



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 15, 2012

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
2120 Rayburn House Office Building
Washington, DC 20515

The Honorable Ileana Ros-Lehtinen
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
2170 Rayburn House Office Building
Washington, DC 20515

The Honorable Mike Rogers
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
HVC-304
Washington, DC 20515

Dear Chairmen McKeon, Ros-Lehtinen, and Rogers:

Thank you for your letter of June 8, 2012 to the President regarding the effect of sequestration on funds designated for Overseas Contingency Operations (OCO). Your letter asks whether "there is flexibility in the law" not to apply the sequester to OCO funds. I am responding on the President's behalf.

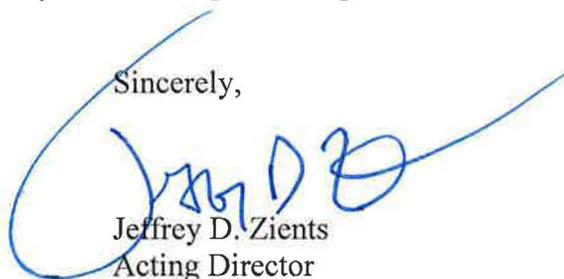
The law does not grant the Executive Branch the flexibility to exempt OCO funding from sequestration. As OMB explained in its May 25, 2012 letter to Chairman Ryan of the House Budget Committee, Section 251A(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011 (BCA), states that "OMB shall calculate and the President shall order a sequestration ... to reduce each account within the security category or non-security category..." OCO is funded from such accounts and is thus subject to sequestration, absent an express statutory exemption. You are correct to note that the Department of Defense (DoD) initially concluded that, since OCO funding would not be a factor in triggering sequestration, OCO funds would therefore not be subject to sequester itself. But, after extensive analysis and consultation between OMB and DoD, we have identified no statutory basis for generally exempting OCO funds from sequestration.

The conclusion that OCO funding is not generally exempt from a sequester is entirely a legal determination — not a policy choice. In other words, this is not a case of ambiguous statutory language that would have granted the Executive Branch the discretion either to exempt OCO funding or not. Rather, a general administrative exemption for OCO funds is not an option that, in our view, the statutory language enacted by clear bipartisan majorities in both houses of Congress grants the Executive Branch.¹

Finally, it is important to emphasize that approximately six months remain before the sequester is scheduled to take effect, and Congress has time to act to avoid it by passing balanced deficit reduction at least equal to the amount it was charged to undertake in the BCA. Should it get to a point where it appears that Congress will not do its job and the sequester may take effect, let me assure you that OMB, DoD, and the entire Administration will be prepared. While OMB has not yet engaged agencies in planning, our staff is conducting the analysis necessary needed to move forward if necessary. Right now, however, it is time for Congress to enact bipartisan, balanced deficit reduction legislation that the President can sign into law and avoid the sequestration scheduled to take place on January 2, 2013. Balanced deficit reduction, rather than sequestration, is the way to put the Nation on the path to fiscal stability and protect our national security.

I look forward to working with you to accomplish that goal.

Sincerely,



Jeffrey D. Zients
Acting Director

¹ OMB also explained in its May 25 letter that the BCA provides that the President may exercise special authority under Section 255(f) of BBEDCA to exempt any military personnel account from a sequester, subject to a further reduction of other accounts within sub-functional category 051 pursuant to Section 251(a)(3). To the extent that a portion of OCO funding is in a military personnel account and the President exempts that account from sequestration, that portion of OCO funding would be exempt, but the reduction would be reallocated to other defense accounts.