BUDGET: PRESIDENT RELEASES OMB REPORT ON SEQUESTRATION

The Office of Management and Budget issued a report on September 14, 2012 pursuant to the Sequestration Transparency Act of 2012 (STA) detailing potential cuts of approximately $109 billion that would be triggered by the failure of the Deficit Reduction Committee to propose, and Congress to enact, a plan to reduce the deficit by $1.2 trillion in accordance with the Budget Control Act of 2011 (BCA).

The report does not analyze how the sequester would affect specific federal programs, activities, and projects, stating that "additional time is necessary to identify, review, and resolve issues associated with providing information at this level of detail." Absent legislative action, the first of the reductions will be implemented on January 2, 2013 by a sequestration of non-exempt, discretionary appropriations and non-exempt direct spending.

The OMB's report provides estimated funding reductions for over 1,200 exempt and non-exempt budget accounts and an explanation of the calculations. Because no appropriations bills have been enacted for FY 2013, the OMB made assumptions as required by the STA that are largely based on funding levels for FY 2012. The Administration indicated that the estimates and calculations in the report are preliminary and based on further legal, budgetary, and technical analysis and potential changes. Notably, appropriations legislation that will be enacted on October 1, 2012 will change the estimated figures in this report.

Key points include:
- The OMB indicated that the sequester would result in a 9.4% reduction in non-exempt discretionary funding and an 8.2% reduction in non-exempt, nondefense discretionary funding.
- The sequester would further impose cuts of 2% to Medicare, 7.6% to other non-exempt, nondefense mandatory programs, and 10% to non-exempt defense mandatory programs.
- More specifically, on January 2, 2013, the Department of Defense would be cut by $54.67 billion, domestic discretionary spending by $38 billion, Medicare by $11 billion, including a $5.6 billion cut to payments to hospitals, and other mandatory spending programs by about $5 billion.
- The OMB indicated that military personnel accounts and veterans' health care, benefits, and administrative costs are exempt from the sequester. The Administration is bound by a statutory scheme that generally prohibits discretion in the sequester cuts as to which programs to exempt or what percentage cuts to apply.
- In the event of sequestration, the OMB claims that the Department of Defense would maintain the ability to shift funds to support current military action and readiness; however, sequestration would cut nearly $7 billion from Army operations and maintenance and more than $4 billion from the Navy. Further, the OMB states that the sequestration would reduce readiness of many non-deployed units, delay investments in equipment and facilities, and cut funding for equipment repairs, military research and development, and base services.

- Development and security efforts in Afghanistan would experience significant cuts, including a $52 million reduction from the Afghanistan Infrastructure Fund and $1.3 billion from the Afghanistan Security Forces Fund.

- In the event of sequestration, the OMB states that there would be significant cuts to non-defense areas, such as:
  1. education, including $1.3 billion from aid to low-income school districts and $2.3 billion from educational achievement and special-education programs;
  2. law enforcement, including the FBI ($271 million), correctional officers, and federal prosecutors;
  3. agriculture, including Food Safety and Inspection Service ($86 million);
  4. the Environmental Protection Agency ($293 million);
  5. the National Institutes of Health ($2.5 billion);
  6. disaster relief provided under FEMA ($580 million); and
  7. safety net and welfare programs (including rental assistance for the poor ($2.3 billion)).

- The OMB stated that the automatic cuts to Medicare would apply to doctors and other medical providers, not beneficiaries.

- Until Congress enacts a replacement sequestration bill, the Administration has instructed agencies to continue normal operations and spending.

The House has put forth separate proposals to avoid sequestration. It passed H.R. 5652 on May 10, 2012, by a vote of 218-199. The bill called for $300 billion in cuts from mandatory programs over 10 years, and substituted a $19 billion reduction in the FY 13 discretionary spending cap the discretionary spending cuts in the sequester. It passed a similar measure, H.R. 6365, by a 223-196 vote on September 13th. That bill also calls on the President to submit by October 15th a plan to that would substitute other cuts for the pending defense cuts under the sequester. It also stipulates that revenue raising measures could not be included to offset spending cuts.

For more information on the OMB report, go to: http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/stareport.pdf. For information on the House proposals, go to: http://www.rules.house.gov/Legislation/112th.aspx

**SPACE: HOUSE SCIENCE, SPACE AND TECHNOLOGY Examines NASA's Commercial Crew Acquisition Strategy**

On Friday, September 14, 2012, the House Committee on Science, Space and Technology met to discuss the development of NASA's Commercial Transportation System (CTS) and overarching commercial crew acquisition strategy. The CTS program seeks to develop U.S. spaceflight design capabilities with the intent of crewed missions with new technologies. NASA's commercial crew strategy seeks to end reliance on
foreign crew transportation to the International Space Station (ISS) through a cost-managed development of a U.S. transportation system.

Witnesses included: Mr. William H. Gerstenmaier, Associate Administrator, Human Exploration and Operations Mission Directorate, National Aeronautics and Space Administration; and Vice Admiral Joseph W. Dyer, USN (Ret.), Chairman, Aerospace Safety Advisory Panel.

Issues discussed at the hearing included:
- NASA's decision to award three funded Space Act Agreements totaling $1.1 billion to three companies to develop U.S. spaceflight capabilities in the Commercial Crew Integrated Capability phase of the Commercial Crew Acquisition Strategy. Space Exploration Technologies (SpaceX) of Hawthorne, CA, the Boeing Company, and the Sierra Nevada Corporation were awarded contracts. SpaceX (awarded $440 million) will continue development and modifications on Falcon9/Dragon for crew requirements and Boeing (awarded $460 million) will continue development on the CST-100 crew spacecraft, a reusable capsule. Sierra Nevada (awarded $212.5 million) will continue development on their Dream Chaser spacecraft, a reusable vehicle similar to the Space Shuttle.
- Witness testimony indicated that while Space Act Agreements promote greater flexibility, innovation and limited budgets as they are price-fixed contracts, but hinder communication between the contractor and contractee, causing development to occur without understanding of certification requirements.
- Use of two contractors through certification Phase 2. Witnesses testified that utilizing two contractors would increase CTS affordability and safety through competitiveness. Committee members raised concern over the cost effectiveness of funding two contractors through the Phase 2 certification when only one contractor would ultimately be needed for the approximated two space flight missions annually.
- The use of Space Act Agreements as opposed to FAR based contracts and the possibility of inadequate funds for achieving high levels of safety.
- NASA's lack of clarity in certification requirements and resulting safety risks.

For more information, go to: http://science.house.gov/hearing/full-committee-hearing-recent-developments-nasa%E2%80%99s-commercial-crew-acquisition-strategy.

IMMIGRATION: HOUSE FAILS TO PASS STEM VISA BILL

On September 20, 2012, the House voted down H.R. 6429, The STEM Jobs Act. The vote was 257-158, but the bill was considered under suspension of the rules and thus needed a two-thirds majority to pass.

The bill had generated opposition in the days leading up to the House floor action, culminating in the Congressional Black Caucus, Congressional Hispanic Caucus, and Congressional Asian Pacific American Caucus sending out a joint Dear Colleague letter on September 18th opposing the bill. The primary objection to the bill was its elimination of the diversity lottery program. The bill would have eliminated that and reallocated up to 55,000 green cards a year from the diversity program to a new green card program for foreign graduates of U.S. universities with advanced science, technology, engineering, and math (STEM) degrees. The Dear Colleague stated that the diversity program “serves as a narrow but key path of legal immigration for residents of nations with historically low rates of immigration to the United States, such as African nations whose residents were issued approximately 50 percent of such visas in recent years. . . . Creating a stream of STEM green cards is part of the solution and worthy of our support, but the zero-sum approach of House Republicans, where we are forced to rob Peter of his visa so Paul can wait in a shorter line, is poor policy with poor prospects for becoming law.”

Rep. Zoe Lofgren, speaking in opposition to the bill on the floor, also objected to the elimination of the diversity program. In addition, she argued that there would be many unused STEM visas that could be used to ease the extensive backlog in other cases. She also argued that allowing for-profit schools to participate in the program would only encourage those schools to sell educations to “rich foreign students.”
There is strong support for the idea of increasing STEM visas, and many important California businesses, especially those in high tech industries, supported passage of H.R. 6429. In her remarks, Rep. Lofgren urged the proponents of the bill to work with her and others to reach a bipartisan compromise. She has introduced a bill, H.R. 6412, to increase STEM visas, but without eliminating the diversity program. Sen. Charles Schumer (NY) has a similar bill in the Senate.

For more information, go to: [http://judiciary.house.gov](http://judiciary.house.gov).

**HEALTH: HOUSE PASSES THE RECALCITRANT CANCER RESEARCH ACT OF 2012**

The House, on Wednesday, September 19, 2012, considered H.R. 733, the Recalcitrant Cancer Research and Education Act of 2012. The bill as introduced by Rep. Anna Eshoo (Palo Alto) was limited to pancreatic cancer. It was retitled the Recalcitrant Cancer Research Act of 2012, without objection, to recognize that its scope was expanded to include any recalcitrant cancers with low survival rates. The bill directs the National Cancer Institute to establish a scientific framework that will guide research efforts on recalcitrant cancers by identifying unanswered medical and scientific questions in order to advance diagnosis and treatment.

H.R. 733 passed the House by voice vote under suspension of the rules.

For more information, go to: http://energycommerce.house.gov/markup/health-subcommittee-vote-hr-1206-hr-6118-hr-1063-hr-6163-hr-4124-hr-733

**HEALTH: SENATE HELP COMMITTEE REPORTS SEVERAL BILLS**


S. 3391, the TEST Act, introduced by Sen. Amy Klobuchar (MN), amends the Public Health Service Act to revise sanctions for laboratories that intentionally prefer proficiency testing samples required for certification to another laboratory for analysis. The bill gives the Secretary of Health and Human Services discretion to impose intermediate sanctions as opposed to probation and makes the one-year certificate revocation for such a laboratory optional, rather than mandatory. S. 3391 was reported without amendment and placed on the legislative calendar.

The Committee also reported the Recalcitrant Research Act of 2012, which combines elements of two previously introduced bills. S. 3560 was introduced by Sen. Sheldon Whitehouse (RI), and S. 3566, is authored by Sen. Tom Harkin (IA) with the same title. S. 3560 was referred on 9/19/2012 to the Committee on Health, Education, Labor and Pensions and S. 3566 was reported out of the same Committee and placed on the legislative calendar.

The House passed its version of the bill under suspension of the rules on September 19, 2012 (see related article in this Bulletin).

For more information go to: [http://www.help.senate.gov/](http://www.help.senate.gov/).

**RESEARCH AND DEVELOPMENT: SENATE COMMERCE EXAMINES AMERICA COMPETES ACT**

The Senate Committee on Commerce, Science and Technology met on Wednesday, September 19, 2012 to hold a hearing entitled "Five Years of the America COMPETES Act: Progress, Challenges, and Next Steps." The bill focused on the achievements and challenges of the Act.

The America COMPETES Act, signed into law in 2007 and reauthorized in 2010, focuses on increasing science and research investments, education, and programmatic funding in the science and technology industry for the purpose of maintaining U.S. job competitiveness. Among the primary goals of
the COMPETES Act are funding basic research through innovation prize programs, enhancing science, technology, engineering, and math (STEM) education systems, and doubling appropriations for the National Science Foundation programs.

Witnesses included: Mr. Norman R. Augustine, Retired Chairman and CEO, Lockheed Martin Corporation; Honorable Carl E. Wieman, Distinguished Professor of Physics, Presidential Teaching Scholar, and Director of the Science Initiative, University of Colorado Boulder, Professor of Physics and Director of the Carl Wieman Science Education Initiative, University of Columbia, and Nobel Laureate in Physics; Dr. Jeffrey L. Furman, Associate Professor of Strategy and Innovation, Boston University, Research Associate, National Bureau of Economic Research; Dr. Peter Lee, Corporate Vice President, Microsoft Research, Redmond, WA; and Mr. John Winn, Chief Program Officer, National Math and Science Initiative.

Issues discussed at the hearing included:
- The National Academies' "Gathering Storm" report on competitiveness in the science and technology industries. The report finds that in the areas of science, technology, engineering and math, the United States demonstrates an inability to increase global competitiveness through education. The report made recommendations for the improvement of education through specialized teacher training programs, competitive teacher scholarships, and other financial incentives. Witness testimony indicated that STEM goals outlined in the COMPETES Act have been largely unmet, with K-12 strategies remaining an area of key concern.
- Areas of success within the COMPETES Act. Testimony outlined achievement areas, such as the expansion of the power of federal agencies to implement innovation prize programs and the creation of the Advanced Research Projects Agency - Energy (ARPA-E). To date, ARPA-E has awarded $521.7 million in grants to 180 awardees.
- Increased funding for National Science Foundation programs and timetable. Timeframes for the "doubling" of NSF outlined in the original COMPETES Act for 2013 were pushed to 2015 in the reauthorization, with witness testimony indicating a longer timeframe. Discussion indicated that although the slow augmentation is challenging, the overall increases are seen as achievements.
- Specialized training for STEM teachers to focus on transmitting knowledge effectively.

For more information: