

SEQUESTRATION

Summary of Issue:

In 2012, Congress failed to enact legislation negating the implementation of a government-wide sequestration of FY 2013 appropriations. As a result, the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) FY 2013 budgets took an across-the-board cut of \$353 million dollars. Tribes are requesting that Congress, rather than allow a further reduction or sequestration of the IHS budget: 1) amend the Budget Control Act of 2011 (PL 112-25) to exempt IHS services and facilities budgets from these devastating cuts or, even better, 2) enact legislation to meet the deficit reduction requirements of the Deficit Control Act via a combination of responsible budget cuts and revenue-raising measures while protecting the IHS budget.

Explanation:

The Budget Control Act of 2011 (PL 112-25) established new spending caps for discretionary spending for FY 2012 through FY 2021 in order to reduce federal spending by \$1 trillion. The Act *also* required an additional \$1.2 trillion in deficit reduction. In order to achieve this requirement the Act established the Congressional Joint Select Committee on Deficit Reduction, the so-called “Super Committee” and charged it with coming up with a proposal on how to achieve additional deficit reduction in the range of \$1.2-\$1.5 trillion over a ten-year period. Because the Joint Select Committee failed to reach an agreement on such a plan, and because Congress failed to enact legislation to override the automatic effects of that failure under the Budget Control Act, a nearly government-wide 5.1 percent sequestration was made to FY 2013 appropriations. The cuts were made in March 2013, or half way into the fiscal year, thus magnifying the impact of the reductions.

The widely reported view following enactment of the Budget Control Act of 2011 was that the IHS budget would be protected against full sequestration by section 256 of the Balanced Budget and Emergency Deficit Control Act, as amended, which specifies a maximum 2 percent reduction for the IHS budget and also for community and migrant health centers. For FY 2013, however, the Office of Management and Budget concluded that the 2 percent sequestration limit applied only to IHS, community and migrant health center *mandatory* funding – of which IHS has none, other than that for the Special Diabetes Program for Indians (\$150 million annually). The vast majority of the IHS budget, therefore, was subject to the full sequester in FY 2013, and as a result the Indian Health Service lost \$227 million reduction. Under a fair reading of the law, the 2 percent limit on reduction of the IHS budget in section 256 will apply in 2014 and future years. Nevertheless, without a change in current law, the IHS budget will be subject to at least some further reduction in funding in FY 2014 if sequestration is again triggered. Of course, it is not yet known for sure whether a sequestration will occur, since Congress has not yet passed any FY 2014 appropriations bills and the state of that budget is still in flux. The need for Congress to strike a deal to raise the debt limit in the coming weeks adds further uncertainty to the situation.

A number of programs have been statutorily exempted from sequestration in full regardless of the year, notably the Veterans Administration medical accounts. Tribes should emphasize that the VA medical programs are exempted from sequestration and that the IHS programs – for which there is a federal trust

responsibility – should likewise be protected. Other programs exempted from sequestration include child nutrition programs, the Child Care Block Grant, Grants to States for Medicaid, Foster Care and Adoption Assistance, SSI, Social Security, and Temporary Assistance for Needy Families programs. Tribes should also emphasize that, if Congress avoids a FY 2014 sequestration through a package of spending cuts and revenues, the IHS budget should be prioritized and protected in any such package.

What happens in the next several months will greatly affect the BIA/IHS and Tribes ability to provide quality services and health care to Alaska Native and American Indian people, and at this point the outcome is far from certain. Regardless of the path taken, the federal trust obligation to Indian Tribes must be honored and vital Tribal programs sustained.

Request to Congress

1. *Enact an Amendment to the Budget Control Act of 2011 to fully exempt the BIA & IHS budgets from sequestration, or*
2. *Enact a legislative package that has a balanced approach to budget reductions and revenue measures to achieve deficit reduction, while protecting the BIA & IHS budget.*

Tribes and Tribal organizations need to work cooperatively among themselves and with other national and regional Tribal organizations to press Congress and the Administration on these matters, including providing specifics about the impact of proposed reductions.