencies we spoke to said they needed more than the amount of their initial federal allocations in fiscal year 2013 and would use state funds to cover the difference.<sup>10</sup> For example, officials from one state survey agency told us it needed more than the amount allocated for survey activities. The officials said the state survey agency moved state funds originally intended for other health-related activities to avoid staff reductions that would have affected its ability to complete the statutorily required surveys.<sup>11</sup> Officials from another state survey agency told us that as a direct result of sequestration reductions, 2013 was the first year the state needed more than the amount allocated to it by CMS.<sup>12</sup> CMS reported that 15 of the 33 state survey agencies that had finalized their fiscal year 2013 expenditures as of March 2014 had spent all of their federal allocations and requested supplemental funding for fiscal year 2013, compared to 7 supplemental requests from those same 33 states in 2012.<sup>13</sup> As of March 2014, CMS could not determine how much funding would be available for redistribution. A reduction in funds available to CMS for redistribution could create additional pressure for states in allocating their own funds to cover survey and certification activities. For example, two states told us they would have to cut licensure activities funded solely by the state if CMS could not provide the supplemental funds to reimburse the state for funds used to complete required activities.

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<sup>10</sup>States generally rely on their own funds when they spend more than their initial federal allocations for survey activities, but may be reimbursed when CMS redistributes Medicare funds from states that spent less than their allocations.

<sup>11</sup>CMS may penalize states that do not complete all of their workload for surveys with statutorily mandated frequencies by reducing the state's Medicare funding allocation for the following year.

<sup>12</sup>The remaining state stated that sequestration did not affect any of its activities in 2013 and it did not need to use any unmatched state funds.

<sup>13</sup>At the end of the federal fiscal year, CMS may provide supplemental funds to states that needed more than their initial federal allocations by redistributing funds from states that spent less than their allocations.

The state officials we spoke to reported that they were able to complete the highest priority surveys and complaint investigations by spending a combination of their federal allocations and state funding. However, two reported difficulty carrying out all of their surveys with the amounts available. For example, officials from one state said they could not complete needed revisit surveys that serve to verify that a facility has corrected serious deficiencies. While CMS considers these activities a lower priority, they are still an important activity to ensure patient safety.

### Beneficiary Outreach

As a direct result of cuts made to implement sequestration reductions to discretionary funding in fiscal year 2013, call wait times increased for 1-800-MEDICARE, a toll-free customer service line for Medicare beneficiaries to make inquiries about Medicare.<sup>14</sup> Specifically, CMS cut funding to the 1-800-MEDICARE contractor, which reduced the number of customer service representatives available to answer calls. According to CMS, before sequestration callers waited about 2 minutes for their call to be answered. In the months after sequestration, average wait times increased to 5 and 6 minutes.

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### Effects of Sequestration Are Difficult to Quantify for Some CMS Activities

In some cases, the immediate and longer term effects of sequestration reductions on CMS's operations and services to the public are hard to quantify because of the difficulty isolating the effects of sequestration from other factors. As a result, CMS officials told us that CMS was not able to routinely monitor the effects of sequestration.

### Medicare Payments to Providers and Plans

Savings from the 2 percent sequestration reduction of Medicare payments and the effects of the cuts on overall Medicare spending, as well as Medicare providers, plans, and beneficiaries are unknown. The total amount of sequestered Medicare payments for fiscal year 2013 are not known because providers have up to 12 months to submit claims. CMS officials reported that \$3.3 billion had been sequestered from \$167 billion in prospective payments to Medicare Advantage and prescription drug plans from April 2013 through March 2014. The total amount of sequestered funds will likely differ from the estimated \$11.3 billion that the Office of Management and Budget (OMB) provided in its fiscal year 2013

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<sup>14</sup>1-800-MEDICARE is one of several activities CMS uses to educate beneficiaries so they can make informed health care decisions.

sequestration report.<sup>15</sup> As noted in the background of this report, OMB's estimates for programs that are funded by permanent indefinite budget authority, including Medicare payments, were based on estimated outlays for fiscal years 2013 and 2014. Final payments for fiscal year 2013 will depend on the actual numbers and types of services used by beneficiaries during the sequestration period. Research examining the effects of previous Medicare payment cuts suggests that providers may attempt to offset cuts by providing more services or more expensive services. As a result, the cuts may not produce the expected Medicare savings.<sup>16</sup>

In addition, it is not possible to isolate the effect that the payment reductions had on providers' revenues in fiscal year 2013 because payments to Medicare providers were affected by a number of factors, such as increases or decreases resulting from the annual rate-setting process<sup>17</sup> and the implementation of certain statutory provisions affecting payments.<sup>18</sup> Similarly, it is not possible to attribute any changes in provider participation in the Medicare fee-for-service program or plan participation in the Medicare Advantage or prescription drug programs in 2014 directly to sequestration reductions. Although CMS officials and provider association representatives that we spoke to agreed that isolating the effects of the 2 percent Medicare payment reductions is difficult, provider associations reported that the reductions will be detrimental to providers because they exacerbated other budgetary pressures, particularly for providers that rely on Medicare payments for

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<sup>15</sup>Office of Management and Budget, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013* (Mar. 1, 2013).

<sup>16</sup>See, for example, Mireille Jacobson, Craig C. Earle, Mary Price and Joseph P. Newhouse, "How Medicare's Payment Cuts For Cancer Chemotherapy Drugs Changed Patterns of Treatment," *Health Affairs*, 29, no.7 (2010):1391-1399. Centers for Medicare & Medicaid Services, Office of the Actuary, *Estimated Volume-and-Intensity Response to a Price Change for Physicians' Services* (1998).

<sup>17</sup>For example, while Medicare payment rates to physicians stayed constant from 2012 to 2013, payment rates to home health providers decreased and rates for certain dialysis treatments and certain outpatient hospital services increased.

<sup>18</sup>For example, payments to certain providers, such as hospitals determined to have an excess readmission rate and physical therapists providing certain services, were required to be reduced in fiscal year 2013. Pub. L. No. 111-148, § 3025, 124 Stat. 173 (codified at 42 U.S.C. § 1395ww(q)) (hospital readmissions reduction program); American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, 126 Stat. 2313, 2355 (codified at 42 U.S.C. § 1395m(k)(7)) (increase in "reduction percentage" for certain multiple therapy services).

large portions of their revenues. For example, some hospitals have reported that the Medicare sequestration was one of several negative factors affecting hospital revenues that resulted in layoffs, decreased services, and delays in infrastructure investments in fiscal year 2013. A physician association reported that although the isolated effects on physicians from the first year of sequestration of Medicare payments are not detectable, the effects will likely be greater as cuts continue in future years and physicians face smaller Medicare payment increases and additional responsibilities associated with Medicare participation.<sup>19</sup> Based on anecdotes of physicians' reactions to previous payment reductions, the association officials predicted that sequestration could contribute to shifts in physician practice away from specialties with a high proportion of Medicare patients relative to patients with other forms of payment. However, they noted that it is difficult to single out actions directly responding to sequestration. How these potential changes in provider behavior could influence Medicare beneficiaries' access to health care remains to be seen.

Beneficiaries were partially shielded from the payment reductions made as a result of sequestration. The law did not allow Medicare participating providers to pass on the payment reductions to beneficiaries. All coinsurance and deductible amounts remained the same for beneficiaries. However, beneficiaries would have been financially liable for any increased cost sharing resulting from providers who provided more services, or more expensive services, to offset the sequestration cuts. Beneficiaries who use nonparticipating providers and receive payments directly from CMS in order to reimburse the provider did see those payments reduced, which required these beneficiaries to pay

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<sup>19</sup>Under current law, the sequestration of direct spending, including the 2 percent reduction of Medicare payments will continue through 2024. See 2 U.S.C. § 901a(6)(B).

more.<sup>20</sup> A small proportion of practicing Medicare physicians are nonparticipating.<sup>21</sup>

## Fewer New Initiatives

Sequestration resulted in fewer funds for new initiatives, according to CMS officials, but the effects on operations and services to the public will not be known until future years, if at all. Budget officials explained that in most years CMS funds new initiatives after core activities have been funded, but in fiscal year 2013 few or no programs had funds available for new initiatives because of sequestration. For example, CCSQ officials, who are responsible for survey and certification, told us they could not continue efficiency initiatives that had saved money in prior years because they did not have funds to pay for the upfront activities involved.<sup>22</sup> CCSQ also delayed a project to collect nursing home staffing data planned for fiscal year 2013 that was required but not separately funded by the Patient Protection and Affordable Care Act (PPACA).<sup>23</sup> To meet discretionary spending limits for program operations, CMS cut \$15 million from its information technology (IT) funding which delayed several system enhancements. However, it is difficult to quantify the forgone benefit of unfunded initiatives. For example, it is hard to predict the amount of savings CMS could have achieved from eliminating IT redundancies had IT system enhancements occurred. Moreover, budget officials said they could not identify all of the initiatives that CMS will not initiate as a result of funding reductions because program offices may have stopped bringing forward budget requests for new activities due to known budgetary constraints.

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<sup>20</sup>In Medicare, participating providers agree to accept the Medicare payment amount as payment in full and not to collect more than the Medicare deductible or cost-sharing amount from the beneficiary. Providers that choose to receive Medicare payments on a case-by-case basis at a lower Medicare payment amount are considered nonparticipating providers. Nonparticipating providers may charge up to 115 percent of the lower Medicare payment amount for nonparticipating providers. Beneficiaries are responsible for paying the difference between the nonparticipating provider's charge and the Medicare payment amount for nonparticipating providers.

<sup>21</sup>As of January 2011, about 4 percent of physicians who received Medicare payments were nonparticipating.

<sup>22</sup>For example, a prior efficiency initiative re-designed the survey process for dialysis centers. The survey redesign shortened the survey process for surveyors, thus saving money, according to CMS officials.

<sup>23</sup>See Pub. L. No. 111-148, § 6106, 124 Stat. 712 (codified at 42 U.S.C. § 1320a-7)(g)).

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CMS Staffing

The effect of sequestration on CMS's staffing and operations is unclear because CMS has multiple sources of budget authority that may support payroll and benefits. CMS's total full-time equivalents (FTE) increased from 5,926 at the beginning of fiscal year 2013 to 5,959 at the end of the year due in part to targeted hiring for activities related to increased responsibilities, including aspects of health care reform with funding provided by PPACA. For example, PPACA appropriated \$10 billion for activities associated with CMS's Center for Medicare and Medicaid Innovation over 9 years that supported 67 additional FTEs in fiscal year 2013.<sup>24</sup> However, CMS lost 120 FTEs funded through its primary salaries and benefits PPA—the federal administration PPA—and could not fill another 299 vacancies as a result of a hiring freeze it implemented to achieve sequestration reductions without requiring furloughs.<sup>25</sup> CMS staff funded through this PPA carry out the majority of CMS activities, including implementation of the federal health insurance exchanges in 2013. CMS officials said that, in general, CMS offices are experiencing difficulties in terms of staff doing more work with fewer resources. The reduced staff and inability to hire new staff throughout the fiscal year to address increasing workload had a negative effect on operational time frames, according to officials. For example, CMS officials reported that CMS processing times for providers seeking certification for participating in the Medicare program increased from between 1 and 4 weeks to up to 6 months due to the hiring freeze.

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<sup>24</sup>Pub. L. No. 111-148, 3021(f), 124 Stat.119, 394 (codified at 42 U.S.C. § 1315a(f)). The center was established to support the development and testing of innovative health care payment and service delivery models.

<sup>25</sup>Specifically, FTEs attributed to the federal administration PPA declined from 4,827 in March 2013 to 4,707 in October 2013, according to CMS.



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## CMS Sought to Limit Effects of Sequestration on Priority Areas, but Implementation Options Varied by Funding Structure

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### CMS Sought to Limit Effect of Sequestration on Priority Areas

To plan for reductions of CMS's discretionary funding, CMS's Office of Financial Management (OFM), in consultation with the CMS Administrator and HHS budget office, identified high-level priority areas to protect from budget cuts. For example, one spending priority identified by the operating division for 2013 was federal health insurance exchange implementation in those states not electing to operate an exchange or not certified or approved to operate one. When sequestration occurred, CMS determined that it would not cut funding planned for this activity, including from within its discretionary program management account.<sup>26</sup> CMS also prioritized funding for Medicare fee-for-service appeals because, officials said, cuts to these activities could delay their contractors' ability to address appeals and result in increased costs in future years.<sup>27</sup> Officials said funding for the durable medical equipment competitive bidding

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<sup>26</sup>Officials noted that Congress appropriated less than CMS requested to implement aspects of PPACA in fiscal year 2013 and they had already identified contingencies to fund the implementation when sequestration occurred. For example, HHS transferred funding from various accounts to the CMS program management account for this purpose.

<sup>27</sup>The Medicare appeals process provides beneficiaries, providers, and suppliers the ability to dispute Medicare coverage and payment decisions. There are five levels of appeals: the first two are conducted by CMS contractors, the second two are carried out by other entities in HHS, and the fifth by Federal District Court. If CMS contractors are not able to decide level two appeals within 60 days, the appeal may be elevated to the next level. Elevation of appeals to higher level review and adjudication by entities outside of CMS, such as administrative law judges at HHS's Office of Medicare Hearings and Appeals, is more expensive, according to CMS officials. Medicare has experienced large increases in appeals in recent years.

program was also prioritized because CMS attributed savings to the program.<sup>28</sup>

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### Funding Structures and Prior Year Preparations Influenced Sequestration Implementation

CMS officials reported that their options for implementing sequestration reductions varied by the type of funding—discretionary versus direct spending—and application of sequestration rules. According to HHS officials and CMS officials from the Center for Medicare, CMS had no flexibility in implementing the Medicare payment reductions because, with limited exceptions, all payments had to be sequestered and sequestration rules dictated the formula, timing, and limitations on how CMS was to implement the reductions. Officials also reported having to reduce by 7 percent grants made to states after March 1 to establish health insurance exchanges in accordance with OMB’s sequestration guidance for programs with permanent indefinite budget authority.<sup>29</sup> In fiscal year 2013, CMS awarded such grants to 25 states and the District of Columbia, but only those amounts obligated after March 1, 2013 were subject to sequestration, according to officials. Because sequestration began in the middle of the year, officials told us that CMS had to achieve the required reductions for state exchange grants by applying sequestration to the amounts obligated in the remaining months of the fiscal year, requiring it to reduce each grant made after March 1 by 7 percent from the expected amount.<sup>30</sup> Additionally, because the state insurance grants are structured as the only activity within their PPA, CMS could not reallocate the sequester reductions to other activities in order to spare the grants from the reductions.

In contrast, CMS officials told us the operating division had flexibility to implement reductions within the large PPAs contained in the discretionary program management account. In particular, they said that this funding structure provided flexibility within the program operations PPA to move

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<sup>28</sup>GAO, *Medicare: Review of the First Year of CMS’s Durable Medical Equipment Competitive Bidding Program’s Round 1 Rebid*, [GAO-12-693](#) (Washington, D.C.: May 9, 2012).

<sup>29</sup>The affordable insurance exchange grants are made from an appropriation of “an amount necessary” to enable the Secretary of HHS to make awards. 42 U.S.C. § 18031(a)(1).

<sup>30</sup>Sequestration also reduced another PPA of administrative costs associated with these grants by 5.1 percent.

funds around the many activities funded by the PPA, including Medicare fee-for-service claims processing by MACs, contractor administration, federal implementation of health insurance exchanges, provider education, beneficiary outreach, and many other initiatives. For instance, MAC funding through the program operations PPA was reduced by 2.4 percent.<sup>31</sup> This reduction ended up having had no effect on MAC operations because CMS needed less funding than expected in fiscal year 2013 for transition costs for new MACs and the awarding of two MAC contracts scheduled for the end of fiscal year 2013 was delayed until fiscal year 2014 for reasons other than sequestration.<sup>32</sup> The two MACs we spoke to confirmed that sequestration had no effect on their contracts or ability to carry out any activities in their statements of work.<sup>33</sup>

CMS also reported using carryover funds to mitigate the effects of sequestration reductions when available. Through direct spending, funds are available to the Medicare integrity program within the Health Care Fraud and Abuse Control (HCFAC) account without fiscal year limitation, which may result in funds remaining available for obligation during the next fiscal year. According to officials, CMS had enough carryover funds from fiscal year 2012 program integrity activities to offset \$13 million in discretionary fiscal year 2013 sequestration reductions in HCFAC funding for CMS, which minimized the effect on a medical review support contractor, Part D data analysis, and Medicaid and CHIP Business Information Solution project that were slated to lose funding due to sequestration.<sup>34</sup> CMS also used no-year funding remaining available for the Medicare-Medicaid Data Match Project (Medi-Medi)<sup>35</sup> to offset sequestration reductions of the program's fiscal year 2013 funding. According to officials, available carryover balances also mitigated the

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<sup>31</sup>MACs also receive some funding from the HCFAC account.

<sup>32</sup>In fiscal year 2013, the operating division budgeted funds to transition to new MACs in case new contractors were selected during the most recent contracting round, but officials told us that because CMS primarily awarded contracts to existing MACs, they could use the transition funds to offset sequestration cuts.

<sup>33</sup>The statement of work defines the activities to be carried out by the contractor.

<sup>34</sup>Sequestration also reduced HCFAC funding for the HHS Office of Inspector General and the Department of Justice, according to CMS.

<sup>35</sup>Medi-Medi is a joint effort between CMS and states that participate voluntarily to identify providers with aberrant Medicare and Medicaid billing patterns through analyses of claims for individuals with both Medicare and Medicaid coverage.

reduction of an estimated \$2.2 million to CLIA surveys.<sup>36</sup> State survey agencies with which we spoke confirmed there were no reductions to their CLIA activities.

CMS officials noted, however, it is possible that carryover funds will not be available in future years to offset funding reductions to the extent they were in fiscal year 2013. For example, officials reported having used up much of the funding available from prior years for Medicare program integrity.

In addition to using carryover funds, certain offices told us that prior year initiatives helped them respond to the sequestration reductions. Officials in the Center for Medicare began considering how to implement specific percentage reductions to payments for Medicare fee-for-service claims as early as 2008 in response to proposals for Medicare cost reductions. They increased their preparation for sequestration of payments in late 2011. Officials said that these early preparations helped the center implement payment reductions quickly through the various contractors that maintain their payment systems when sequestration occurred. In addition, CCSQ officials told us that, beginning in 2011, officials started a broad-based initiative to improve the efficiency and effectiveness in survey processes as they recognized a significant gap between an increasing workload and the funding amount typically allocated for survey and certification activity. This initiative, including corresponding outreach to state survey agencies, helped CCSQ plan for sequestration in fiscal year 2013.

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<sup>36</sup>CLIA surveys, conducted by state survey agencies, certify clinical laboratories and are funded solely by user fees.

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## Complexity of CMS Programs and Timing of Sequestration Presented Challenges for CMS and Stakeholder Planning and Implementation

CMS officials said that it was difficult and time consuming to determine how to apply sequestration pursuant to the law and within changing budgetary parameters. In particular, CMS had difficulty determining all of the types of Medicare provider payments subject to sequestration and which Medicare funding was subject to special sequestration rules. For example, CMS officials initially thought that subsidies for the Program of All-inclusive Care for the Elderly (PACE) were exempt from sequestration, like certain Medicare low-income subsidy payments.<sup>37</sup> Upon further discussion with OMB late in the planning process, CMS determined that these payments were not exempt and adjusted the plan payments accordingly. Officials said the adjustments accounted for a very small amount of PACE funding. The timing of sequestration and changing budgetary parameters also delayed CMS's ability to make final planning decisions. For example, CMS based its initial sequestration planning decisions on the annualized amount set out in the continuing resolution in effect at the time sequestration was ordered. After the Consolidated and Further Continuing Appropriations Act, 2013,<sup>38</sup> which provided a lower discretionary appropriation base than CMS used to calculate the sequestration reductions, CMS officials said they had to determine how to absorb the same amount of reductions, which then represented a larger portion of the appropriation, in the remainder of the fiscal year.

The timing of sequestration and related CMS guidance created uncertainty for some stakeholders. For example, CCSQ officials told us that they strive to limit uncertainty for states so the states can plan their budget adequately. This was difficult in fiscal year 2013 because sequestration took effect in March, which effectively doubled the percentage cut because it all had to be taken in the second half of the fiscal year. On April 5, 2013, CMS issued a memorandum informing states about sequestration reductions and actions states should take to implement the cuts. Although officials from several state survey agencies we spoke to described the timing of CMS's communication regarding sequestration as the best it could have been, they still faced challenges adjusting their budgets. For example, one state survey agency told us it

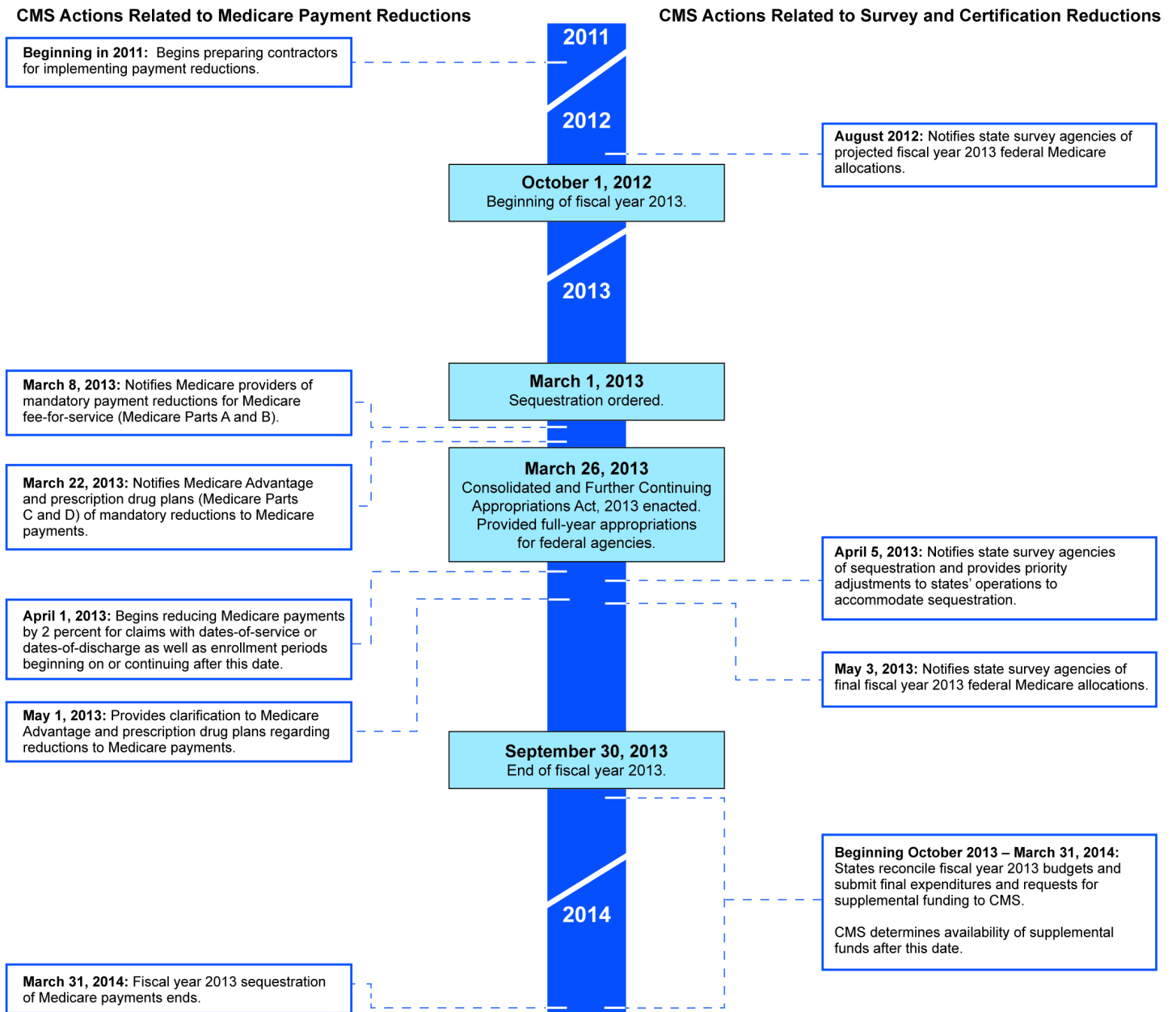
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<sup>37</sup>The PACE program serves frail, elderly individuals with the goal of keeping them in the community rather than long-term care institutions as long as medically and socially possible. Although three subsidies for low-income Medicare beneficiaries are exempted from sequestration by law—qualified individual premiums, Part D low income subsidies, and Part D catastrophic subsidies—PACE subsidies are not. See 2 U.S.C. § 906(d)(7).

<sup>38</sup>Pub. L. No. 113-6, 127 Stat. 198.

received official notice of its allocation amount in May 2013, which left the state very little time to plan for absorbing the cut by the end of the fiscal year in September 2013. CMS informed providers and plans about the Medicare payment reductions following the sequestration order in March. In early May CMS issued additional guidance to Medicare Advantage and prescription drug plans regarding the application of reductions for various plan types. In this communication, CMS noted, for example, that the agency is prohibited from interfering in payment arrangements between plans and providers who contract with them. A hospital representative reported anecdotally that the timing of sequestration and CMS's official communication to providers limited hospitals' time to plan adequately for the reduced payments. In addition, hospital and physician representatives said that CMS's guidance regarding payment reductions was not sufficient for them to understand how cuts were applied without additional clarification. See figure 5 for information on CMS actions related to Medicare payments and survey and certification.

**Figure 5: Timeline of CMS Actions Related to Sequestration of Medicare Payments and Survey and Certification**



Source: GAO analysis of legislation and information from the Centers for Medicare & Medicaid Services (CMS).

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**GAO Contact**

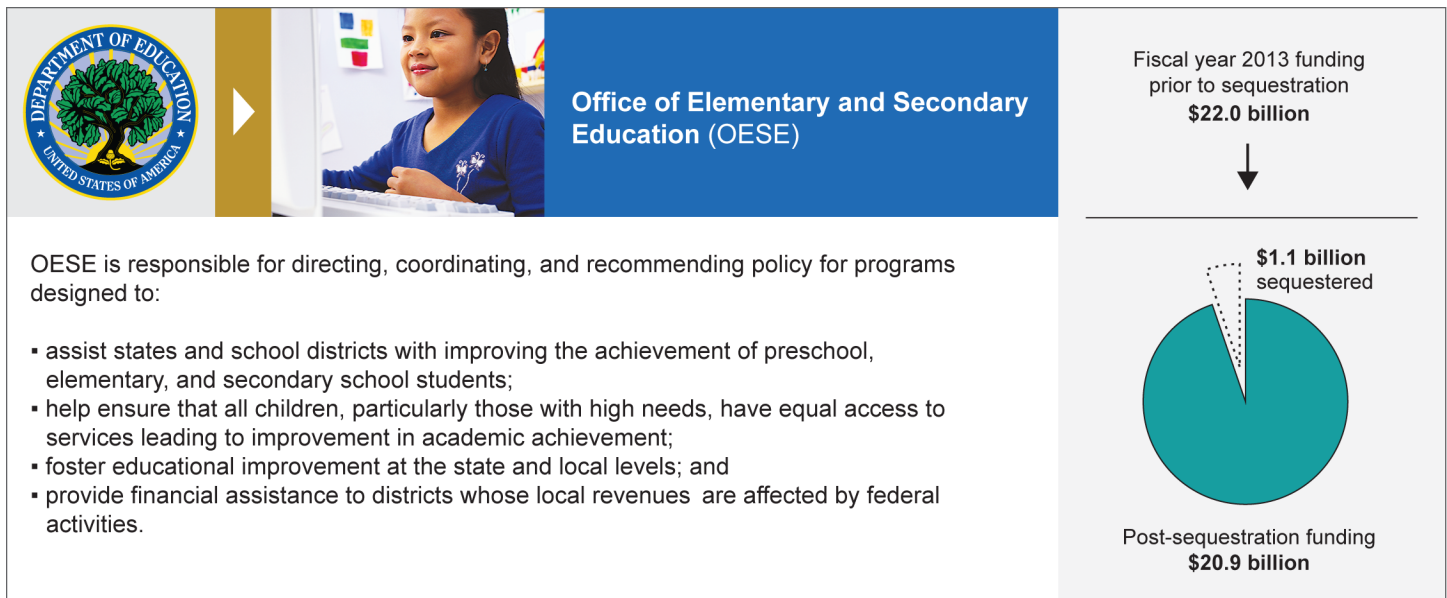
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# Appendix III: Fiscal Year 2013 Sequestration at the Office of Elementary and Secondary Education

## Mission and Budget Overview

**Figure 6: Office of Elementary and Secondary Education Mission and Fiscal Year 2013 Sequestered Funding**



Sources: GAO analysis of Education information; PhotoDisc (image).

Note: Dollar amounts do not add to \$22 billion due to rounding.

A range of programs fall under the purview of OESE, including academic improvement and teacher quality programs, early learning programs, school support programs, and student achievement and school accountability programs. Many of these programs are authorized by the Elementary and Secondary Education Act of 1965 (ESEA),<sup>1</sup> as amended, and programs primarily fund grants to state educational agencies or local educational agencies (LEA) nationwide.<sup>2</sup> Through these programs, federal funds are either distributed to grant recipients based on a predetermined formula, referred to as formula grant programs, or awarded on a competitive basis.

<sup>1</sup>Pub. L. No. 89-10, 79 Stat. 27 (codified as amended at 20 U.S.C. § 6301 *et seq.*).

<sup>2</sup>We use the terms states to refer to state educational agencies and we use the terms districts or school districts to refer to local educational agencies.

To address our research objectives, we identified and reviewed relevant agency documents and budget data for fiscal years 2012 and 2013 and conducted interviews with Education officials to corroborate the information provided. Among the programs administered by OESE, we selected two grant programs—Title I and Impact Aid—to determine how sequestration affected these programs and to collect more in-depth information related to our research objectives. These two programs accounted for about 72 percent of OESE fiscal year 2013 funding prior to sequestration and provide numerous grants to states and LEAs. See Table 5 for an overview of the two selected grant programs.

**Table 5: Overview of Selected Grant Programs Administered by OESE**

Selected programs	Overview	Funding type	Fiscal year 2013 sequestration
Title I	<p>Title I, authorized under Title I, part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, is a formula grant program that provides funding, through states, to LEAs to expand and improve educational programs in schools with high concentrations of students from low-income families.</p> <p>Federal funds are allocated to LEAs through four statutory formulas. The formula for basic Title I grants is generally based on the number of children from families below the poverty level who reside in each LEA, and how much the state spends per pupil on education, among other factors. Title I funds are provided to states, which distribute funds to LEAs.</p>	Discretionary	<p>Funding prior to sequestration: \$14.5 billion</p> <p>Sequestered amount: \$756 million</p>
Impact Aid	<p>Impact Aid, authorized under Title VIII of the ESEA, is a formula grant program that provides assistance to local school districts that are affected by federal activities. Impact Aid grants assist school districts that have lost property tax revenue due to the presence of tax-exempt federal property (section 8002) or that have experienced increased expenditures due to the enrollment of federally connected children (section 8003).<sup>a</sup> Section 8003 provides assistance to districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other federal properties, as well as concentrations of children who have parents on active duty in the uniformed services but who do not live on federal property. Funds are awarded directly to school districts in accordance with a formula specified in the ESEA. The section 8003 formula for allocating funds is generally based on the numbers and types of federally connected children in the district, and other factors. In addition to these basic support payment grants, Impact Aid also includes additional grants, such as those that support construction and repair of school buildings in districts serving high percentages of certain federally connected children as well as grants that provide additional support to districts that educate federally connected students with disabilities.</p>	Discretionary	<p>Funding prior to sequestration: \$1.3 billion<sup>b</sup></p> <p>Sequestered amount: \$67.5 million</p>

Source: GAO analysis of agency documents and budget data.

<sup>a</sup>Federally connected children include children who (a) live on federal property with a parent employed on federal property within the district or with a parent who is an accredited foreign military officer; (b) live on federal property and have a parent on active duty in the uniformed services; (c) reside on Indian lands; (d) do not live on federal property but have a parent on active duty in the

uniformed services or a parent who is an accredited foreign military officer; (e) reside in low-rent housing; (f) reside on federal property but do not fit into the other categories; or (g) do not reside on federal property but have a parent employed on federal property situated in the same state as the district. 20 U.S.C. § 7703(a)(1).

<sup>b</sup>Although the budget numbers in the table include all Impact Aid funding, when we refer to Impact Aid elsewhere in this report, we will only be referring to the Impact Aid grants that provide funding for districts serving federally connected children—section 8003(b), Basic Support Payments (20 U.S.C. § 7703(b)).

We selected Title I because it is the largest grant program administered by OESE,<sup>3</sup> and we selected Impact Aid because funding from this program could make up a significant portion of some eligible districts' overall funding levels.<sup>4</sup> We analyzed data provided by Education on Title I and Impact Aid grants to determine the amount of program funding allocated to states and school districts for fiscal year 2013. To assess data reliability, we reviewed information previously obtained for our agency-level review; asked officials about the source of any information provided and a description of any known limitations or purposes for which the data being provided should not be used; and interviewed knowledgeable officials as needed. We determined these data to be sufficiently reliable for the purposes used in this report. Using grant information and other data, we identified grant recipients that received large amounts of Title I or Impact Aid funding, relied heavily on this grant funding, or both. We then selected a purposeful sample of seven school districts for interviews based on variation in the grant amounts they received, each districts' reliance on grant funding, and geographic location. Because we used a nonrandom, purposeful sample, the results of our analysis of the selected school districts cannot be generalized to other school districts nationwide. Our selected districts included three Title I districts located in Mississippi, Ohio, Texas; and four Impact Aid districts located in Arizona, South Dakota, and Texas. Two of the Impact Aid districts serve military children and the other two serve children residing on Indian lands. In addition, we interviewed two national associations representing states and districts receiving Title I and Impact Aid grants and six state Title I grant administrators.

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<sup>3</sup>20 U.S.C. §§ 6311-6339. Throughout this report we refer to Title I, Part A of ESEA, as amended as "Title I." Part A of Title I addresses improving basic programs operated by local educational agencies.

<sup>4</sup>20 U.S.C. §§ 7701-7714.

## Sequestration Cuts to OESE’s Funding Resulted in Some Reduced Services Provided by Selected School Districts and Hindered Some Administrative Activities

### Cuts to Grant Funding Affected Grant Recipients in Different Ways and Reduced Some Services for Selected School Districts

Sequestration resulted in cuts of about 5 percent to Title I and Impact Aid grant funding that supports services to thousands of school districts nationwide. These sequestration cuts affected grant recipients in different ways and contributed to some reduced services to students. Title I is the largest grant program administered by OESE, with grants issued to over 53,000 schools in districts nationwide in fiscal year 2013.<sup>5</sup> The program provides much of its total funding to districts serving high concentrations of students from low-income families, to provide services to help improve the academic achievement of students in high-poverty schools or students at risk of academic failure (see table 6).

**Table 6: Allocations of Title I Grant Funding for Fiscal Year 2013 by District Poverty Rate**

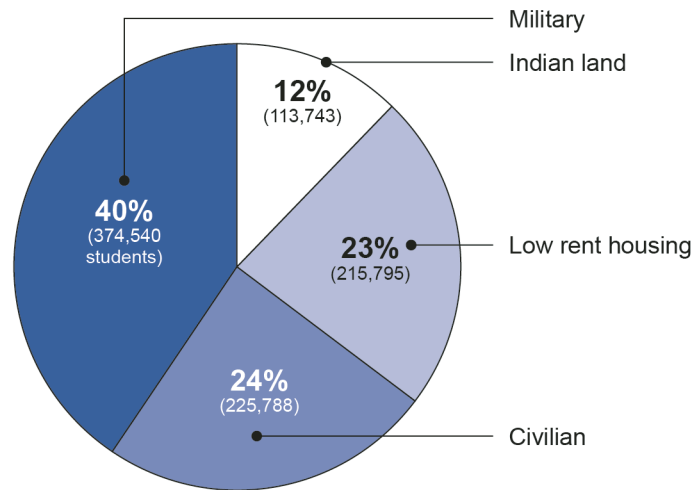
Districts by poverty rate	Number of districts receiving Title I	Total amount of Title I payments by poverty rate	Percentage of total Title I dollars	Number of eligible children by district poverty rate
0-15%	4,866	\$1,610,660	11.94	1,719,375
15-25%	4,611	\$3,737,959	27.21	3,552,850
Over 25%	3,639	\$8,141,872	60.35	6,309,201

Source: Department of Education, fiscal year 2015 budget request.

<sup>5</sup>U.S. Department of Education, *Accelerating Achievement and Ensuring Equity, Fiscal Year 2015 Budget Request* (March 2014).

For Impact Aid, many districts receive funding from this program—a little over 1,100 districts serving almost 930,000 federally connected students nationwide in fiscal year 2013 (see figure 7).

**Figure 7: Percentage of Federally Connected Children in Districts Receiving Impact Aid Nationwide in Fiscal Year 2013**



Source: Department of Education, fiscal year 2015 budget request.

Notes: Percentages do not add to 100 due to rounding.

The “military” category includes eligible children of active duty service members and foreign military officers living on or off federal property.

The “civilian” category includes eligible children living on federal property with a parent who works on federal property within the district, eligible children living off federal property but who have a parent employed on federal property within the state, and children living on federal property but who do not fall into another category. See 20 U.S.C. § 7703(a)(1) for all eligibility criteria.

Effects of sequestration on school districts varied due to the timing of funding disbursements to grant recipients. In general, Title I grant recipients felt the effects of sequestration later than districts that received Impact Aid grants. Specifically, the sequestration cuts affected Impact Aid recipients in school year 2012-2013, while the cuts did not affect Title I recipients until school year 2013-2014. This is, in part, due to when Education disburses funding to states and school districts. Education typically disburses Title I grants to states, for disbursement to school

districts, in July and October each year.<sup>6</sup> Education disbursed some of its Title I fiscal year 2013 funding to states in October 2012, prior to sequestration, for school year 2012-2013. Education then applied the entire amount of the sequestration cuts for fiscal year 2013 to the next grant disbursement, in July 2013, for school year 2013-2014. Therefore, the sequestration cuts did not affect the October 2012 disbursement used for the 2012-2013 school year. In contrast, Education disbursed a majority of the fiscal year 2013 funding for Impact Aid in October and November 2012, during school year 2012-2013, prior to sequestration, and applied the sequestration cuts to grant disbursements made in May 2013.<sup>7</sup> According to Education officials, delaying the cuts from the 2013 sequestration for the larger state grant programs, such as Title I, enabled recipients to plan and may have tempered some of the negative consequences of sequestration.

Another reason sequestration affected districts differently is that the relative importance of Title I and Impact Aid grant funding in districts' budgets varies greatly. School district budgets are generally funded by multiple sources and are determined by many factors, including local taxes, state government contributions, and other federal financial support sources. Moreover, the relative contribution of these resources varies

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<sup>6</sup>In Education's annual appropriation acts, the Title I program typically receives forward funding and an advance appropriation. Forward funding is budget authority that is made available for obligation beginning in the last quarter of the fiscal year for the financing of ongoing activities during the next fiscal year. An advance appropriation is budget authority provided in an appropriation act that becomes available one or more fiscal years after the fiscal year for which the appropriation act was enacted. For example, of the funding provided to carry out Title I in the Department of Education Appropriations Act, 2012, a certain portion was made available on July 1, 2012 (in fiscal year 2012), and another portion was made available on October 1, 2012 (in fiscal year 2013). The funding that was made available on July 1, 2012 was forward funding and the funding that was made available on October 1, 2012 was an advance appropriation. This funding structure was carried forward for fiscal year 2013 in the Consolidated and Further Continuing Appropriations Act, 2013. See Department of Education Appropriations Act, 2012, Pub. L. No. 112-74, div. F, tit. III, 125 Stat. 786, 1090-1103 (2011), Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, div. F, § 1101(a)(4), 1102-03, 127 Stat. 198, 412-13.

<sup>7</sup>Unlike Title I, Impact Aid did not receive forward funding or an advance appropriation in Education's appropriation acts for fiscal years 2012 or 2013. Funding was made available in those acts only for the fiscal year for which the appropriation act was enacted. According to agency officials, Education disbursed Impact Aid funds in increments during fiscal year 2013, with disbursements made in October and November 2012 and May 2013.

among school districts. As a result, the effects of grant reductions from Education vary for grant recipients based on their respective situations, including the availability of other resources to fill any budget gap. While the receipt of Title I grants is widespread among districts, funds from this program generally account for a small portion of most districts' overall funding. Though the proportion can vary by district, for fiscal year 2010, the most recent year for which data are available, Title I made up about 3 percent of total elementary and secondary education funding from all sources nationwide, according to the National Center for Education Statistics. The extent to which districts rely on Impact Aid funding also varies, with one district's reliance as high as 88 percent of its fiscal year 2013 operating budget, according to Education data.

In addition, five of the districts we contacted said that it is difficult to isolate the effects of sequestration cuts solely to Title I or Impact Aid because the districts had also experienced reductions to state funding and to other federal programs and activities due to sequestration. These various state and federal funding cuts the districts experienced have led to reductions in staffing levels, transportation, and school programs, as well as districts having to shift funding from other sources to support programs affected by the cuts, according to district officials. For example, officials from all of the selected districts that received Title I or Impact Aid grants mentioned how the districts had experienced reductions to their state funding prior to sequestration. In one case, district officials told us that, prior to sequestration, from 2010-2012, the district had to lay off teachers in order to balance the district's budget after the state cut funding to education; however, additional local tax revenue allowed the district to avoid further layoffs when sequestration occurred. Related to reductions to other federal programs and activities, officials from one district reported that in addition to Impact Aid, the district also experienced funding cuts to other federal programs due to sequestration such as special education, vocational education, Indian education, and Title I, among others. While this district received about 25 percent of its funding from Impact Aid, the other federal funding sources contributed an additional 23 percent to its total budget in fiscal year 2013. In another example, an Impact Aid district we contacted reported that the Department of Defense cut funding to bus routes, among other things, which the district was then forced to fund, placing a further strain on the district's budget.

Even though sequestration cuts affected grant recipients in different ways and the effects are difficult to isolate, we found from our interviews with state officials and the seven school districts we contacted that cuts from

Effects on Select LEAs  
Receiving Title I

sequestration had contributed to some extent to reductions in services to students.

Title I funding comprised between 5 and 18 percent of the budgets of the three Title I districts we selected. Even though this was not a large percentage of the districts' budgets, cuts to Title I funding contributed to decisions to reduce staff positions and professional development opportunities, reduce or delay academic programs, and defer maintenance and technology upgrades, according to the officials we spoke with.<sup>8</sup> Specifically, for the three Title I districts we contacted, officials provided this information:

- One Title I district reported that cuts to Title I funding contributed to decisions to reduce staffing levels by not filling vacated positions in certain areas. Officials told us that the loss of funding contributed to the decision to reduce the number of reading and math specialists which provide extra instruction to students and assist teachers in improving their teaching methods. Since this district has a large population of low income students, officials were concerned that the loss of these specialists could cause students in need of additional tutoring to fall further behind.
- Officials from two of the selected districts told us the funding reductions contributed to decisions to reduce professional development opportunities for their staff. Officials from one of the districts thought these reductions could affect teaching staff preparedness in advance of implementing new academic standards, which would then affect the instruction that the district's students received.
- Two districts reported that Title I reductions contributed to decisions to reduce or delay some academic or after-school programs. For example, one district reported that the loss of funding contributed to the decision to reduce after-school programs, while officials from another district told us the reductions contributed to the decision to delay implementation of new academic programs designed to improve the district's academic performance.

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<sup>8</sup>We asked school district officials to identify specifically the effects of sequestration. However, as previously discussed, it is difficult to isolate these effects due to other federal and state funding reductions. In addition, because of the statutory formula for Title I, a reduced Title I allocation could be a result of factors other than sequestration, such as decreases in the formula count of children or reduced state per pupil expenditures.



Effects on Select Districts  
Receiving Impact Aid

- All three Title I districts reported that Title I reductions contributed to decisions to defer maintenance and technology upgrades.<sup>9</sup> For example, officials from the three districts said their district delayed technology upgrades with one official describing the district technology as aging.

Impact Aid funding represented anywhere from 15 to 35 percent of the total budget of the four Impact Aid districts we selected. District officials told us that they had to take a number of steps to absorb the reductions in Impact Aid. Two of these selected districts are located entirely on federal lands, while federal lands made up 80 percent of a third district, according to officials from each of the respective districts. As a consequence, these districts do not have a local tax base to mitigate the loss of federal funding. According to district officials, to absorb the cuts to Impact Aid in the 2012-2013 school year they had to reduce staff positions and professional development opportunities, increase class sizes, reduce school programs, defer maintenance and technology upgrades, and reduce transportation. Specifically, for the four Impact Aid districts we contacted, officials provided this information:

- Three districts reported that they had to reduce staffing levels, primarily through attrition and not filling vacated positions, including those for teachers and aides. Officials from one of these districts reported having to reduce their instructional staff positions by 14 full-time equivalents. Officials from these districts told us that they primarily reduced staffing levels by not replacing departing staff.
- Four of the districts reported having to reduce professional development opportunities. One district official told us that, as a consequence, there was concern the district will be unable to support its teachers during a time when the official thought there were sizable changes in the expectations for how the teachers delivered instruction.
- Three districts reported having to increase class sizes. For example officials from one of the districts reported increasing elementary school classes by an average of two or three students.
- Three of the selected districts told us they reduced school programs, which included reductions to art, music, or athletic programs. For

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<sup>9</sup>While Education officials said that Title I funds may not be used to directly fund some activities, such as capital improvements, officials from two districts said that the reductions to Title I grants caused them to shift available funds according to the districts' needs, which may have contributed to the effects district officials described to us.

example, officials from one of the districts on Indian lands told us that they reduced the program teaching the Navajo language and culture—a program that is in high demand in their district.

- Four districts reported needing to defer maintenance and technology upgrades because of sequestration. For example, officials from one district reported that they were only performing emergency maintenance. In addition, these officials reported that deferring maintenance on a roof at one of the high schools led to flooding in three of the classrooms. In another example of deferred maintenance, district officials from another district told us they reduced funding for maintenance on their large fleet of buses. These officials told us that they were concerned about the reductions in maintenance because the bus routes cover a large geographic area over sections of unfinished roads, which places a strain on the bus fleet. In addition to deferring maintenance, officials from this district also described deferring upgrades to the district's technology. Officials expressed concern over the district's ability to implement new educational standards and assessments without the upgrades considering that the new standards rely on using technology.
- Two of the selected districts reported reducing or eliminating transportation routes, though for one of the districts state cuts from prior years also contributed to this decision. These districts also said that as a consequence of route reductions and eliminations, some students travelled further to reach their bus pickup points which, for one district, caused students to miss school. One district also reported that the district had to eliminate bus routes for students who attended after-school tutoring and academic enrichment programs.

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### Sequestration Further Reduced OESE's Staffing Levels and Hindered Some Grant Administration Activities

Agency-wide cuts in administrative expenses due to sequestration resulted in reduced OESE staffing levels and required OESE to spend less on travel and other expenses, which OESE officials said led to increasing workloads for staff and reductions in some grant oversight activities. For example, according to OESE officials, decreases in hiring since 2011,<sup>10</sup> which were exacerbated by sequestration, have led to increased workload for current staff and may have contributed to staff

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<sup>10</sup>According to Education officials, the agency had been reducing its administrative spending, including reductions to administrative spending for OESE, since it finished awarding all the funds appropriated under the American Recovery and Reinvestment Act of 2009 at the end of fiscal year 2010.

burnout. Overall, OESE lost 10 staff positions in fiscal year 2013, resulting in a total of 233 staff by the end of the fiscal year.

OESE also reported that from fiscal year 2012 to fiscal year 2013 it experienced a 47 percent reduction to its travel budget,<sup>11</sup> which affected its ability to conduct grantee oversight and technical assistance. For example, according to OESE officials, due to sequestration cuts, they had to conduct about four to five fewer on-site compliance reviews for the Impact Aid program in fiscal year 2013, which also reduced the amount of technical assistance that would have been provided to grant recipients by way of these reviews. Officials said that while some grant oversight and technical assistance can be done remotely, it is also necessary to be on the ground to review actual documents for compliance reviews and to build strong working relationships with grantees. Additionally, OESE officials said they offered technical assistance via webinars to assist grantees or grant applicants in lieu of on-site visits or attending technical conferences. However, officials were concerned that applicants may be more comfortable asking questions privately rather than during a webinar session with other grantees listening in on the conversation. As a result of these changes to OESE's delivery of technical assistance, officials were concerned, for example, that there could be an increase in late Impact Aid grant applications in the future, which could subject grantees to a penalty and reduce their funding. The reductions to the travel budget also reduced OESE's ability to provide general outreach, such as by presenting at conferences and sending staff to conferences for training, among other travel needs.

Overall, OESE officials were not certain whether they could determine the extent to which sequestration has affected OESE's progress toward achieving some of its performance and priority goals because achievement of some goals are dependent on many factors, such as the actions of states or school districts, as well as budgetary resources. For example, one of the agency's priority goals for elementary and secondary education, which is supported by some OESE programs, is to improve learning by ensuring that more students have an effective teacher. Education's target goal is that a majority of states will have developed and adopted statewide requirements for comprehensive teacher and

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<sup>11</sup>According to Education officials, OESE's travel budget declined from \$822,000 in fiscal year 2012 to \$436,000 in fiscal year 2013.

principal evaluations and support systems, and at least 500 school districts will have implemented these evaluations and systems, by September 30, 2013. The agency's fiscal year 2013 Annual Performance Report released in March 2014 showed that while the agency has results for one of three metrics related to this goal,<sup>12</sup> results for the remaining two metrics were forthcoming, pending the release of state progress reports. Furthermore, the report cited challenges, which could be unrelated to federal budget constraints, that could hinder the achievement of this priority goal including districts' and states' current fiscal situation; potential changes in leadership; scaling up of systems in a relatively short time frame; and coordination among the agency's programs to ensure consistency of policy and communication.

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## To Plan and Implement Sequestration, OESE Followed Agency-Wide Protocols, While Specific Grant Requirements Limited Its Flexibility in Allocating Grant Funds

In response to sequestration, OESE followed the plan set out by Education, which included the reductions in Education's overall administrative accounts and OESE's grant programs. OESE officials told us that planning for sequestration started at the top of the agency and filtered down to the agency's components. Officials told us they were informed about Education's budget plans in a series of meetings with the agency's budget office.

Due to sequestration, officials told us OESE reduced staffing by limiting the hiring of new staff to replace those that departed. Officials told us they were required to follow a process implemented agency-wide for approving personnel actions in which components within the agency were to submit hiring plans for approval that prioritized proposed personnel actions along with a description of the effects of not fulfilling the proposed positions. The Office of Management, the Budget Service, and the Office of the Deputy Secretary were required to coordinate in approving high-priority personnel actions while also allowing the agency to operate within sequestration budget levels. OESE officials told us this meant that OESE, in some cases, replaced senior level staff with lower paid entry level staff in order to allow the agency to fill more of the vacated positions. By implementing this agency-wide personnel action, along with other actions

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<sup>12</sup>U.S. Department of Education, *Fiscal Year 2013 Annual Performance Report and Fiscal Year 2015 Annual Performance Plan* (March 2014). For one metric, the results showed that 23 states (out of a target of 26) had approval for evaluation system guidelines at the end of fiscal year 2013.

to achieve administrative savings, Education avoided furloughs in fiscal year 2013.

While there were staff reductions, officials told us that OESE received more funding for training in fiscal year 2013 in order to better prepare staff for working with fewer resources. Officials described how OESE developed a needs assessment for individual staff and, then, if the assessment identified an area of need that affected that staff member's performance plan, OESE prioritized training to address that need. Overall, officials thought OESE would be stronger in the long run because of the commitment to training their staff.

OESE officials said they followed certain priorities in implementing the sequestration cuts to grants awarded through a competitive process. For these grants, OESE officials said, agency regulations generally require components to prioritize funding of existing grants over new grants. As a consequence, officials overseeing these grant programs only awarded new grants if there were funds remaining for the program after all of the existing grants were funded. Officials then had the option to fund new grants to qualified applicants remaining from the previous year. Officials could also open a grant to new competition if there were not sufficient numbers of qualified applicants from the previous year or if the grant program had a new policy priority. Agency officials could not quantify how many fewer competitive grants were issued due to sequestration. By contrast, OESE had limited flexibility in determining how to allocate reductions to formula grants, such as Title I or Impact Aid, because specific eligibility criteria and formulas for allocating grant funds are established by law and Education is required to provide funds to grantees that meet the statutory criteria.<sup>13</sup>

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<sup>13</sup>Title I allocations to districts are generally based on the number of students from families below the poverty level who reside in each LEA and how much that state spends per pupil on education, among other factors. Similarly, the Impact Aid statute allocates grant funding based on a variety of factors, including the number and type of federally connected children as well as how much that district spends per pupil on education. Other statutory provisions include "hold harmless" and "minimum state grant" requirements. For Title I, for example, the hold harmless provision requires that an eligible LEA receive a minimum percentage of that LEA's grant total from the previous year, depending on the LEA's school-age poverty rate. 20 U.S.C. § 6332(c). The Title I minimum state grant provisions require that each state receive a minimum grant amount, generally expressed as a percentage of the total amount allocated to states, among other factors. See, e.g., 20 U.S.C. §§ 6333(d), 6335(e).

As part of implementing sequestration of the Title I and Impact Aid programs, OESE officials said they informed grantees about sequestration by disseminating information on the potential reductions through advocacy organizations and states. According to officials, OESE disseminated information to grantees whenever the information became available through a variety of means including the National Association of Federally Impacted Schools (NAFIS), an advocacy organization representing districts receiving Impact Aid, and the National Council for Impacted Schools. OESE also communicated with state educational agencies, such as through each agency's chief state school officer. In addition, OESE officials disseminated information through Education's relevant e-mail list. As an example of how grant recipients were informed about sequestration, in a July 2012 letter Education informed the chief state school officers of the potential timing of the sequestration for formula grant programs to help the states plan for sequestration, should the reductions occur. Specifically, among the grants referenced, the letter informed the chief state school officers that districts receiving Impact Aid would absorb their funding cuts during the 2012-2013 school year, while for Title I districts sequestration would not be implemented until the 2013-2014 school year. Both representatives from NAFIS and select state representatives we spoke with through the National Title I Association confirmed having received this communication from Education. The chief state school officers also provided examples of other communication from Education, but also noted that, while Education provided what information it could to help with planning, it was difficult to predict final funding levels due to the complexity of the Title I formula.

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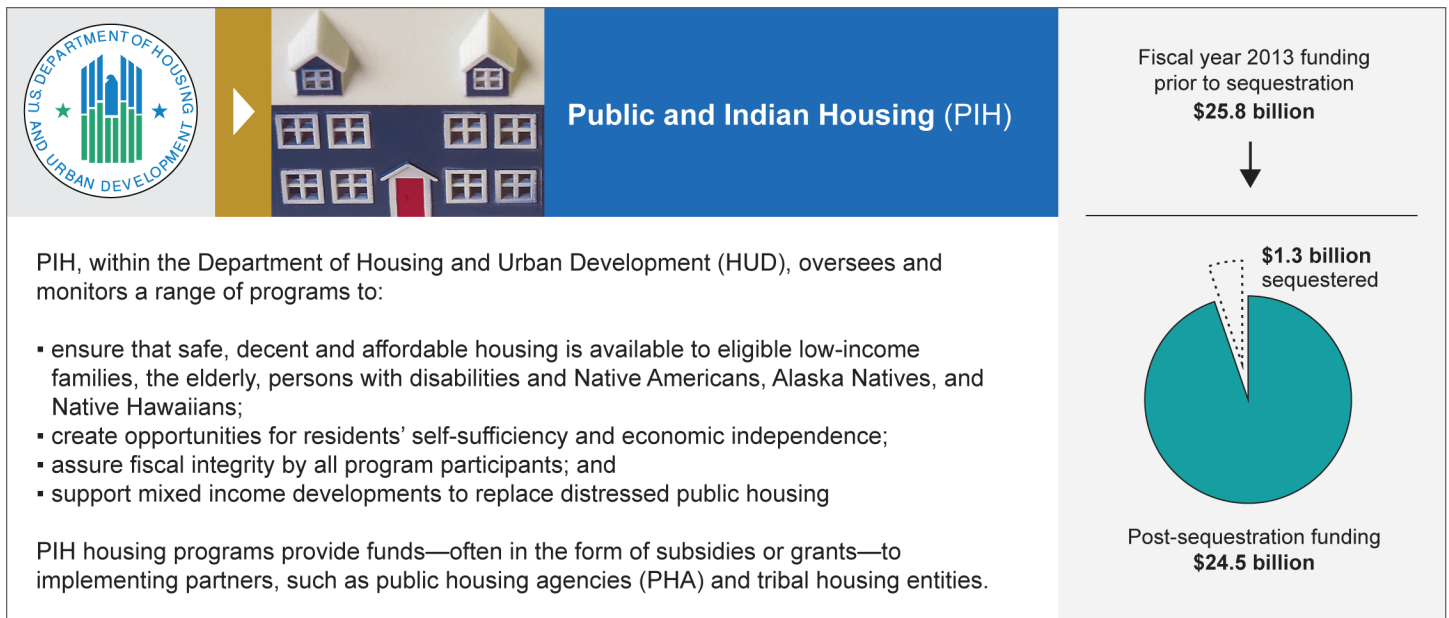
## GAO Contact

For additional information, contact Melissa Emrey-Arras at (617) 788-0534 or [EmreyArrasM@gao.gov](mailto:EmreyArrasM@gao.gov).

# Appendix IV: Fiscal Year 2013 Sequestration at the Office of Public and Indian Housing

## Mission and Budget Overview

**Figure 8: Office of Public and Indian Housing Mission and Fiscal Year 2013 Sequestered Funding**



Sources: GAO analysis of HUD information; Comstock (image).

Within PIH, we selected three programs to collect more in-depth information related to our research objectives (see table 7). We selected the Housing Choice Voucher program and the Public Housing Operating Fund because they are the two largest programs by funding within PIH and serve a large number of very low-income households. We selected the Indian Housing Block Grant (IHBG) program because it is the largest program by funding within PIH primarily serving Native Americans.

**Table 7: Overview of Selected Public and Indian Housing Programs**

<b>Selected programs and activities</b>	<b>Overview</b>	<b>Funding type</b>	<b>Fiscal year 2013 funding</b>
Housing Choice Voucher program	The voucher program subsidizes private-market rents for approximately 2 million low-income households. HUD pays landlords a subsidy that generally is equal to the difference between the unit's rent and 30 percent of the recipient household's adjusted income. HUD also pays an administrative fee, based on a formula, to about 2,300 local public housing agencies (PHA) to manage the program.	Discretionary	Funding prior to sequestration: \$18.9 billion <sup>a</sup> Sequestered amount: \$938 million
Public Housing Operating Fund	Through the operating fund, HUD provides subsidies for operating and maintaining public housing to about 3,100 PHAs, which administer the subsidies on HUD's behalf. The housing agencies provide public housing for approximately 1.1 million low-income households.	Discretionary	Funding prior to sequestration: \$4.3 billion <sup>b</sup> Sequestered amount: \$199 million
Indian Housing Block Grant program (IHBG)	Through IHBG, HUD provides formula grants to 571 eligible Indian tribes or their tribally-designated housing entity (TDHE) for a range of affordable housing activities, including housing development, assistance for housing developed under the program's predecessor, and housing services for eligible families and individuals.	Discretionary	Funding prior to sequestration: \$649 million Sequestered amount: \$33 million

Source: GAO analysis of HUD documents and budget data.

<sup>a</sup>\$253 million of the program's funding, which was for HUD-Veterans Affairs Supportive Housing, was exempt from sequestration.

<sup>b</sup>On March 1, 2013 OMB calculated the sequestrable base and reduction amounts based on the annualized amount set out in the continuing resolution then in effect (\$4.0 billion). On March 26, 2013, the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, 127 Stat. 198, 434 (2013), was enacted, providing increased funding for the Public Housing Operating Fund (\$4.3 billion). This additional funding was not subject to sequestration.

To obtain information on the steps HUD took to plan for and implement sequestration, we interviewed officials from PIH, including officials from the Offices of Housing Voucher Programs, Public Housing Programs, and Native American Programs. To assess the effect of sequestration on the number of households served by the voucher program and the number of public housing units operated and to assess the effect of sequestration on PHA reserve levels, we analyzed HUD data from 2011 to 2013 for these programs. We assessed the reliability of these data by reviewing agency data documentation, interviewing officials, and testing for missing values, outliers, and obvious errors. We determined these data to be reliable for the purposes of this report. To obtain information about the steps PHAs took to implement sequestration for the voucher program and the public housing program, we interviewed officials from four PHAs, two national associations of PHAs, and the National Low Income Housing Coalition. We selected the PHAs to provide diversity in size, geographic location, and use of set-aside funding to avoid terminations in their voucher



program. To obtain information about the steps tribes and tribally designated housing entities (TDHE) that receive IHBG funding took in response to sequestration, we interviewed officials from four tribes or TDHEs and two associations of tribes and TDHEs.<sup>1</sup> We selected the first IHBG recipient in each quartile of grant funding based on fiscal year 2014 grant amounts.<sup>2</sup>

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## Sequestration Reduced the Number of Households Receiving Rental Assistance, Housing Agencies' Reserves, and Maintenance and Other Housing Services

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<sup>1</sup>A TDHE is either (1) a former Indian Housing Authority that managed Native American housing programs under the U.S. Housing Act of 1937 Act that continued operations to meet the requirement of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) or (2) a new nontribal government entity authorized by one or more tribes to receive grants and provide affordable housing assistance for Native Americans under NAHASDA.

<sup>2</sup>The PHAs we selected were the Alexandria Redevelopment and Housing Authority, the Berkeley Housing Authority, the New York City Housing Authority, and the Omaha Housing Authority. The national associations of PHAs we selected were the Council of Large Public Housing Authorities and the Public Housing Authorities Directors Association. The tribes and TDHEs we selected were the Interior Regional Housing Authority, the Navajo Housing Authority, the Northern Circle Indian Housing Authority, and the Penobscot Indian Nation Housing Authority. The associations of tribes and TDHEs we selected were the National American Indian Housing Council and the United Native American Housing Association.

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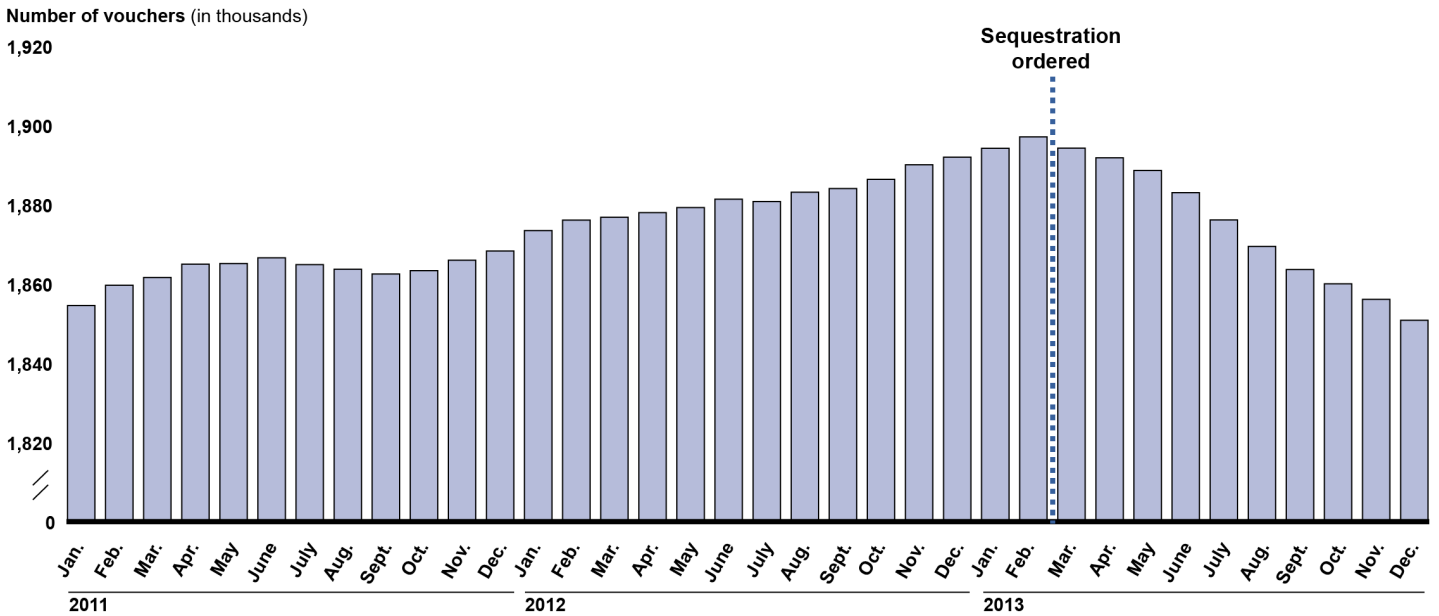
The Number of  
Households Receiving  
Vouchers Declined Even  
As PHAs Used Voucher  
Reserves to Mitigate  
Effects

HUD data indicated that about 1.86 million very low-income households were receiving rental housing assistance through the Housing Choice Voucher program at the end of calendar year 2013, a decline of about 41,000 (2.2 percent) compared to the end of calendar year 2012, primarily due to sequestration (see figure 9).<sup>3</sup> HUD officials told us that PHAs generally reduced the number of households that received assistance by not re-issuing vouchers made available by households that left the program rather than by terminating vouchers of current recipients.

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<sup>3</sup>In March 2014, we reported that HUD estimated that the decline would be about 42,000, but final data were not yet available. See [GAO-14-44](#), 117. Very low-income households are those with incomes at or below 50 percent of the area median income. HUD provides funding to PHAs on a calendar year basis. These figures are based on data reported by PHAs. The data exclude 35 PHAs (1.5 percent of PHAs that administer vouchers), accounting for 13 percent of vouchers leased through the Housing Choice Voucher program in 2013, that have additional flexibility in how they spend their funding through the Moving to Work demonstration program. Through the demonstration program, these PHAs can change the proportion of funding that they allocate to vouchers over time, meaning we cannot determine whether declines in vouchers for these PHAs were due to sequestration or reallocation of funding between programs. Some of the funding for the program could only be used for new special-purpose vouchers, such as vouchers for veterans or the disabled. Because there were 26,000 new special-purpose vouchers in 2013, the net decline in vouchers from 2012 that were renewed in 2013 was 67,000.

**Figure 9: Number of Households That Received Rental Assistance in the Housing Choice Voucher Program, January 2011 to December 2013**



Source: GAO analysis of HUD data.

Note: The data in the figure exclude 35 PHAs (1.5 percent of PHAs that administer vouchers), accounting for 12 percent of vouchers, that have additional flexibility in how they spend their funding through the Moving to Work demonstration program. Because this demonstration program allows them to change the proportion of funding they allocate to vouchers over time we cannot determine whether declines in vouchers for these PHAs were due to sequestration or reallocation of funding between programs.

Some of the households participating in the rental assistance program also faced higher costs and other challenges in 2013 because some PHAs reacted to the sequestration cuts by increasing minimum rents, decreasing inspections of units, or reducing utility allowances.<sup>4</sup> With their funding reduced, three of the PHAs we interviewed also reported taking steps to reduce costs they incurred when a household receiving rental

<sup>4</sup>Under statute, the highest minimum rent a PHA can impose is \$50. See 42 U.S.C. § 1437a(a)(3)(A). Statute also requires PHAs to inspect units when initially leased and annually, but regulations allow PHAs to inspect units more frequently than required. See 42 § U.S.C. 1437f (o)(8); 24 C.F.R. § 982.405.

assistance moved to an area covered by a different PHA or vice versa.<sup>5</sup> For example, one PHA did not continue to provide rental assistance if a household moved to a higher-cost area. These PHA actions can make it more difficult for households to maintain their benefits when moving.

Aggregate PHA voucher reserves decreased 46 percent from \$1.3 billion in December 2012 to \$709 million in September 2013. The reserves are funds these agencies have accumulated from prior appropriations and which they generally use to fill funding shortfalls if program expenses are higher than expected. PHAs used these reserves to mitigate some of the effect of sequestration on the number of vouchers they administered. However, PHA program reserves for vouchers had been reduced by \$650 million in the aggregate in 2012 because of reductions in HUD's fiscal year 2012 funding.<sup>6</sup> As a result of the reduced reserves from that action and the subsequent sequestration cuts in fiscal year 2013, PHAs will have reduced capacity to mitigate effects of any funding cuts in future years. As of the end of September 2013, the most recent month for which data were available, PHAs had on hand reserves adequate to fund an average of 0.5 months of voucher expenses, compared to 0.9 months in December 2012. Also by the end of September 2013, 165 PHAs had exhausted their reserves, compared with 84 PHAs in the same situation at the end of 2012.

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<sup>5</sup>In general, a household can use its rental assistance voucher for a unit of its choice, including one located outside the jurisdiction of the PHA that initially issued the voucher. The receiving PHA can choose whether to absorb the household and pay for the voucher with its own funds, or to bill the initial PHA. However, HUD regulations allow a PHA to deny a household to move its voucher if the receiving PHA will not absorb the household and the initial PHA lacks sufficient funding for the move. See 24 C.F.R. § 982.314.

<sup>6</sup>PHA reserves for vouchers were generally reduced to about 1 month of expenses.

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## The Number of Public Housing Units Did Not Substantively Decrease, but PHA Cost-Cutting Measures Affected Families and Public Housing Reserves Declined

Although sequestration did not substantively reduce the number of units of public housing available, it necessitated that PHAs draw down on their reserves for these programs. None of the PHAs we interviewed told us that sequestration reduced the total number of units operated (either occupied or vacant). HUD data showed that the total number of public housing units operated declined from December 2012 to December 2013 by about 6,000 (0.5 percent), to 1.151 million. HUD officials attributed this decline to the general deterioration of units due to funding in recent years being lower than needed to repair and maintain all units, which was extended and deepened by the effects of sequestration.

Stakeholder groups told us that the time necessary to prepare units for occupancy by new residents after others vacate has increased as a result of cuts in spending on maintenance staff, which also led to lower utilization of units and fewer people served. However, HUD data showed that the average occupancy rate for units remained at 96 percent throughout 2013.

Other steps PHAs took to reduce costs in the aftermath of sequestration also negatively affected families residing in public housing. For example, two PHAs we interviewed increased the case loads for their staff, and two PHAs reduced their office hours, both of which could reduce the level of service provided to families. In addition, two PHAs we interviewed took longer to complete maintenance or repairs, and two canceled some ancillary tenant programs, both of which HUD officials told us could negatively affect a PHA's performance and scores in HUD's assessments of resident satisfaction and management.

To mitigate the effects of sequestration, two PHAs reported that they drew down reserve funds maintained to address public housing operating fund shortfalls. PHAs need a reserve level equal to 4 months of operating expenses to obtain the highest possible score in HUD's assessments of PHAs' financial health. Although PHAs had \$4.3 billion (about 8 months of total operating expenses) in such reserves as of the end of their fiscal

year in 2012, their level of reserves varied.<sup>7</sup> For example, 16 percent of PHAs, accounting for about 21 percent of units operated, had less than 4 months of operating expenses in reserves. Further, 3 percent of PHAs, accounting for 6 percent of units operated, had less than 1 month of operating expenses in reserves. HUD officials told us that continued funding cuts could cause larger declines in the number of units of public housing operated as some PHAs deplete their reserves.

Data reflecting the amount of reserves PHAs held at the end of calendar year 2013, which would reflect the effects of sequestration, were not available in time for this report. Further, PHAs whose fiscal year ended at the end of June or September were affected in the same fiscal year both by sequestration as well as a \$750 million reduction in reserves in fiscal year 2012 that resulted from a reduction in HUD's appropriation. This would prevent a determination of how much of any decline in reserves in the PHAs' fiscal year was due to sequestration even after the data are available.

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### Carry-Over Funding and Reserves Mitigated the Effects of Sequestration for Some Indian Housing Block Grant Program Grantees

Representatives from all four of the tribes and TDHEs we interviewed told us that sequestration did not have a large effect on their activities in 2013 because the entities typically carry over some previous year funding or still had reserves available from the predecessor to the IHBG program. As a result, they were able to draw on these funds to offset sequestration's cuts and complete planned projects or activities in 2013. However, three said that sequestration would reduce the activities they could conduct in future years because they would be carrying over fewer funds at the end of fiscal year 2013. In addition, HUD officials told us that not all tribes and TDHEs had carry-over funding or reserves on which they could rely. Of the 361 tribes and TDHEs that received IHBG funding in 2013, 61 applied for and received interim funding from HUD prior to receiving their final funding, for which having no carry-over funding or reserves was a

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<sup>7</sup>PHAs report their level of reserves to HUD at the end of their respective fiscal years, which vary (end in different quarters). As a result, the amount of reserves in HUD's data represented different points in time for different PHAs. PHAs with a fiscal year ending in one of the first three quarters of 2012 may still have been depleting their reserves as part of a \$750 million reserve offset in 2012 after they reported their reserves at the end of their fiscal year in 2012, and thus their level of reserves would have been lower than the data show at the end of calendar year 2012.

requirement.<sup>8</sup> According to a HUD official, the number of tribes and TDHEs without carry-over funding or reserves was likely higher than 61, as not all tribes and TDHEs that were eligible for interim funding may have applied.<sup>9</sup>

Representatives from tribes and TDHEs told us that the federal budget process for fiscal year 2013 created challenges for budget planning because they did not know the full amount of their grants under IHBG until several months into the calendar year. While HUD released approximately \$39 million in interim funding from January through May to tribes and TDHEs that would have exhausted their reserves and carry-over funding, recipients did not know their final fiscal year 2013 grant amount until May 20, 2013.<sup>10</sup> By comparison, in 2012, HUD notified tribes and TDHEs of their final grant amount on January 18. HUD began to provide final funding to tribes and TDHE's on June 18, 2013. Staff from two IHBG recipients and two tribal housing associations told us that the funding delays created challenges or uncertainty. For instance, according to one association, in some cases construction plans were delayed or halted or construction-related contracts had to be renegotiated.

Some IHBG recipients were more severely affected than others because sequestration reduced the portion of the IHBG grant formula that is based on estimated tribal needs. Under the IHBG formula, funding is first allocated for operating and modernizing units developed under the predecessor of the IHBG program, and the remaining funding is then allocated based on tribes' needs for additional affordable housing.<sup>11</sup> As a result, the need-based component of the formula funding was reduced by

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<sup>8</sup>The number of tribes and TDHEs that received funding in 2013 is lower than the 571 tribes eligible to receive IHBG funding because some tribes choose to have the same TDHE administer their funding and some tribes choose not to receive IHBG funding.

<sup>9</sup>Although HUD had data on carry-over funding for tribes and TDHEs, the agency did not have data on reserves maintained by these entities, which prevented a complete count.

<sup>10</sup>In a letter of March 12, 2013, HUD notified tribes and TDHEs that their allocations would be reduced by 5 percent and that they would be notified at a later date as to the exact effect on their allocations.

<sup>11</sup>The amount of IHBG funding that Indian tribes receive is based on two components: (1) the cost of operating and modernizing units, and (2) need. The need component consists of seven factors that include the grant recipient's American Indian/Alaskan Native population and the number of households within that population that fall in certain low-income categories.

9 percent to achieve the overall reduction in funding due to sequestration of 5 percent. Therefore, tribes whose funding primarily comes from the need-based component of the formula, because they have proportionately fewer housing units developed under the predecessor of the IHBG program, received a larger cut in funding. Officials from one IHBG recipient we interviewed said that sequestration exacerbated the decrease in the need portion for their small tribes, which consequently limited the services they provided to families.

Sequestration also contributed to HUD delaying reviews and decreasing services to tribes. For instance, although HUD regulations required a review of the formula to apportion IHBG grants by May 2012, HUD officials said they had not completed this review because of effects on the agency from lower funding in recent years, continuing resolutions, and sequestration cuts.<sup>12</sup> HUD has begun taking some actions to assess the formula, including establishing an Allocation Formula Negotiated Rulemaking Committee and holding public meetings with tribes in August and September 2013. HUD officials said they anticipate holding another meeting in spring 2014 to continue negotiating the IHBG formula but do not know when the new formula will be completed because of the numerous steps involved in the process.

In another example, staff from HUD's Office of Native American Programs (ONAP) said the general hiring freeze the agency implemented in response to sequestration limited the office's ability to replace several senior staff who retired. The staff had no estimate of when those vacancies would be filled. Moreover, representatives of two of the IHBG recipients and one tribal housing association told us of delays and other difficulties contacting HUD staff, which they attributed to turnover in ONAP and other effects of sequestration. For example, one tribe reported delays in receiving needed approvals on a new construction project from

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<sup>12</sup>HUD regulations required the IHBG formula to be reviewed by May 21, 2012 to determine if a subsidy is needed to operate and maintain NAHASDA units or if any changes are needed in respect to funding under the formula's component for the cost of operating and modernizing units. See 24 C.F.R. § 1000.306(b). In addition, federal statute requires HUD to review IHBG regulations, which include regulations related to the IHBG formula, at least once every 7 years. See 25 U.S.C. § 4116(b)(2)(D). This requirement was enacted on October 14, 2008; as a result, the first review is required by October 14, 2015. In December 2012 HUD updated the IHBG regulations, except the portions related to the formula.



its ONAP regional office. According to the tribe, the delays hindered the project's progress, resulting in protracted timelines.

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## HUD Took Personnel and Program Actions to Implement Sequestration and Limit Effects on Families

In response to the budget reductions resulting from sequestration, HUD planned and implemented several department-wide personnel actions that applied to PIH.<sup>13</sup> PIH employees, along with most other HUD employees, were furloughed for 5 days, saving PIH about \$3.5 million. HUD initially planned to furlough employees for 7 days, but in August 2013 HUD reduced the number of furlough days by using funds it initially planned to use to reorganize its Office of Multifamily Housing Programs and to close 16 of its 80 field offices.<sup>14</sup> HUD also used transfers and reprogrammings between and within accounts to provide an additional \$0.9 million for PIH to use to pay salaries and expenses. HUD further reduced PIH expenses for salaries, predominantly through a hiring freeze but also through additional means such as reduced overtime and monetary awards. Finally, HUD reduced non-salary expenses such as travel and training by \$1.3 million.

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## HUD Mitigated the Effects of Reduced Rental Assistance Funding by Providing Public Housing Agencies with Supplemental Funding and Technical Assistance

To implement sequestration cuts for the Housing Choice Voucher program, HUD used a set-aside appropriation to provide supplemental funding to PHAs that would otherwise be required to terminate some families' assistance and expanded a special team that offers technical assistance to PHAs. HUD officials told us that because HUD determines funding for individual PHAs by formula, based primarily on each PHA's costs in the previous year, sequestration's cuts were passed directly to the PHAs. HUD provides PHAs with a portion of the funding for which they are eligible based on HUD's appropriation for the voucher program, which can be lower than the total formula eligibility of all PHAs. In 2012, HUD provided PHAs with 100 percent of their eligible amount. Because of sequestration, in 2013 HUD provided PHAs with 94 percent of the funding for which they were otherwise eligible, rather than the 99 percent they would have received in the absence of sequestration.

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<sup>13</sup>PIH funding for salaries and expenses was reduced from \$200 million to \$190 million by sequestration, prior to transfers and reprogrammings.

<sup>14</sup>HUD officials said they were later able to fund some of the field office closures in part by using \$1.7 million in unobligated fiscal year 2012 salaries and expenses funding.

Because HUD did not have a final fiscal year 2013 appropriation before the beginning of calendar year 2013, HUD obligated funding for the first 3 months of 2013 at 98 percent of PHAs' funding eligibility, which reflected the amount of funding the program had under the continuing resolution that funded HUD through March 27, 2013. HUD officials told us that PHAs may have spent funds at the 98 percent level for the first few months of the year. As a result, to reduce their expenditures for 2013 overall to the 94 percent level, they likely reduced the number of vouchers they leased by the end of the year to an amount lower than they otherwise would have had to if they had known their final funding amount earlier.

PHAs are also eligible to receive funding for administrative expenses based on a formula involving the number of units they lease. As with the program funding, PHAs receive a portion of the funding for which they are eligible based on HUD's appropriation for the voucher program. In recent years, that funding has been lower than the total formula eligibility of all PHAs. For example, in 2012, PHAs received 80 percent of their administrative expenses eligibility. In 2013, prior to sequestration HUD expected PHAs would receive 72 percent of their administrative expenses eligibility, but due to sequestration PHAs received 69 percent of their eligibility.

As in recent years, part of HUD's fiscal year 2013 appropriation for the Housing Choice Voucher program contained a set aside of \$103 million that HUD could provide to PHAs for four specified purposes.<sup>15</sup> The appropriation act altered the purposes for which this funding could be used. Specifically, HUD could provide supplemental funding to PHAs that faced terminating some participating families from the rental assistance program due to insufficient funds (even after taking reasonable cost saving measures). HUD chose to prioritize this use of the set aside, and used \$83 million to prevent terminations, which HUD officials stated was sufficient to prevent all terminations.<sup>16</sup> To receive the supplemental funding, PHAs had to demonstrate that they would have had to terminate families from the program, immediately stop issuing new vouchers, and use all their reserves to fund vouchers. HUD provided the supplemental set-aside funding to 294 PHAs. Most PHAs we interviewed reported that

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<sup>15</sup>The 2011 and 2012 set-aside amounts were \$150 million and \$103 million, respectively.

<sup>16</sup>HUD officials told us the remaining \$20 million will be used for other allowed purposes in fiscal year 2014.

the set-aside funding was helpful, but one association of PHAs noted that because most of the set aside was used to prevent terminations, less funding was available for the other purposes that had previously assisted PHAs in prior years, such as providing additional funding to PHAs experiencing significant increases in voucher costs from unforeseen circumstances.

In response to sequestration, PIH increased the number of staff (from 6 to 13) assigned to its shortfall prevention team, which provides technical assistance and other support to PHAs that are at risk of needing to terminate families from the program. The team worked with staff from PIH's Financial Management Center and regional offices to identify PHAs at risk of having a funding shortfall, which would require the PHA to terminate some families from the program. The team then worked with the at-risk PHAs to implement cost-cutting measures such as immediately ceasing to issue vouchers to families on their waiting lists, pulling previously issued vouchers from families that had not yet used them and returning those families to the waiting list, increasing minimum rents and reducing utility allowances. PIH officials told us that in some cases these actions were sufficient to prevent PHAs from having to terminate families from the program. If the team determined that a PHA was still at risk of a shortfall despite the cost-cutting measures, the team encouraged the PHA to apply for set-aside funds from HUD to protect currently assisted families from termination.

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## HUD Assisted PHAs in Implementing Significant Public Housing Funding Cuts by Providing Guidance and Reducing Some Administrative Requirements

HUD officials told us that the nature of the grant for operating public housing led to sequestration's cuts being passed directly to PHAs and HUD had no flexibility to decide where to make cuts. As with the voucher program, eligibility for funding for public housing operating expenses is determined by formula. PHAs receive a portion of the funding for which they are eligible based on HUD's appropriation for the public housing operating fund. The total amount of formula funding for PHAs for public housing operations effectively was \$450 million lower than in 2012, before accounting for sequestration, a decline of almost 10 percent.<sup>17</sup>

Sequestration reduced this funding by an additional \$199 million, and the across-the-board rescission reduced funding by \$8.5 million, resulting in a total decline in formula allocations of \$658 million (14 percent) relative to fiscal year 2012. As a result, PHAs received 82 percent of their formula eligibility in total for fiscal year 2013. In 2012, PHAs received 95 percent of their formula eligibility.

Before sequestration, HUD funded PHAs in January and February of 2013 at 92 percent of their public housing formula eligibility, based on the lower of the House and Senate versions of the appropriations bill. In March, HUD reduced the funding proration to 81 percent due to the likelihood of sequestration. After sequestration, because January and February funding had been provided at a level higher than the 82 percent proration for the year, HUD provided funding for April through December 2013 at 79 percent of PHAs' formula eligibility.

To assist PHAs in implementing sequestration and reducing costs, PIH issued documents with frequently asked questions on sequestration and administrative streamlining related to sequestration. For example, PIH notified PHAs that it was lowering the reporting frequency for energy efficiency reports from quarterly to annually thereafter. PIH also noted it would conduct fewer on-site and remote monitoring reviews, prioritizing PHAs with higher risk and significant problems.

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<sup>17</sup>In 2012, HUD's appropriation for the fund was \$3.962 billion, \$664 million lower than in fiscal year 2011 (\$4.626 billion), but the appropriation also gave HUD the authority to include up to \$750 million in PHAs' excess reserves in its formula allocations, for a total of \$4.712 billion. HUD's appropriation for the fund in the 2013 continuing resolution of \$4.262 billion reflected HUD's 2012 funding level plus an additional \$300 million but without the authority to offset against excess reserves, thus resulting in a net decrease in HUD's formula allocations to PHAs of \$450 million, before sequestration.

HUD officials told us they considered applying broad waivers of administrative requirements to assist PHAs in reducing costs, such as reducing the frequency of required income verifications for residents with fixed incomes. However, they decided that HUD did not have authority to change some of the requirements and for others would have had to go through the full regulatory rulemaking process, which includes a public comment period, and thus decided not to proceed with these actions.

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### Appropriation Timing and Administrative Processes Led to Delays in Providing Indian Housing Block Grant Funding to Grant Recipients

HUD officials told us they had little flexibility in implementing sequestration for IHBG because funding through the program is determined by formula. HUD sent letters to tribes on March 12, 2013, notifying them of sequestration and that their funding likely would be reduced. However, HUD did not notify recipients of their final formula funding amounts until May 20, 2013, for two reasons. First, the full-year appropriation providing funding for federal government programs was not enacted until March 26, 2013. Second, the processes that HUD must follow to finalize the IHBG grant funding formula took about 60 days to complete. HUD sent grant agreements to most tribes on June 11, 2013, and funds were available to tribes beginning in mid-June, depending on how quickly the tribes approved and returned the agreements. In 2012, funds were available to tribes beginning in February.

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### GAO Contact

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# Appendix V: Objectives, Scope, and Methodology

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This report examines: (1) the effects of fiscal year 2013 sequestration on the operations, performance, and services to the public for selected components within federal agencies;<sup>1</sup> and (2) how selected components planned and prepared for and implemented fiscal year 2013 sequestration. This report builds off of our previously issued report that evaluated how 23 federal agencies, including the Departments of Defense (DOD), Education, Health and Human Services (HHS), Homeland Security (DHS), and Housing and Urban Development (HUD), prepared for and implemented the fiscal year 2013 sequestration at the agency level, and the effects of sequestration on agencies' operations, performance, and services to the public.<sup>2</sup>

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## Case Study Selection

To achieve these objectives, we selected six case study components within federal agencies for review. In selecting components, we sought to cover a significant share of the \$85.3 billion in funds ordered for sequestration on March 1, 2013, including both direct spending and discretionary appropriations, as well as programs with a high level of interaction with the public. We also sought to cover a range of federal missions (e.g., education, health, and defense) and the different program delivery tools the federal government uses to achieve its missions, such as grants, vouchers, contracts, loans and loan guarantees, and direct services. Based on these criteria, which are discussed in more detail below, we selected the following components:

- DOD's Operation and Maintenance accounts;
- DOD's Procurement accounts;
- DHS's U.S. Customs and Border Protection (CBP);
- Education's Office of Elementary and Secondary Education (OESE);
- HHS's Centers for Medicare & Medicaid Services (CMS); and
- HUD's Public and Indian Housing (PIH).

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<sup>1</sup>For the purposes of this report, the term "component" refers to an agency, bureau, or operating division within a cabinet-level department (e.g., the U.S. Customs and Border Protection within the Department of Homeland Security). When we refer to "agency," we are referring to a cabinet-level department or an independent agency (e.g., the Environmental Protection Agency).

<sup>2</sup>GAO, *2013 Sequestration: Agencies Reduced Some Services and Investments, While Taking Certain Actions to Mitigate Effects*, [GAO-14-244](#) (Washington, D.C.: Mar.6, 2014). This report covers 23 of the 24 federal agencies specified in the Chief Financial Officers Act. We excluded the Department of Veterans Affairs, because its accounts were exempt from sequestration.

We used a multistep process to select these components. First, we began the selection process by considering the 24 federal agencies identified in the Chief Financial Officers (CFO) Act of 1990, as amended. These agencies accounted for approximately 98 percent of the total sequestered funding in fiscal year 2013. They also accounted for the majority of federal spending in 13 of the federal government's 17 broad mission areas, or budget functions.<sup>3</sup> We excluded from consideration the Department of Veterans Affairs, because its accounts were exempt from sequestration.<sup>4</sup> We excluded the Department of State and the Agency for International Development (USAID), because we determined that the effects of reductions at these agencies were less likely to directly affect the American public than reductions at the other agencies under consideration. The Department of State and USAID were both included in our government-wide review.<sup>5</sup>

We ranked the 21 remaining CFO Act agencies based on actual fiscal year 2012 enacted discretionary budget authority for fiscal year 2012 and eliminated from consideration the bottom 11.<sup>6</sup> Within the remaining 10 agencies, we identified the two components with the largest amount of sequestrable funds based on OMB's March 1 calculations. To select case studies that provide broad coverage of government functions and potentially different degrees of centralized or disbursed decision making,

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<sup>3</sup>Based on OMB data for actual obligations in fiscal year 2012. The budget function classification system provides a comprehensive and consistent means to capture federal activity and group budgetary resources according to mission area or "national need." These "national needs" are grouped into 17 broad areas for analyzing and understanding the budget. Three additional categories—Net Interest, Allowances, and Undistributed Offsetting Receipts—do not address specific "national needs" but are included in the budget function classification system so that the total of all functions sums to the budget totals. For more information on budget functions, see GAO, *Federal Budget: Agency Obligations by Budget Function and Object Classification for Fiscal Year 2003*, [GAO-04-834](#) (Washington, D.C.: June 25, 2004).

<sup>4</sup>2 U.S.C. § 905(b).

<sup>5</sup>[GAO-14-244](#).

<sup>6</sup>These data were used as a proxy for determining those agencies with the largest amount of sequestered funding, because data on the amount of sequestered funds by agency were not readily available in a format that we could analyze at the time that we began the selection process. Once such data were available, we compared the results of our analysis with the results when using the amount of sequestered funding by agency as calculated by OMB. We determined that our final selections were broadly consistent with the results when using OMB data on the amount sequestered and that no further adjustments were needed.

we chose not to include two nondefense components from the same agency.

We used a matrix to determine that certain criteria were satisfied. Specifically, we used OMB data on budget functions to ensure that we had a range of federal missions (e.g., education, health, and national defense) and OMB object class data to ensure that we had a range of different program delivery tools the federal government uses to achieve its missions.<sup>7</sup> We used data from OMB's March 1 sequestration report to ensure that the selected case study components represented both sequestered direct spending and discretionary appropriations. If multiple components met our criteria, we gave preference to components that were determined to have a higher impact on services to the public.

Overall, these six case study components accounted for roughly \$48 billion, or more than 56 percent, of the total sequestration ordered on March 1, including roughly 77 percent of sequestered defense spending and almost 36 percent of sequestered nondefense spending. Results from selected case studies, however, cannot be generalized. We issued the results of our review of DOD's Operation and Maintenance and Procurement accounts along with our review of DOD's Research, Development, Test, and Evaluation account separately in November.<sup>8</sup>

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## Program Selection

Within the four nondefense components, we selected a limited number of programs, activities, or offices for more in-depth data gathering and analysis.<sup>9</sup> See table 1 at the beginning of this report for an overview of the selected programs. We selected these programs based on the size of

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<sup>7</sup>We excluded from consideration the five budget functions— International Affairs (150), General Government (800), Net Interest (900), Allowances (920), Undistributed Offsetting Receipts (950)—because we determined these were less likely to directly affect the public, or, in the cases of Undistributed Offsetting Receipts and Allowances, because no data for them were reported in fiscal year 2012. The major object classes are: Personnel, Compensation, and Benefits (employee salaries and benefits); Contractual Services and Supplies (rent, services, supplies and materials); Grants and Fixed Charges (grants, insurance, and interest); and Acquisition of Assets (equipment, land and structures, investments, and loans).

<sup>8</sup>GAO, *Sequestration: Observations on the Department of Defense's Approach in Fiscal Year 2013*, [GAO-14-177R](#) (Washington, D.C.: Nov. 7, 2013).

<sup>9</sup>For information on the scope and methodology of our review of select DOD components, see [GAO-14-177R](#).



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their budget, level of interaction with the public, the availability of measurable estimates of the effects of sequestration, and other factors. Similar to our criteria for selecting case study components, we also sought to cover a range of the different program delivery tools the federal government uses to achieve its missions, such as grants, vouchers, contracts, and direct services. For details on how we selected programs and activities within individual case study components, see appendixes I through IV.

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## Data Collection and Analysis

To address our objectives, we reviewed documents previously obtained for our agency-level review, such as a list of sequestered PPAs, total discretionary and direct spending funding levels for fiscal year 2013, and total amount sequestered.<sup>10</sup> We also reviewed reprogramming restrictions and transfer authorities identified as part of the information request and supporting documentation of how these authorities were used, if at all, in response to sequestration. In addition, we reviewed additional agency documents, such as operating and spending plans for fiscal year 2013 and illustrative examples of sequestration-related guidance and formal communications with agencies' employees, unions, and other stakeholders.

We reviewed additional documents—provided by agency officials at the selected components—related to planning for and implementing sequestration in fiscal year 2013. These documents included guidance issued to internal subcomponents or to external program partners and recipients. We also reviewed relevant planning documentation, when available, demonstrating the components' analysis of alternatives for implementing spending reductions. We analyzed budget and financial data for fiscal year 2013 to identify spending reductions at the PPA level and documentation of reprogramming, transfer, and other funding actions used in response to the fiscal year 2013 sequestration. We did not assess the appropriateness of actions that agencies or components took to implement sequestration, such as transfer and reprogramming actions.

We interviewed agency officials from each component, including officials in budget and management offices as well as officials in program offices. In discussing the effects of sequestration, we asked agency officials to

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<sup>10</sup>[GAO-14-244](#).

isolate the effects of sequestration from other factors such as operating under a continuing resolution (CR) and the rescissions enacted in the Consolidated and Further Continuing Appropriations Act, 2013, to the degree possible. We recognize that these other factors could also contribute to budget uncertainty and affect component's operations, performance, and services to the public. For example, because CRs only provide funding until an agreement is reached on final appropriations, they create uncertainty for components about both when they will receive their final appropriation and what level of funding ultimately will be available. Our past work has shown that an agency may delay hiring or contracts during the CR period, potentially reducing the level of services agencies provide and increasing costs.

We asked agencies to identify the source of any data provided and a description of any known limitations or purposes for which the data being provided should not be used. We reviewed agencies' supporting documents to assess the reasonableness of their data and any quantitative estimates of the effects of sequestration on agency operations, performance, and services to the public. Specifically, we reviewed the data and methodology used to calculate the estimates and we reported the estimates when they met our evidentiary standards. In some cases we found it appropriate to report agency estimates, as long as we also included significant contextual information and information about limitations regarding the estimates. In other cases, if agency explanations of the data and methodologies used to estimate the effects of sequestration indicated significant uncertainty surrounding the estimates, we did not report the estimates. To further assess the reliability of the data provided by agencies we interviewed knowledgeable officials as needed. We determined that the data were reliable for the purposes used in this report.

To obtain further information on the effects of fiscal year 2013 sequestration on selected components' services to the public, we interviewed select program partners that assist the components in carrying out their missions, recipients of the components' support and services, or their representatives.

- For CBP, we interviewed representatives from the Airports Council International, Airlines for America, the American Association of State Highway and Transportation Officials, and the American Trucking Association.
- For CMS, we interviewed officials from a purposeful sample of Medicare contractors—two Medicare Administrative Contractors and a

Zone Program Integrity Contractor—and state survey agencies to obtain information on CMS’s planning and implementation of sequestration, as well as effects to CMS’s fee-for-service operations, CMS program integrity activities, and state survey and certification oversight activities.

- For OESE, we interviewed officials from seven school districts that receive Title I or Impact Aid grants. We selected these school districts based on variation in the grant amounts they received, each district’s reliance on grant funding, and geographic location. In addition, we interviewed two national associations representing states and districts receiving Title I and Impact Aid grants and six state Title I grant administrators.
- For PIH, we interviewed officials from four local public housing agencies, which we selected based on their size, geographic location, and use of set-aside funding to avoid terminations in their voucher program, two national associations, and the National Low Income Housing Coalition.

For more information on the program partners and recipients we spoke with and how they were selected, see appendixes I to IV.

To examine the extent to which selected components identified their PPAs in accordance with the criteria set out in section 256(k)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, we reviewed a purposeful sample of five PPAs from each of the four nondefense components discussed in this report. In selecting PPAs, we sought to include some of the PPAs that fund programs and activities within case study components selected for more in-depth review. However, we also considered the source used to define the PPA, whether the PPA contained direct spending or discretionary appropriations, the types of activities the PPA supports, and instances in which the agency reported that a PPA was defined at the account level. Therefore, some of the PPAs selected do not align with the programs and activities selected for more in-depth review. Table 8 provides a list of the PPAs that we reviewed.

**Table 8: Overview of Select Programs, Projects, and Activities Traced to Source**

Department and bureau	Selected programs, projects, and activities
Department of Homeland Security, U.S. Customs and Border Protection	Border Security Inspections and Trade Facilitation
	Border Security and Control Between Ports of Entry
	COBRA Passenger Inspection Fee
	Construction and Facilities Management/Facilities Construction and Sustainment
Department of Health and Human Services, Centers for Medicare & Medicaid Services	Federal Hospital Insurance Trust Fund/Benefit Payments/Hospital Insurance
	Program Management/Program Operations/Other
	Program Management/State Survey and Certification
	Health Care Fraud and Abuse Control Account/Medicare
Department of Education, Office of Elementary and Secondary Education	Education for the Disadvantaged/Grants to Local Educational Agencies: Basic Grants
	Education for the Disadvantaged/State Agency Programs: Migrant
	Impact Aid/Payment for Federally Connected Children: Basic Support Payments
	School Improvement Programs/Education for Native Hawaiians
	Safe Schools and Citizenship Education/Elementary and Secondary School Counseling
Department of Housing and Urban Development, Public and Indian Housing	Section 8 Contract Renewals
	Tenant Based Rental Assistance Account/Administrative Fees
	Public Housing Operating Fund Account/Operating Subsidy
	Native American Housing Block Grants Account/Formula Grants
	Native American Housing Block Grants Account/Loan Guarantee Credit Subsidy

Source: GAO analysis of agency information and applicable laws.

Because we used a nonrandom, purposeful sample, the results of our analysis of the selected PPAs cannot be generalized to other PPAs within the component or department. While we assessed the extent to which selected components identified their PPAs in accordance with the criteria set out in section 256(k)(2) of BBEDCA, we did not assess each PPA for compliance with other sections of BBEDCA. For example, we did not assess the extent to which a PPA was properly characterized as “discretionary appropriations” or “mandatory spending” for the purposes of implementing sequestration. While we reviewed components’ operating plans and other budgetary data, we did not test components’ financial systems to determine that the component implemented sequestration at the PPA level as reported.

We conducted this performance audit from April 2013 to May 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix VI: Glossary of Budget Terms

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**Appropriation:** Budget authority to incur obligations and to make payments from the Treasury for specified purposes. An appropriation act is the most common means of providing appropriations; however, authorizing and other legislation itself may provide appropriations.

**Annual appropriation:** A provision of law appropriating funds enacted annually to provide budget authority to incur obligations and make payments from the Treasury for specified purposes.

**Supplemental appropriation:** A provision of law appropriating funds in addition to those already enacted in an annual appropriation act. Supplemental appropriations provide additional budget authority, usually in cases where the need for funds is too urgent to be postponed until enactment of the regular appropriation bill. Supplemental appropriations may sometimes include items not appropriated in the regular bills due to a lack of timely authorizations.

**Advance appropriation:** Budget authority that becomes available 1 or more fiscal years after the fiscal year for which the appropriation was enacted. For example, a fiscal year 2012 appropriation could provide that budget authority for a specified activity would not become available until October 1, 2012 (the start of fiscal year 2013) or later. For sequestration, funding enacted as advance appropriations—available in fiscal year 2013—was included in the sequestrable base.

**Availability:** Budget authority that is available for incurring new obligations.

**Budget account:** An item for which appropriations are made in any appropriation act and, for items not provided for in appropriation acts, the term means an item for which there is a designated budget account identification code number in the President's budget.

**Budget authority:** Authority provided by federal law to enter into financial obligations that will result in immediate or future outlays involving federal government funds.

## Duration

**One-year appropriation:** Budget authority available for obligation only during a specific fiscal year that expires at the end of that fiscal year.

**Multiyear appropriation:** Budget authority available for a fixed period of time in excess of 1 fiscal year. This authority generally takes the

form of 2-year, 3-year, and so forth availability but may cover periods that do not coincide with the start or end of a fiscal year.

**No-year appropriation:** Budget authority that remains available for obligation for an indefinite period of time. A no-year appropriation is usually identified by language such as “to remain available until expended.”

### Timing of legislative action

**Permanent appropriation:** Budget authority that is available as the result of previously enacted legislation and is available without further legislative action. Many programs with permanent appropriations are exempt from sequestration (see “mandatory” below).

### Determination of amount

**Definite appropriation:** Budget authority that is stated as a specified sum at the time the appropriation is enacted. This type of authority, whether in an appropriation act or other law, includes authority stated as “not to exceed” a specified amount.

**Indefinite appropriation:** Budget authority that, at time of enactment, is for an unspecified amount, such as entitlement programs where obligations depend on the number of eligible beneficiaries receiving benefits. Also for fee-funded accounts in which total obligations depend on demand for the good or service provided by the program (e.g., programs funded by regulatory fees). Indefinite appropriations may be appropriated as all or part of the amount of proceeds from the sale of financial assets, the amount necessary to cover obligations associated with payments, the receipts from specified sources—the exact amount of which is determinable only at some future date—or it may be appropriated as “such sums as may be necessary” for a given purpose. For sequestration, unless otherwise specified in law, agencies were directed to implement sequestration for accounts with indefinite authority by reducing the remaining obligations from fiscal year 2013 sequestrable resources by a uniform percentage.

### Availability for new obligations

**Expired budget authority:** Budget authority that is no longer available to incur new obligations but is available for an additional 5 fiscal years for disbursement of obligations properly incurred during the budget authority’s period of availability.

**Budget function:** The functional classification system is a way of grouping budgetary resources so that all budget authority and outlays of

on-budget and off-budget federal entities and tax expenditures can be presented according to the national needs being addressed. National needs are grouped in 17 broad areas to provide a coherent and comprehensive basis for analyzing and understanding the budget.

**Carryover balance (unexpended balance):** The sum of the obligated and unobligated balances.

**Continuing resolution:** An appropriation act that provides budget authority for federal agencies, specific activities, or both, to continue in operation for a specific period of time when Congress and the President have not completed action on the regular appropriation acts by the beginning of the fiscal year.

**Direct spending:** Budget authority that is provided in laws other than appropriation acts and entitlement authority (for example, Supplemental Nutrition Assistance, Medicare, and veterans' pension programs). Direct spending, also referred to as mandatory spending, includes payment of interest on the public debt, and nonentitlements such as payments to states from Forest Service receipts. For sequestration, many mandatory programs are exempt. But for those that are not exempt, the PPAs for mandatory accounts are generally delineated in the President's budget for fiscal year 2013.

**Discretionary spending:** Outlays from budget authority that is provided in, and controlled by, appropriations acts.

**Expended funds:** Funds that have actually been disbursed or outlaid.

**Mandatory spending:** See definition of direct spending above.

**Obligated balance (obligated funds):** The amount of obligations already incurred for which payment has not yet been made. Technically, the obligated balance is the unliquidated obligations. Budget authority that is available for a fixed period expires at the end of its period of availability, but the obligated balance of the budget authority remains available to liquidate obligations for 5 additional fiscal years. At the end of the fifth fiscal year, the account is closed and any remaining balance is canceled. Budget authority available for an indefinite period may be canceled and its account closed if (1) it is specifically rescinded by law or (2) the head of the agency concerned (or the President) determines that the purposes for which the appropriation was made have been carried out and



disbursements have not been made from the appropriation for 2 consecutive years.

**Obligation:** An obligation is a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions of another party.

**Program, Project, or Activity (PPA):** An element within a budget account. The programs, projects, and activities as delineated in the appropriation act or accompanying report for the relevant fiscal year covering that account. For accounts not included in appropriation acts, PPAs are delineated in the most recently submitted President's budget or congressional budget justifications, specifically the program and financing schedules that the President provides in the "Detailed Budget Estimates" in the budget submission for the relevant fiscal year.

**Reprogramming:** Reprogramming is the shifting of funds from one program to another within an appropriation or fund account for purposes other than those contemplated at the time of appropriation. The authority to reprogram is implicit in an agency's responsibility to manage its funds; no statutory authority is necessary but the agency may be required to notify the congressional appropriations committees, the authorizing committees, or both of any reprogramming action.

**Rescission:** Legislation enacted by Congress that cancels budget authority previously enacted before the authority would otherwise expire. For sequestration, the Consolidated and Further Continuing Appropriations Act, 2013 included across-the-board rescissions, which were applied to full-year appropriations for fiscal year 2013 (in addition to the reductions required by the Joint Committee sequestration).

**Sequestration:** In general, the permanent cancellation of budgetary resources under a presidential order. For fiscal year 2013, the uniform percentage reduction is applied to all programs, projects, and activities within a budget account, with some program exemptions and special rules.

**Spending authority:** A specific form of budget authority that authorizes obligations and outlays using offsetting collections credited to an expenditure account. Spending authority is typically provided in authorizing laws and in some cases appropriation acts limit obligations.

**Transfer:** The shifting of funds between accounts is called a transfer. An agency may not transfer funds unless it has statutory authority to do so.

**Unobligated balance (unobligated funds):** The portion of budget authority that has not yet been obligated. For an appropriation account that is available for a fixed period, the budget authority expires after the period of availability ends and is no longer available for new obligations, but its unobligated balance remains available for 5 additional fiscal years for recording and adjusting obligations properly chargeable to the appropriations period of availability. For example, an expired, unobligated balance remains available until the account is closed to record previously unrecorded obligations or to make upward adjustments in previously under-recorded obligations (such as contract modifications properly within scope of the original contract). At the end of the fifth fiscal year, the account is closed and any remaining balance is canceled. For a no-year account, the unobligated balance is carried forward indefinitely until (1) specifically rescinded by law or (2) the head of the agency concerned (or the President) determines that the purposes for which the appropriation was made have been carried out and disbursements have not been made from the appropriation for 2 consecutive years.

For more information on budget terms and concepts, see GAO, *A Glossary of Terms Used in the Federal Budget Process*, [GAO-05-734SP](#) (Washington, D.C.: September 2005) (published in cooperation with the Secretary of the Treasury and the Directors of OMB and the Congressional Budget Office).

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# Appendix VII: U.S. Customs and Border Protection Organization Chart and Fiscal Year 2013 Funding Levels

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## U.S. Customs and Border Protection (CBP) Commissioner's Office

In fiscal year 2013, CBP employed about 60,000 employees, including CBP officers, Border Patrol agents, agriculture specialists, and Air Interdiction agents (pilots), among others.

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## Office of Field Operations

Established geographically by region, the Office of Field Operations (OFO) and its respective 20 field offices around the United States distribute key policies and procedures to field staff. Field offices provide guidance to their regional ports and ensure the dissemination and implementation of CBP guidelines. For fiscal year 2013, OFO was congressionally directed to maintain 21,775 officers.<sup>a</sup> OFO's post-sequestration fiscal year 2013 funding represented about 27 percent of CBP's fiscal year 2013 post-sequestration funding.

a: Explanatory Statement, Consolidated and Further Continuing Appropriations Act, 2013, 159 Cong. Rec. S1287, S1549 (daily ed. Mar. 11, 2013).

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## OFO Fiscal Year 2013 Discretionary Funding:

Fiscal year 2013 funding prior to sequestration: \$3.2 billion<sup>b</sup>

Sequestered amount: \$156.3 million

Post-Sequestration funding: \$3.05 billion

b: According to CBP's budget office, the \$3.2 billion represents funding for CBP's Border Security Inspections and Trade Facilitation Programs, Projects, and Activities (PPA). Funding for OFO comprises the majority of this PPA.

CBP collects COBRA user fees for air passenger customs and vessel passenger customs inspections, among other things. COBRA fee collections fund activities involving CBP officers ensuring that all carriers, passengers, and their personal effects entering the U.S. are compliant with customs laws. According to CBP, fees, such as the COBRA fee, play an integral role in CBP's planning and budget process because they reimburse CBP's Salaries and Expenses account, for certain expenses, such as overtime for CBP officers, that comprise about 30 percent of that account. The COBRA account post-sequestration fiscal year 2013

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funding represented about 3.5 percent of CBP's total fiscal year 2013 post-sequestration funding.

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**COBRA Fiscal Year 2013  
Direct Spending :**

Fiscal year 2013 funding prior to sequestration: \$419.4 million<sup>c</sup>

Sequestered amount: \$27 million

Post-Sequestration: \$392.4 million

c: This amount represents the fiscal year 2013 budget authority as stated in the explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act, 2013. The OMB baseline established in its March 1 report for this account was \$529.4 million.

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**Office of Border  
Patrol**

The U.S. Border Patrol (USBP) is responsible for patrolling nearly 6,000 miles of Mexican and Canadian international land borders and over 2,000 miles of coastal waters surrounding the Florida Peninsula and the island of Puerto Rico. For fiscal year 2013, USBP was legislatively mandated to maintain 21,370 agents across its 20 sectors.<sup>d</sup> USBP's post-sequestration fiscal year 2013 funding represented about 31 percent of CBP's fiscal year 2013 post-sequestration funding.

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**USBP Fiscal Year 2013  
Discretionary Funding:**

Fiscal year 2013 funding prior to sequestration: \$3.7 billion<sup>e</sup>

Sequestered amount: \$180.7 million

Post-Sequestration funding: \$3.52 billion

d: Pub. L. No. 113-6, 127 Stat. 198, 345 (2013).

e: According to CBP's budget office, the \$3.7 billion represents funding for CBP's Border Security and Control between Ports of Entry PPA. Funding for USBP comprises the majority of this PPA.

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# Appendix VIII: GAO Contacts and Staff Acknowledgments

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## GAO Contacts

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## Staff Acknowledgments

The following staff contributed to this report: Elizabeth Curda and Melissa Wolf (Assistant Directors); Katherine Lenane (Assistant General Counsel); Thomas McCabe (Analyst-in-Charge); Margaret Adams, Shari Brewster, Robert Gebhart, Lauren Grossman, Donna Miller, Laurel Plume, Alan Rozzi, and Walter Vance.

In addition, staff that contributed to sections of this report on selected agencies are listed in table 9.

**Table 9: Names of GAO Staff Contributing to Information on Selected Components**

Department of Education, Office of Elementary and Secondary Education	George Scott (Managing Director), Gale Harris (Assistant Director), Susan Chin, (Analyst-in-Charge), Nora Boretti, Sarah Cornetto, Nisha Hazra, and David Reed
Department of Health and Human Services, Centers for Medicare & Medicaid Services	Lori Achman (Assistant Director), Rebecca Abela (Analyst-in-Charge), and George Bogart
Department of Homeland Security, U.S. Customs and Border Protection	Kathryn H. Bernet (Assistant Director), Meg Ullengren (Analyst-in-Charge), Frances Cook, Michele Fejfar, Eric Hauswirth, Tracey King, and Michelle Sahlhoff
Department of Housing and Urban Development, Public and Indian Housing	Cody Goebel (Assistant Director), Ethan Wozniak, (Analyst-in-Charge), Rudy Chatlos, Elizabeth Jimenez, Lisa Moore, and Jessica Sandler

Source: GAO.

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