From: Berger, Sam
Sent: Wednesday, February 06, 2013 6:27 PM
To: Neill, Allie
Subject: RE: FOR REVIEW: Talkers on Secure Rural Schools Payments

Yes. I'd say BBEDCA, as amended

From: Neill, Allie
Sent: Wednesday, February 06, 2013 6:25 PM
To: Berger, Sam
Subject: FW: FOR REVIEW: Talkers on Secure Rural Schools Payments

Sam,
Should it be BBEDCA rather than BCA?

From: Santillo, Jessica
Sent: Wednesday, February 06, 2013 6:21 PM
To: Neill, Allie; Crutchfield, Craig; Ericsson, Sally C.; Vorhaus, Dave; Sarri, Kristen; Berman, Lindsey R.; Irwin, Janet; Lucas, Adrienne C.
Cc: Posner, Steven; Brown, Jamal; Astles, Ari Isaacman; Timberlake, Courtney B.; Brown, Calla; Berger, Sam
Subject: RE: FOR REVIEW: Talkers on Secure Rural Schools Payments

Steve suggested these edits. Would this work?

Can we remove the reference to OMB making the determination. It is the law dictating this, not OMB. Thanks.

- Thanks for your inquiry about Secure Rural Schools payments.
- ~~OMB has made the determination that~~ the Secure Rural Schools account is subject to the provisions of the Budget Control Act and subject to sequester.
- ~~With that determination,~~ DOI took the prudent step to hold back 10% of the scheduled payment in order to be prepared if there is a sequestration.
- We understand the importance of these funds to the viability of western Oregon counties in support of county projects and local schools.
- The BLM has distributed the majority of the Secure Rural Schools payments, totaling approximately $36 million.

Jessica Santillo
OMB Press Secretary
Direct: 202-395-1061

From: Neill, Allie
Sent: Wednesday, February 06, 2013 6:20 PM
To: Santillo, Jessica; Crutchfield, Craig; Ericsson, Sally C.; Vorhaus, Dave; Sarri, Kristen; Berman, Lindsey R.; Irwin, Janet; Lucas, Adrienne C.
Cc: Posner, Steven; Brown, Jamal; Astles, Ari Isaacman; Timberlake, Courtney B.; Brown, Calla; Berger, Sam
Subject: RE: FOR REVIEW: Talkers on Secure Rural Schools Payments

+ Courtney and Sam

Craig,
These two points from DOI seem to be heavily push this on OMB and suggest that OMB singled out the SRS. Is there a way they could go back to the initial points you suggested?

From DOI:

- OMB has made the determination that the Secure Rural Schools account is subject to the provisions of the Budget Control Act and subject to sequester.

- With that determination, DOI took the prudent step to hold back 10% of the scheduled payment in order to b e prepared if there is a sequestration.

From OMB:

Talking points for BLM and DOI.

- Thanks for your inquiry about Secure Rural Schools payments. I understand there is some confusion about the status of these funds. I will try to provide some useful inform ation.
- The Secure Rural Schools account is subject to the provisions of the Budget Control Act.
- To avoid future problems if a sequester takes place, the BLM has held back 10%, or approximately $4 million, of the Secure Rural School paym ents to western Oregon counties.
- The BLM understands the importance of these funds to the viability of western Oregon counties in support of county projects and local schools. The BLM has distributed the majority of the Secure Rural Schools payments, totaling approximately $36 million.
- DOI cannot speak on behalf of Forest Service as it is up to each agency to plan for the sequester in accordance with OMB guidance and the law.

From: Santillo, Jessica
Sent: Wednesday, February 06, 2013 6:14 PM
To: Crutchfield, Craig; Ericsson, Sally C.; Vorhaus, Dave; Sarri, Kristen; Berman, Lindsey R.; Irwin, Janet; Lucas, Adrienne C.
Cc: Posner, Steven; Brown, Jamal; Astles, Ari Isaacman ; Neill, Allie
Subject: RE: FOR REVIEW: Talkers on Secure Rural Schools Payments

+ Allie

Jessica Santillo
OMB Press Secretary
Direct: 202-395-1061

From: Crutchfield, Craig
Sent: Wednesday, February 06, 2013 6:01 PM
To: Santillo, Jessica; Ericsson, Sally C.; Vorhaus, Dave; Sarri, Kristen; Berman, Lindsey R.; Irwin, Janet; Lucas, Adrienne C.
Cc: Posner, Steven; Brown, Jamal; Astles, Ari Isaacman
Subject: Re: FOR REVIEW: Talkers on Secure Rural Schools Payments

These are consistent with our conversations with DOI, so I would recommend letting DOI use these.

If DOI gets questions about why they took a different approach than USDA, I would advise that DOI can't speak for USDA, but each agency is responsible for finding savin gs if there is a sequester.

From: Santillo, Jessica
Sent: Wednesday, February 06, 2013 05:52 PM
To: Ericsson, Sally C.; Crutchfield, Craig; Vorhaus, Dave; Sarri, Kristen; Berman, Lindsey R.
Cc: Posner, Steven; Brown, Jamal; Astles, Ari Isaacman
Subject: FW: FOR REVIEW: Talkers on Secure Rural Schools Payments

Flagging this - DOI has proposed talking points below. There's also interest from MOCs (DOI received from Rep. Defazio) and they have gotten press questions from AP and regional media.

Alternatively, we can ask them to route these questions to OMB – please advise.

From: Kershaw, Jessica [mailto:jessica_kershaw@ios.doi.gov]
Sent: Wednesday, February 06, 2013 5:18 PM
To: FN-OMB-Communications Office
Subject: FOR REVIEW: Talkers on Secure Rural Schools Payments

DOI Press has drafted the following talking points/statement for use on questions we are starting to get bombarded with related to the Secure Rural Schools programs and paymen ts that started going out the door TODAY.

These payments are reduced by 10% - a prudent step DOI took to be prepared if there is a sequestration. This reduction is why reporters are calling - in combination with the fact that apparently Rep Greg Waldon, who sits on the House Committee of jurisdict ion over these funds is also starting to make noise.

We'd like to get back to these reporters (Associated Press as well as a host of other regional radio/print reporters in Oregon and other western states) with some kind of response.

Below is our draft, for OMB review.

Again, since these payments are going out today - we need to know tonight whether we can use this or whether we need to route these folks to you at OMB press.

Thank you very much in advance!

Jessica Kershaw

Talking points.

- Thanks for your inquiry about Secure Rural Schools payments.
- OMB has made the determination that the Secure Rural Schools account is subject to the provisions of the Budget Control Act and subject to sequester.
- With that determination, DOI took the prudent step to hold ba ck 10% of the scheduled payment in order to be prepared if there is a sequestration.
- We understand the importance of these funds to the viability of western Oregon counties in support of county projects and local schools.
- The BLM has distributed the major ity of the Secure Rural Schools payments, totaling approximately $36 million.

--
Jessica Kershaw

Press Secretary
OS/Office of Communications
Office: 202-208-6416
Cell: 202-669-0968

From: Graham, Kathleen - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRAHAM, KATHLEENB61010EB-E2C2-40A6-BAA9-49BEC6A6CE94>
Sent: Friday, February 08, 2013 7:20 AM
To: Young, Mike - OBPA; Bice, Don - OBPA; Zehren, Chris - OBPA; Lippold, David -OBPA
Cc: Okal, Marianne - OBPA; West, Jeremy -OBPA
Subject: RE: OMB on SRS sequestration

Correction it was SRS that BLM reduced by 10%, not PILT. Kathleen C. had not specified which in our conversation. FS does not know the status of PILT.

From: Graham, Kathleen OBPA
Sent: Wednesday, February 06, 2013 9:27 AM
To: Young, Mike OBPA; Bice, Don OBPA; Zehren, Chris OBPA; Lippold, David OBPA
Cc: Okal, Marianne OBPA; West, Jeremy OBPA
Subject: RE: OMB on SRS sequestration

I was able to reach Kathleen C. after receiving the voice mail information below.

- BLM withheld 10% of their PILT (Payments in Lieu of Taxes) payments, but she recognizes that we were under guidance to proceed as usual at the time.
- USDA/FS should consult with counsel about the definition of PPA (program, project, activity) to see if the sequester of payments already made can come from unspent funds in Title II. If not, there would be a "not at fault" ADA violation (the agency acted in good faith at the time). OMB is also consulting with their counsel since other agencies have similar situa tions. She hopes agencies' and OMB counsel can reach agreement.
- Still to be determined at OMB is whether payments that have been fully obligated can be pulled back. An interesting political issue.

From: Graham, Kathleen OBPA
Sent: Wednesday, Febr uary 06, 2013 9:09 AM
To: Young, Mike OBPA; Bice, Don OBPA; Zehren, Chris OBPA; Lippold, David OBPA
Cc: Okal, Marianne OBPA; West, Jeremy OBPA
Subject: OMB on SRS sequestration

Kathleen Cahill concurs that the amount warranted by Treasury in FY 2013 is subject to sequestration. She is seeking clarification on the receipts portion of the payment. She did not address the issue of pulling back funds that have been obligated so I'll ask again. So we know that the $225M is subject to a $11.5M sequ ester.

Kathleen Graham
U.S. Department of Agriculture
Office of Budget and Program Analysis
Jamie L. Whitten Building, Room 113E
1400 Independence Avenue, SW
Washington, DC 20250

Phone: 202-720-2881
Fax: 202-720-8635
email: Kathleen.Graham@obpa.usda.gov

From: Jones, Diem-Linh - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JONES, DIEM-LINH48A9EF1E-2A89-498C-B5E3-17607E5FC19B>
Sent: Friday, February 08, 2013 7:25 AM
To: Cooper, Barbara -FS
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Barrack, Leslie D. - OBPA; Okal, Marianne - OBPA; Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools

Thanks, Barbara. Elin has reached out to Leslie Barrack, our contact with OGC on sequestration matters. Leslie with work with Kathleen and your office to get OGC what they need. As you can imagine, the Secretary has expressed strong interest in this pro gram.

From: Cooper, Barbara FS
Sent: Friday, February 08, 2013 8:33 AM
To: Graham, Kathleen OBPA; Jones, Diem Linh OBPA
Cc: Spear, Susan J FS; Lynn, Kathryn FS; Cooper, Barbara FS
Subject: FW: Impact of Sequestration on Secure Rural Schools

Kathleen/Diem Linh:

Just wanted to give you a heads up. Sue, Kathy and I had a conversation with OGC attorneys Elin Dugan and Adam Hermann to provide background on this issue. Adam will be out of the office until next Wednesday so Elin may be following up with OBPA (not sure who exactly) to find out more about how sequestration will impact other USDA agencies that make payments. Also she may be looking for your opinion on the issues and OMB's interpretation. Thanks Barbara

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From: Spear, Susan J FS
Sent: Thursday, February 07, 2013 7:21 AM
To: Cooper, Barbara FS; Lynn, Kathryn FS
Cc: Kohrman, Elaine B FS
Subject: Fw: Impact of Sequestration on Secure Rural Schools

From: Graham, Kathleen OBPA
Sent: Wednesday, February 06, 2013 07:23 PM
To: Spear, Susan J FS
Cc: Lynn, Kathryn FS
Subject: RE: Impact of Sequestration on Secure Rural Schools

Diem Linh says please send us a draft of any response to this to OBPA for clearance. Clearly a hot political subject. Let us know if you need any support.

From: Cahill, Kathleen [mailto:Kathleen_Cahill@omb.eop.gov]
Sent: Wednesday, February 06, 2013 1:49 PM
To: Spear, Susan J FS
Cc: Lynn, Kathryn FS; Graham, Kathleen OBPA; Lucas, Adrienne C.
Subject: Impact of Sequestration on Secure Rural Schools

Sue,

We are trying to understand how the Forest Service intends to apply sequestration to Secure Rural Schools. There is a lot of interest in this at a variety of levels including OMB and the Hill .

1) How much funding is available in each title of SRS for the 2012 program implemented in 2013?
2) How is the Forest Service defining PPA in the instance of Secure Rural Schools? Defining PPA has been left up to the agencies. However, the agencies need to be able to explain why the definition they are using is reasonable. Please provide information on how the FS intends to implement the PPA in the instance of SRS and how this implementation is justified. Please work with the FS legal counsel to ensure compliance with the law.
3) How does the FS intend to comply with sequestration for SRS? Can funding made available in Title II of SRS be used to cover the savings requirements for SRS as a whole under sequestration? What is the justification for using Title II to cover the savings requirements? Please work with the FS legal counsel in responding to these question.

There is a lot of high level interest in understanding how the FS is going to comply with sequestration. We would like to have the above addressed as soon as possible. When does USDA think they will be able to provide a response?

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Neill, Allie
Sent: Saturday, February 09, 2013 12:40 AM
To: Murray, Jenny Winkler; Stigile, Art; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily
Subject: Re: O&C SRS payments

Ok. Thanks!

From: Murray, Jenny Winkler
Sent: Saturday, February 09, 2013 12:00 AM
To: Stigile, Art; Neill, Allie; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily
Subject: RE: O&C SRS payments

CBO never rescored MAP-21, but when I talked to the analyst over there he indicated that he was trying to mirror the way that he thought that we had done it in our proposal in the President's Budget (he scored the Reestimate of the President's Budget similarly). Unfortunately, he got it wrong.

Maybe we should leave CBO out of any response. If the Congressman wants to reach out to CBO to get their thoughts, his staff would obviously be free do so.

From: Stigile, Art
Sent: Friday, February 08, 2013 9:35 AM
To: Neill, Allie; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily; Murray, Jenny Winkler
Subject: RE: O&C SRS payments

Adding Jenny, who would know what CBO has done better than I.

I'm comfortable with sharing the explanation of why we sc ore the BA in 2013, which answers his question/statement about 2012 BA and unobligated balances. I mentioned CBO only because the letter did.

I assumed someone else would address his other questions. We are not transferring the money to other accounts. The receipts stay in the fund.

From: Neill, Allie
Sent: Thursday, February 07, 2013 6:18 PM
To: Stigile, Art; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily
Subject: Re: O&C SRS payments

Thank you, Art.
Is there something to point to - and did CBO ever re - score after scoring 2012?
If not, how much of this response are we able to share?

From: Stigile, Art
Sent: Thursday, February 07, 2013 05:56 PM
To: Neill, Allie; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily
Subject: RE: O&C SRS payments

We were concerned about this very issue, so we were careful to review the history of the program before determining that the BA should be scored in the year the funds are obligated and the payments are made. For payments through FY 2006, the spending was mandatory and the BA had always been warranted by Treasury and recorded in the year in which funds were obligated and the payments were made, which was the subsequent fiscal year. For example, the BA for the FY 2006 payments was recorded in FY 2007. The same accounting applied to the 2008 through 2011 payments – the BA was recorded in the year the payments were made. The only exception was for the 2007 payments, which were included in an appropriations Act and therefore scored the same as other discretionary appropriations in the year they were appropriated, not the year the payments were made. Since the FY 2012 payments were accomplished through a simple extension of the program in MAP -21, we scored the BA in 2013, following the practice for all prior years except for the one year the funds were provided in an appropriations Act. We assume that CBO mistakenly scored them as 2012 BA.

Since the funds are 2013 BA, there is no issue about unobligated balances. They are new BA and therefore subject to a 2013 sequestration.

From: Neill, Allie
Sent: Thursday, February 07, 2013 10:59 AM
To: Stigile, Art; Berger, Sam; Sarri, Kristen
Cc: Brown, Calla; Eelman, Emily
Subject: FW: O&C SRS payments

Art,
Rep. Walden and his staff are very worked up about the issue of Secure Rural Schools and the fact that DOI /BLM withheld 10% from recent payments while FS made payments in full.
After we discussed the recent letter (attached) the staffer came back with an additional round of questions. Could you recommend a response?

From: Rea, Nathan [mailto:nathan.rea@mail.house.gov]
Sent: Wednesday, February 06, 2013 8:38 PM
To: Neill, Allie
Subject: RE: O&C SRS payments

Allie-

Thanks. I have read this and am still confused. Given

Can you please clarify if it is OMB's policy to have sequester impact the "budget authority" or the "outlays"? I ask this as a follow up to your reference to the CBO scoring o f SRS payments in the year after for which they are intended (i.e. 2012 SRS payments score in 2013). The CBO report for MAP -21 has SRS payment budgetary authority in FY 12 – not FY13 as you suggested. Can you please provide clarity which OMB?

In addition, how is OMB following the law outlined in Section 255 of the BBEDCA (2 U.S.C. 905), which under subsection (e) identifies programs exempt from sequestration including non -defense unobligated balances such "unobligated balances of budget authority carried o ver from prior fiscal years..."? This Section 255 is referenced in OMB's report on pursuant to the Sequestration Transparency Act (PL 112 -155). As such, the FY12 budgetary authority for this SRS payment should be exempt from sequestration cuts.

If the answer to the first questions is that OMB has discretion regardless of whether it is a budget authority or outlay, why is OMB avoiding the law in [2 U.S.C. 905]?

Thank you for clarifying.

Nathan

From: Neill, Allie [mailto:Allie_R_Neill@omb.eop.gov]
Sent: Monday, February 04, 2013 22:30
To: Rea, Nathan
Subject: Re: O&C SRS payments

Nathan,
Thanks for raising the issue. We are looking into it. I'll check back in when we have a better sense - likely a day or two.

Allie

From: Rea, Nathan [mailto:nathan.rea@mail.house.gov]
Sent: Monday, February 04, 2013 03:06 PM
To: Neill, Allie
Cc: Marshall, Colby <colby.marshall@mail.house.gov>
Subject: O&C SRS payments

Allie-

Thanks for taking my call and offering to help determine whether the FY12 SRS payments to the 18 O&C counties are going to be subject to sequestration. As I mentioned, we had heard that Inte rior was going to apply a 10% cut to the payments. The Forest Service got their portion of the payments out in mid -January without any cuts due to sequestration.

As I look at the OMB Report on sequestration, I see that the O&C Counties are listed on page 104. I think this may be where there is confusion. The reference to the Oregon and California Grant Lands on page 104 is in reference to the funding line item that is for the BLM's year -to-year management of the O&C grant lands. This is separate from the Secure Rural Schools (SRS) dollars that these counties receive as part of PL 112 -141 [Division F, Title I(A)] --the current subject of my inquiry.

I'm not sure if this is helpful. I think there could be some confusion in the agency or at OMB regarding whi ch O&C funds are indeed subject to sequestration per the OMB's report on PL 112 -155.

Do you think we'll be able to hear back from you today with clarification on this important issue for my boss? Should he want to call someone at OMB to discuss this, whom would you suggest he call, and can I get their contact info?

Thank you,

Nathan H. Rea
Legislative Director
Office of Representative Greg Walden
Nathan.Rea@mail.house.gov
P: (202) 226-5234
C: (202) 674-7399

From: Ericsson, Sally C.
Sent: Sunday, February 10, 2013 10:01 AM
To: 'Rhea Suh'
Subject: RE: three things

Thanks --

-----Original Message-----
From: Rhea Suh [rhea_suh@ios.doi.gov]
Sent: Sunday, February 10, 2013 12:01 AM Eastern Standard Time
To: Ericsson, Sally C.
Subject: three things

Hi Sally:

Want to give you a heads up on a couple of things. First, the Secure Rural Schools issue is not going away. There continues to be the belief that there is discretion in our interpretation of the sequester guidance. Our perspective is that there is no di scretion. If we do have a sequester and we release funds now, we will both be anti-deficient and in the untenable position of asking for funds back from counties. This is not an acceptable level of risk. We need to work with your staff to get a more cle ar articulation of the parameters which guide our decision. Moving forward it might be worth flagging internally within OMB as an area that could cause lots of chaos without more specific guidance?

[redacted]

[redacted]

[redacted]

Rhea

From: Diem-Linh Jones
Sent: Monday, February 11, 2013 4:01 PM
To: Mike Young; Don Bice
Subject: FW: Impact of Sequestration on Secure Rural Schools

FYI, according to our OGC, payments made before a sequestration order is issued are not sequesterable.

From: Leslie Barrack
Sent: Monday, February 11, 2013 5:20 PM
To: Diem-Linh Jones; David Lippold
CC: Nicole Pollard
Subject: FW: Impact of Sequestration on Secure Rural Schools

Of course, Elin and Benny in OGC came up with different interpretations of sequestration for Secure Rural Schools...

From: Elin Dugan
Sent: Monday, February 11, 2013 1:05 PM
To: Leslie Barrack
Subject: FW: Impact of Sequestration on Secure Rural Schools

Leslie,

FYI, since we discussed on Friday, here's how Benny and I came out on the issue of sequestering funds that have already been spent. (Not in agreement with OMB, apparently).

From: Elin Dugan
Sent: Monday, February 11, 2013 1:04 PM
To: Barbara Cooper; Adam Hermann
CC: Susan Spear; Kathryn Lynn; Benjamin Young; Lori Monfort
Subject: RE: Impact of Sequestration on Secure Rural Schools

Barbara,

Without addressing the three specific OMB questions, here is our general/initial take on the situation:

We understand the FS has made all of the direct payments under Titles I and III of Secure Rural Schools. About $32 million has been allocated for projects under title II but has not been paid. The funds that have been paid are not sequesterable. That is because sequestration applies to "enacted levels of

sequesterable budgetary resources in that account at that time." "At that time" means March 1st or on whatever date the sequestration order eventually is issued. See 2 USC 901(a)(2).

Also, "budgetary resources" is defined as "new budget authority, unobligated balances, direct spending authority, and obligation limitations." 2 USC 900(c)(6). Obligated funds that an agency once had been authorized to spend, which the agency has already spent, are not included in that definition. Therefore, the Title I and Title III funds that have been paid will not be the subject to sequestration on March 1 or any other future date.

The Title II funds present a different scenario, because I understand that to be direct spending authority that, on March 1st, will exist in an account [I'm not sure which account]. So, it appears that the $32 million will need to be reduced by 5.1%.

I'm not sure how the Title II account related to Titles I and III. For example, does the entire SRS program fall under the budget line item "NFF Payments to States"? Or is Title II its own account? OMB has asked that question, but I'm not sure it's relevant, given our opinion above.

Let me know if this makes sense. If so, I can try to streamline it for purposes of your sending something to OMB.

From: Barbara Cooper
Sent: Friday, February 8, 2013 9:33 AM
To: Elin Dugan; Adam Hermann
CC: Susan Spear; Kathryn Lynn
Subject: FW: Impact of Sequestration on Secure Rural Schools

Elin – below is information received from OMB. Not the request to keep close hold. Thanks Barbara

From: Kathleen Cahill
Sent: February 8, 2013 9:18 PM
To: Barbara Cooper
CC: Susan Spear; Kathryn Lynn
Subject: RE: Impact of Sequestration on Secure Rural Schools

Below is the research results by BRD. This is from an internal OMB email and I would appreciate it if you keep it as close hold as possible right now. Thanks.

The short answer is that the BA for the 2012 payments should be recorded in 2013 and, therefore, subject to sequester. The longer explanation is as follows:

- For payments through FY 2006, the program was mandatory and the BA had always been warranted by Treasury and recorded in the year in which funds were obligated, which was the subsequent fiscal year. Therefore, for example, the BA for the FY 2006 payments would not have been recorded until FY 2007. The logic here was that, as with a good number of mandatory programs, the BA was driven by the obligations and as a result the obligational authority was not needed before the funds were actually to be obligated.
- The FY 2007 payments were instead included in an appropriations rather than an authorizing bill, after the program's authorization had been allowed to lapse. The FY 2007 payments were therefore considered a new program and scored as discretionary. They were not scored as a CHIMP and rebased. Given that decision, it was also determined that the FY 2007 payments should be scored similar to other discretionary programs where the BA is always recorded in the year in which it was appropriated. This was accomplished through backdated Treasury documents for FY 2007 that were processed in February or March of 2008.
- It was when the program was reauthorized by the Authorizers for FY 2008 through FY 2011 payments there was discussion between OMB, USDA, and DOI as to when the BA should be scored. The outcome of that discussion was that we reverted to both scoring and recording the FY 2008 payments the way we always had historically, as FY 2009 BA. The FY 2009, FY 2010, and FY 2011 payments were to be recorded (and have been recorded) similarly.
- Since the FY 2012 payments were accomplished through a simple extension of the program in MAP -21 (an authorizing bill), we believe that the method for recording the BA should continue.

Kathleen Cahill

Program Examiner

OMB

From: Barbara Cooper
Sent: Friday, February 8, 2013 9:08 AM
To: Kathleen Cahill
CC: Susan Spear; Kathryn Lynn; Barbara Cooper
Subject: FW: Impact of Sequestration on Secure Rural Schools

Hi Kathleen – just wanted to give you a status. Yesterday we had a conversation with our OGC attorneys to engage them in responding to your questions. They are following up on several questions. They asked that we follow up with you to ask that you provide the following:

- OMB's written determination that Secure Rural Schools funds are subject to sequestration
- Lastly, we will need to engage the leadership in the FS and OBPA before providing answers. Just wanted to let you know what we're working on.

Barbara

From: Kathleen Cahill
Sent: Wednesday, February 6, 2013 1:49 PM
To: Susan Spear
CC: Kathryn Lynn; Kathleen Graham; Adrienne Lucas
Subject: Impact of Sequestration on Secure Rural Schools

Sue,

We are trying to understand how the Forest Service intends to apply sequestration to Secure Rural Schools. There is a lot of interest in this at a variety of levels, including OMB and the Hill.

1) How much funding is available in each title of SRS for the 2012 program implemented in 2013?
2) How is the Forest Service defining PPA in the instance of Secure Rural Schools? Defining PPA has been left up to the agencies. However, the agencies need to be able to explain why the definition they are using is reasonable. Please provide information on how the FS intends to implement the PPA in the instance of SRS and how this implementation is justified. Please work with the FS legal counsel to ensure compliance with the law.
3) How does the FS intend to comply with sequestration for SRS? Can funding made available in Title II of SRS be used to cover the savings requirements for SRS as a whole under sequestration? What is the justification for using Title II to cover the savings requirements? Please work with the FS legal counsel in responding to these questions.

There is a lot of high level interest in understanding how the FS is going to comply with sequestration. We would like to have the above addressed as soon as possible. When does USDA think they will be able to provide a response?

From: Berger, Sam
Sent: Monday, February 11, 2013 5:04 PM
To: Werfel, Danny; Ericsson, Sally C.; Sarri, Kristen
Cc: Shulman, Sophie; Vorhaus, Dave; Kawahata, Molly
Subject: RE: Secure Rural Schools

Happy to discuss tomorrow.

From: Werfel, Danny
Sent: Monday, February 11, 2013 5:02 PM
To: Ericsson, Sally C.; Sarri, Kristen
Cc: Shulman, Sophie; Berger, Sam; Vorhaus, Dave; Kawahata, Molly
Subject: RE: Secure Rural Schools

Thanks for flagging! Adding Sam and Dave.

My first reaction is that DOI should take whatever steps necessary to mitigate an ADA violation. That said, I think it's worth a quick get together to make sure we understand the risks and DOI's options. Molly can try and find a few minutes tomorrow AM (perhaps before or after morning mtg).

From: Ericsson, Sally C.
Sent: Monday, February 11, 2013 12:05 PM
To: Werfel, Danny; Sarri, Kristen
Cc: Shulman, Sophie
Subject: Secure Rural Schools

Relatively minor point – but one that is going to cause issues when agencies follow our guidance differently --

The Secure Rural Schools issue is not going away. There continues to be the belief on the Hill that there is discretion in DOI's interpretation of the sequester guidance. DOI's perspective is that there is no discretion. If there a sequester but funds are released now, DOI will both be anti -deficient and in the untenable position of asking for funds back from counties. DOI believes this not an acceptable level of risk. USDA released all of the funds.

DOI would a more clear articulation of the parameters which guide its decision.

Thoughts?

From: Dugan, Elin – OGC
Sent: Tuesday, February 12, 2013 7:38 AM
To: YOUNG, BENJAMIN, JR. – OGC
Subject: RE: Important OMB Sequestration Issue:

[redacted]

Elin M. Dugan
Senior Counsel

From: YOUNG, BENJAMIN, JR. – OGC
Sent: Tuesday, February 12, 2013 9:38 AM
To: Dugan, Elin – OGC
Subject: RE: Important OMB Sequestration Issue:

Right, which opinion was that? I forget as well.

L. Benjamin Young, Jr.
Associate General Counsel

From: Dugan, Elin – OGC
Sent: Tuesday, February 12, 2013 9:37 AM
To: YOUNG, BENJAMIN, JR. – OGC
Subject: RE: Important OMB Sequestration Issue:

And now we also would have a CG opinion to support us (or was it OLC? I forget). And yes, now I remember this issue.

Elin M. Dugan
Senior Counsel

From: YOUNG, BENJAMIN, JR. – OGC
Sent: Tuesday, February 12, 2013 9:35 AM
To: ASSOCIATES DL – OGC
CC: Dugan, Elin – OGC; Romero, Ramona – OSEC; BUMBARY-LANGSTON, INGA – OGC
Subject: RE: Important OMB Sequestration Issue:
Importance: High

OMB Madness again. Please note the last question below in Elin's email. This arose in the context of the Secure Rural Schools funds that have already been disbursed this fiscal year. So 5% X 0 = 0. OMB is saying that for any funds already disbursed in FY 2013, we have to recoup that money from the recipients even though the sequestration law is quite clear that the sequester order applies to the amounts in the account at the time of sequestration."

Two years ago, when congress rescinded certain RD accounts by an amount more than that which remained in the accounts, even though the rescission statute as here was clear that it applied to unobligated funds in those accounts, OMB suggested we had to deobligate funds and go back and get the money to meet the rescission number. We drafted an opinion request to OLC on that point but never had to use it.

Guess we'll have to dust it off and revise.

L. Benjamin Young, Jr.
Associate General Counsel

From: Dugan, Elin – OGC
Sent: Tuesday, February 12, 2013 9:15 AM
To: YOUNG, BENJAMIN, JR. – OGC
CC: Hermann, Adam – OGC
Subject: OMB Responses to OBPA questions

Benny,

FYI. Some of these are directly contradictory to what I told the FS (and Leslie Barrack, separately) yesterday. Questions were posed by OBPA; OMB responses in blue. The highlights and comments in red are mine, to show where we diverge.

Questions:

- Will the sequestration be based on a percentage cut to apportioned amounts as of 3/1 (date of sequestration) or will OMB give the Department a target number that has to be cut based on the estimates entered into MAX during the BDR process (BDR required the Department to use the 2013 President's Budget/MSR estimates)?

OMB will provide USDA with the amount of reductions based on the President's 2013 budget baseline.

- Will the Sequestration be implemented at the budget account level or the program , project and activity (PPA) level?

It is applied at the PPA level. It is up to USDA to determine what constitutes PPAs for its sequestrable accounts. If asked, USDA should be able to explain how it determined PPAs in the manner that it did. I don't know why this is even a question, since sequestration so clearly applies to an "account," and "account" is very clearly defined at section 900(a)(11). It is not PPA. It is "an item for which appropriations are made in any appropriations Act" or "an item for which there is a designated budget account identification code number in the President's budget. My understanding is that PPA typically is one level below (more narrow than) an account.

- If all or a portion of the sequestrable budget authority listed on the OMB control table for an account was obligated prior to 10/1/12, is the amount of those obligations still sequestrable in FY 2013?

Yes. Agencies are being held to the control totals, which were the best estimates of Government spending at the time the report was drafted.

The Department will have to determine how it will reduce spending by the control total amounts. If funds have already been disbursed such that the reduction cannot be taken from estimated payments for the remainder of the year, then *if programs have a process in place* [and if they don't, then no worries?] for requesting recipients repay erroneous payments, they could elect to implement them. [but aren't required to?] Similarly, if there is a precedent for correcting erroneous payments by reducing future payments by the overpayment amount, such a policy could be implemented. Each agency will have to determine how it will achieve its spending reduction targets which they will be held to. Section 901(a)(2) requires the reduction of "the enacted level of sequestrable budgetary resources in that account at that time, " i.e., on the date of sequestration. The quoted phrase to me seems contradictory. On the one hand, it asks what's in the account on March 1st. On the other hand it asks what the "enacted level" of those resources was (presumably as of date of enaction). For SRS, we said to look at what funds remain as of March 1st.

Elin M. Dugan
Senior Counsel

From: YOUNG, BENJAMIN JR. – OGC
Sent: Wednesday, February 13, 2013 1:28 PM
To: Hermann, Adam – OGC; Dugan, Elin – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

Having intermittent connectivity issues.

Bottom line, the statute sets a hard dollar line that is measurable that sequestration must meet – balance the checkbook so to speak. I think OMB's calculations are flawed and we will get nowhere with them on these direct spending accounts. I think they have made their calculations under the complicated law based on the FY 2013 budget – and did not over the year take into account expenditures. So their 5% discretionary and 5.1% mandatory overall percentages are screwed because they did not query agencies on balances at X dates.

OK, reading 901a(6)(A)(iii)), you use the estimated direct spending outlays to determine the overall discretionary reduction $$. Then, under 901a(6)(B) you determine the direct spending $$ cap by subtracting (A)(iii) from the total $$ cap for nondefense. Then, as I read 901a(7)(A), even more clearer than 901 because the "enacted" is left out, discretionary amounts are ascertained by account "by multiplying the baseline level of budgetary resources in that account on [January 2, 2013 – someone check the amendments made by the January bill, did something change?]. . ." by multiplying a percentage necessary to meet the discretionary reductions determined under paragraph (6). In other words, if the discretionary account number will natural go down the later in the year a sequestration occurs, and direct spending has to make up the difference.

In other words, if you use budget to calculate discretionary cut but balances to calculate the cut the discretionary cut, this doesn't add up. And if you use outlays of direct spending to calculate the direct spending cut, but there is nothing to cut in some accounts, then this doubly doesn't add up – and I have no idea how you meet the overall mandated $$.

L. Benjamin Young
Associate General Counsel

From: Hermann, Adam – OGC
Sent: Wednesday, February 13, 2013 2:44 PM
To: Dugan, Elin – OGC; YOUNG, BENJAMIN JR. – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

Ok, thanks. Oh, I ran into David Grahn in the hallway and it sounds like he is trying to set up a meeting with higher-ups in OBPA to discuss what OMB has been saying about the sequester calculations of things like Secure Rural Schools and CCC mandatory spending that has already gone out the door.

Adam J. Hermann
Office of the General Counsel | General Law and Research Division

From: Dugan, Elin – OGC
Sent: Wednesday, February 13, 2013 2:11 PM
To: Hermann, Adam – OGC; YOUNG, BENJAMIN JR. – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

Adam,

Lori confirmed that the NFF is not a trust fund – you're correct. Your idea about the unobligated prior FY balances is a good one, although I tend to doubt the FS can say with any certainty that the remaining $32 million falls entirely within that category. Worth asking, and that's what I'll do.

I'm going to ignore that PPA issue for the moment, except to say that I also wound not call SRS discretionary.

Elin M. Dugan
Senior Counsel

From: Hermann, Adam – OGC
Sent: Wednesday, February 13, 2013 12:26 PM
To: Dugan, Elin – OGC; YOUNG, BENJAMIN JR. – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

Just catching up on the emails. Thanks for cc'ing me. I'm a little confused on a couple of things and am wondering if someone can bring me up to speed? Sorry, these may be things you already discussed.

I think OMB's fascination with PPA comes from its BDR 12-38 (attached), which discusses the special rules in 2 U.S.C. 906(k)(2) requiring that the same percentage sequestration shall apply to all "programs, projects, and activities within a budget account." I had in my mind that the current so-called "Joint Committee" sequester is operating under 2 U.S.C. 901a, specifically paragraphs (7) for discretionary spending and (8) for direct spending. I thought 2 U.S.C. 901 was a separate type of annual sequestration process that applies only to enforcing discretionary spending limits. I don't know how SRS payments would be classified because there is a receipt portion (the NFF_ and, to the extent of any shortfall, amounts in the Treasury. See SRS act, § 102(b)(3). But, I don't see how they can classify it as discretionary. If anything, in 901a(7) appear to be based on "baseline," not "enacted." And direct spending in 901a(8) looks like it is subject to different calculation rules than discretionary spending, but I'll admit I don't understand it.

Ellin, in answer to your question, I don't know if the NFF is considered a trust fund for purposes if the 2 U.S.C. 905 exemption, but I don't think it is. I thought it was a receipt account, The description of the NFF as a source of payments for SRS payments in § 102(b)(3)(B) is "any revenues, fees, penalties, or miscellaneous receipts, *exclusive of deposits to any relevant trust fund, special account, or permanent operating funds . . .*", suggesting the NFF itself is not a fund. The GAO report linked here refers to the NFF as a "receipts-holding account from which the Forest Service's obligations are distributed" and says that it is an indefinite appropriation. http://www.gao.gov/assets/230/224667.pdf.

Finally, a wild idea, but to the extent any of the funds that we currently are saying are sequestrable – i.e., the $32 million reserved for title II projects – are derived from the NFF **and** unobligated (which I think might be the case per Kathy Lynn's email), could we say those funds are exempt under **905(c)** as "unobligated balances of BA carried over from prior fiscal years"? The amount derived from the NFF should be from FY12 receipts only, so that should qualify as a carryover, to the extent they accounted from separately as having come from the NFF, not Treasury.

Adam J. Hermann
Office of the General Counsel | General Law and Research Division

From: Dugan, Elin – OGC
Sent: Tuesday, February 12, 2013 12:05 PM
To: Lynn, Kathryn –FS; Cooper, Barbara –FS; Hermann, Adam – OGC
CC: Spear, Susan J –FS; YOUNG, BENJAMIN JR. – OGC; MONFORT, LORI – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

[Section is duplicative and appears elsewhere in other email strings]

From: Cooper, Barbara –OGC
Sent: Tuesday, February 12, 2013 12:09 PM
To: Dugan, Elin –OGC; Lynn, Kathryn –FS; Hermann, Adam –OGC
CC: Spear, Susan J –FS; Young, Benjamin, Jr. –OGC; Monfort, Lori –OGC
Subject: Re: Impact of Sequestration on Secure Rural Schools

Kathryn,

Thanks for those answers. I don't think they affect our conclusion. Here are our responses to their specific questions:

1) How much funding is available in each title of SRS for the 2012 program implemented in 2013?

FS can fill this in with more specific info. (What I think that there is $0 available for Titles I and III and $ 32 million available and allocated to the Regions for Title II).

2) How is the Forest Service defining PPP in the instance of Secure Rural Schools? Defining PPP has been left up to the agencies. However, the agencies need to be able to explain why the definition they are using is reasonable. Please provide information on how the FS intends to implement the PPA in the instance of SRS and how this implementation is justified. Please work with FS legal counsel to ensure compliance with the law.

OGC does not read 2 USC 901 as requiring reductions based on "PPA's", so we don't see this question being relevant. What matters is how agencies define "account," because it is the budgetary resources in "accounts" on the date of sequestration that will be reduced upon sequestration. (2 USC 901 (a)(2)). ("each non-exempt account within a category should be reduced ...") "Account" means "an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriations Acts, such term means an item for which there is a designated budget account identification code in the President's budget." 2 USC 900(a)(6). For SRS, there is a designated budget account identification code number of 12-9921-0-2-999 (0221) assigned to "National Forests Fund, Payment to States," which include all three titles of SRS. OGC therefore believes that is the account to which the uniform percentage must be applied. More specifically, the budgetary resources in that account as of the date of sequestration will have to be reduced by the uniform percentage.

3) How does the FS intend to comply with sequestration for SRS? By multiplying the uniform percentage by the unobligated balance that is in the SRS account as of the sequestration date. Can funding made available in Title II of SRS be used to cover the savings requirements for SRS as a whole under sequestration? What is the justification for using Title II to cover the savings requirements? Please work with the FS legal counsel in responding to these question . The FS will not be using Title II of SRS to cover reductions for Titles I and III, because the funds for Titles I and III have already been disbursed. Because those funds will not be in the SRS account on March 1st, they will not be subject to sequestration and need not be covered by Title II allocations (or any other budgetary resources that might remain in the SRS account.)

Elin Dugan

Senior Counsel

From: Lynn, Kathryn –FS
Sent: Tuesday, February 12, 2013 10:55 AM
To: Dugan, Elin – OGC; Cooper, Barbara –FS; Hermann, Adam –OGC
CC: Spear, Susan J –OGC; Young, Benjamin, Jr. –OGC; Monfort, Lori –OGC
Subject: Re: Impact of Sequestration on Secure Rural Schools

I wanted to add a couple of things...

For PPAs, the Forest Service reflect 2 (shown below) in MAX that apply to this discussion:

Permanent Appropriation – Payments to States transfers from Treasury (these funds were used to pay Title I, Title III, and 1908 payments made in January)

Permanent Appropriations – National Forest Fund Payments to States (these funds were used to pay Title I and Title III payments made in January, 1908 Act payments made in January and Title II allocations to our Regions for projects, also in January)

Hope this helps.

Kathryn Lynn
Assistant Director
USDA – Forest Service

From: Kathryn Lynn – FS
Sent: Tuesday, February 12, 2013 9:58AM
To: Elin Dugan – OGC; Barbara Cooper – FS; Adam Hermann – OGC
CC: Susan Spear – J-FS; Benjamin Young – OGC; Lori Monfort – OGC
Subject: RE: Impact of Sequestration on Secure Rural Schools

I answered your 2 questions below in *Red*. Everything we have provided to OM Bon sequestration amounts includes all funds made available since October 1st. We have never provided any information on spending. It would be great if sequestration only applied to available balances.

Kathryn Lynn, Assistance Director, USDA Forest Service, Office of Strategic Planning, Budget, and Accountability

From: Elin Dugan
Sent: Monday, February 11, 2013 1:04PM
To: Barbara Cooper; Adam Hermann
CC: Susan Spear; Kathryn Lynn; Benjamin Young; Lori Monfort
Subject: RE: Impact of Sequestration on Secure Rural Schools

Barbara,

Without addressing the three specific OMB questions, here is our general /initial take on the situation:

We understand the FS has made all of the direct payments under Titles I and III of Secure Rural Schools. About $32 million has been allocated for projects under Title II but has not been paid. The funds that have been paid are not sequestrable. That is because sequestration applies to "enacted level of

sequestrable budgetary resources in that account at that time." "At that time" means March 1st or on whatever date the sequestration order eventually is issued. See 2 USC 901(a)(2).

Also, "budgetary resources" is defined as "new budget authority, unobligated balances, direct spending authority, and obligation limitations." 2 USC 900(c)(6). Obligated funds that an agency once had been authorized to spend, which the agency has already spent, are not included in that definition. Therefore, the Title I and Title III funds that have been paid will not be subject to sequestration on March 1 or any other future date.

The Title II funds present a different scenario, because I understand that to be direct spending authority that, on March 1st, will exist in an account [I'm not sure which account]. So, it appears that the $32 million will need to be reduced by 5.1%.

I'm not sure how the Title II account relates to Titles I and III. For example, does the entire SRS program fall under the budget line item "NFF Payments to States?" *Yes, they are all payments in treasury symbol 12x5201. This includes all payments Title I-III and 1908 Act Payments.* Or is title II its own account? *Title II is set up separately in the Forest Service accounting system however it is considered in 1 PPA that includes Title I-III payments.* OMB has asked that question, but I'm not sure it's relevant, given our opinion above.

Let me know if this makes sense. If so, I can try to streamline it for purposes of your sending something to OMB.

From: Vorhaus, Dave
Sent: Thursday, February 14, 2013 8:14 AM
To: Neill, Allie; Fatherree, Kira
Subject: RE: Q&A on SRS

k

From: Neill, Allie
Sent: Thursday, February 14, 2013 7:47 AM
To: Vorhaus, Dave; Fatherree, Kira
Subject: Re: Q&A on SRS

In both cases the agencies followed OMB guidance and, in their view, made the best decision.
Yesterday I ran through several versions of this question with Danny and he's on right track
Additional detail goes more into the fact that its a unique program that is funded by two agencies. Further detail could explore account structures and touch on f act that usda may need to ask for money back but that isn't public.

We aren't able to say we agree with one over the other. Both agencies were being prudent.
Repeating that that sequestration is bad policy and we can't commit to getting the remaining 10 percent back from BLM seem like best path.
Let me know if I'm missing something.

From: Vorhaus, Dave
Sent: Thursday, February 14, 2013 07:05 AM
To: Neill, Allie; Fatherree, Kira
Subject: Re: Q&A on SRS

Are we sure this is the full Q and A? It seems to be missing a few words at one point. More substantively though, I'm not sure it answers the question. It asserts that both DOI and USDA were taking prudent steps, but doesn't explain why that's the case (in particular, why it was "prudent" for USDA to not hold back any payments).

Thanks!

From: Neill, Allie
Sent: Wednesday, February 13, 2013 09:40 PM
To: Vorhaus, Dave; Fatherree, Kira
Subject: Q&A on SRS

Can you tell us why OMB directed the Department of Interior to withhold 10% of the BLM payme nts, while allowing USDA Forest Service to make the full payments? This is an important issue to the state of Oregon and we need your commitment that you will work DOI and allow the remaining 10% of the payment to be made.

- Thank you for your inquiry about Secure Rural Schools payments.
- Sequester is bad policy and was never meant to be implemented.
- We understand the importance of these funds to the viability of western Oregon counties in support of county projects and local schools.
- In order to prepare for the possibility of sequestration
- Secure Rural Schools account is subject to the provisions of the Budget Control Act and subject to sequester.

- In this instance both USDA and DOI were taking prudent steps.
- DOI took the prudent step to hold back 10% of t he scheduled payment in order to be prepared if there is a sequestration.
- The BLM has distributed the majority of the Secure Rural Schools payments, totaling approximately $36 million.

Background:

- Two Departments are responsible for issuing these payment s. USDA's Forest Service and DOI's Bureau of Land Management (BLM) issue payments supporting Secure Rural Schools.
- BLM's payments go to Oregon and California, with the majority going to Oregon.
- BLM has issued $36 million in payments, holding back 10% or $4 million for a total of $40 million.
- Forest Service payments go to every state and territory that has a National Forest. The majority goes to the Pacific Northwest, with Oregon receiving the largest payment.
- The Forest Service has issued $274 million in payments to states (the entire amount available for Titles I and III of SRS).

From: Young, Benjamin, Jr. –OGC
Sent: Thursday, February 14, 2013 12:52 PM
To: Grahn, David –OGC
Subject: Fw: SRS accounting
Importance: High

FS Jumped the gun and blew it

From: Dugan, Elin – OGC
Sent: Thursday, February 14, 2013 07:40 PM
To: Young, Benjamin, Jr. –OGC
Subject: FW: SRS accounting

Oh, geez. The FS just provided OMB with the written response below, which is counter to what David is trying to do!!

On phone with Barbara.

From: Cooper, Barbara – FS
Sent: Thursday, February 14, 2013 2:32 PM
To: Dugan, Elin –OGC
Subject: RE: SRS accounting

Unfortunately I just sent before seeing your response.. I could retrack now. Sorry. B

From: Dugan, Elin –OGC
Sent: Thursday, February 14, 2013 62:06 PM
To: Cooper, Barbara –FS; Hermann, Adam –OGC
CC: Young, Benjamin, Jr. –OGC
Subject: Re: SRS accounting

Barbara, I don't suggest sending the response just yet, based on a meeting we all just had with OBPA. I'll give you a call to explain.

Elin Dugan

Senior Counsel

From: Dugan, Elin –OGC
Sent: Thursday, February 14, 2013 12:17 PM
To: Herman, Adam –OGC
Subject: RE: SRS accounting

Okay. I still don't have her # and the one in Outlook is wrong.

That meeting, it seems, has changed several of the answers I previously provided (both "what is a PPA?" and the part about tapping disbursed funds, which I guess we are now doing (?)). Plus, w3e don't want to be providing stuff in writing to OMB. So I don't think there is much that the FS can actually send back to them ...

I think I can only tell Barbara to stand down until we hear from David as to overall strategy.

Elin Dugan
Senior Counsel

From: Herman, Adam –OGC
Sent: Thursday, February 12, 2013 2:14 PM
To: Dugan, Elin –OGC
Subject: RE: SRS accounting

Elin,

My call with OMB just ended. Let me know if you want me to join this call with Barbara.

Adam Hermann
Office of General Counsel

From: Dugan, Elin –OGC
Sent: Thursday, February 14, 2013 2:06 PM
To: Cooper, Barbara –FS; Hermann, Adam –OGC
CC: Young, Benjamin, Jr. –OGC
Subject: RE: SRS accounting

Barbara,

I don't suggest sending the response just yet, based on a meeting we all just had with OBPA. I'll give you a call to explain.

From: Cooper, Barbara –FS
Sent: Thursday, February 14, 2013 1:21 PM
To: Dugan, Elin –OGC; Hermann, Adam –OGC
Subject: RE: SRS accounting

Hi Elin/Adam – our responses to the OMB questions have cleared the Chief's Office here. Just checking in with you to ensure the opinion given us has not changed any given your questions below. If not, we will send to OMB today. Thanks. Barbara

From: Dugan, Elin –OGC
Sent: Wednesday, February 13, 2013 2:20 PM
To: Cooper, Barbara –FS; Lynn, Kathryn –FS
CC: Young, Benjamin, Jr. –OGC
Subject: SRS accounting

We were wondering: Can the remaining $32 million allocated for Title II be accurately identified as being only 2012 receipts, as opposed to including any funds transferred from Treasury to make up the shortfall?

Elin Dugan
Senior Counsel

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

From: YOUNG, BENJAMIN, JR. – OGC
Sent: Tuesday, February 26, 2013 12:27 PM
To: Romero, Ramona – OSEC; BUMBARY-LANGSTON, INGA – OGC; Pfaeffle, Frederick – OSEC; Grahn, David – OGC; LINDEN, Ralph – OGC; Young, Mike - OBPA
Subject: Sequester and Secure Rural Schools
Importance: High

After a ***long*** call, Elin, Adam, and I got to the bottom of sequestration for Secure Rural Schools (SRS), following OMB's dictat.

SRS payments are made from two accounts both subject to sequestration.

1. 12x-5201 which is the FS receipts spending account – this is what we spent an hour discussing. That account is a combination of prior years SRS monies, special appropriations, etc. At the end of the day, $119 million of FY 2012 receipts were transferred to that account for SRS payments this fiscal year and that $119 million should be the amount against which sequestration is taken equaling $6,069,000.

2. Account 12-13-1117 is the FS spending account into which Treasury funds are transferred under the Act to meet the balance of the mandated SRS formula payments for a fiscal year when there is a shortfall in receipts (which is always). This year $207,500,000 was transferred into this account and has been expended for Title I and Title III formula payments, which creates our sequestration problem since OMB's dictat requires us to come up with $10,582,500 from this account to be sequestered.

Between the two accounts, that is $16,651,500 that must be sequestered. The only way to come up with that amount is take it from the remaining $31.9 million in Title II funds that have been allocated but not yet obligated, transferring $10,582,500 of that back into the spending account 12-31-1117 to be sequestered. Under Title II of SRS, some counties may elect to have their funds go to projects recommended by Resource Advisory Committees (RACs) and funded by FS. Those funds are not obligated for projects selected until later this fiscal year. Sequestration taken only from that account will reduce the available funds from $31.9 million to $15,248,500.

The practical implication of that is those counties that elected to take their payments as FS –funded projects under Title II for FY2013 get the short end of the stick while those that took Title I and Title II payments will get their full amount because they have already been paid.

The FS is going to see if any of the other funds from prior years in the 5201 account can be used to offset the sequester, and will be reporting back to us on this.

Please not that BLM also has SRS funds. BLM withheld 10% of its SRS funds in anticipation sequestration and thus are hunky-dory with OMB.

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

L. Benjamin Young, Jr.
Associate General Counsel

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

From: Vorhaus, Dave
Sent: Thursday, February 28, 2013 6:51 PM
To: Crutchfield, Craig
Subject: RE: Secure Rural Schools

Gotcha, thanks!

-----Original Message-----
From: Crutchfield, Craig
Sent: Thursday, February 28, 2013 6:49 PM
To: Vorhaus, Dave
Subject: RE: Secure Rural Schools

No. There are dozens of counties, mostly in Oregon. DeFazio and Walden were the ones earlier this year complaining about the holdback of 10 percent, but I don't expect them to be thanking DOI for releasing the 4.9%.

BTW, we are talking about around $4 m total, with $2m released next week, so the dollars are tiny.

-----Original Message-----
From: Vorhaus, Dave
Sent: Thursday, February 28, 2013 5:34 PM
To: Crutchfield, Craig
Subject: Secure Rural Schools

Craig -- A quick question for you. Do you happen to know which counties would have been affected by the 10 percent that DOI withheld in secure rural schools? Realize that might be a shot in the dark.

Thanks!

From: Cooper, Barbara -FS </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=COOPER, BARBARA41C583D5-9C02-4D06-AD51-4E2D67B084E2>
Sent: Wednesday, February 27, 2013 3:53 PM
To: Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools

Thanks for responding Kathleen.. was a bit at a loss as to what to say and not...

From: Graham, Kathleen - OBPA
Sent: Wednesday, February 27, 2013 5:42 PM
To: Cahill, Kathleen; Cooper, Barbara -FS
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS
Subject: RE: Impact of Sequestration on Secure Rural Schools

A number of OSEC meetings on this subject took place this afternoon. We should know the result tomorrow morning.

From: Cahill, Kathleen [mailto:Kathleen_Cahill@omb.eop.gov]
Sent: Wednesday, February 27, 2013 5:32 PM
To: Cooper, Barbara -FS
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools

Barbara,

Do you know where this stands?

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Cooper, Barbara -FS [mailto:bcooper01@fs.fed.us]
Sent: Thursday, February 14, 2013 2:47 PM
To: Cahill, Kathleen
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools

Kathleen - We will need to get final Dept. review and final OGC clearance...again sorry for any confusion. Barbara

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From: Cooper, Barbara -FS
Sent: Thursday, February 14, 2013 2:34 PM
To: Cahill, Kathleen (Kathleen_Cahill@omb.eop.gov)
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Cooper, Barbara -FS; Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools

Kathleen – please HOLD on this email. Unfortunately I sent this before seeing additional developments this afternoon. Sorry for any confusion...Barbara

From: Cooper, Barbara -FS
Sent: Thursday, February 14, 2013 2:28 PM
To: Cahill, Kathleen (Kathleen_Cahill@omb.eop.gov)
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Cooper, Barbara (bcooper01@fs.fed.us); Graham, Kathleen - OBPA
Subject: RE: Impact of Sequestration on Secure Rural Schools
Importance: High

Kathleen – we have conferred with OGC and are providing the follo wing responses to your questions below. We anticipate that if sequestration were to occur on March 1, FS leadership will determine the course of action regarding any available Title II funds. Thanks Barbara

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From: Cooper, Barbara -FS
Sent: Friday, February 08, 2013 9:08 AM
To: Cahill, Kathleen (Kathleen_Cahill@omb.eop.gov)
Cc: Spear, Susan J -FS; Lynn, Kathryn -FS; Cooper, Barbara (bcooper01@fs.fed.us)
Subject: FW: Impact of Sequestration on Secure Rural Schools
Importance: High

Hi Kathleen – just wanted to give you a status. Yesterday we had a conversation with our OGC attorneys to engage them in responding to your questions. They are following up on several questions. They asked that we follow-up with you to ask that you provide the following:

OMB's written determination that Secure Rules Schools funds are subject to sequestration.

Lastly we will need to engage the leadership in the F S and OBPA before providing answers. Just wanted to let you know we are working on it. Barbara

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From: Cahill, Kathleen [mailto:Kathleen_Cahill@omb.eop.gov]
Sent: Wednesday, February 06, 2013 1:49 PM
To: Spear, Susan J -FS
Cc: Lynn, Kathryn -FS; Graham, Kathleen - OBPA; Lucas, Adrienne C.
Subject: Impact of Sequestration on Secure Rural Schools

Sue,

We are trying to understand how the Forest Service intends to a pply sequestration to Secure Rural Schools. There is a lot of interest in this at a variety of levels including OMB and the Hill.

1) How much funding is available in each title of SRS for the 2012 program implemented in 2013?

There are $0 funds available for Title I and Title III as these funds have been paid to the states. $32 million is available and allocated to the appropriate unit for Title II. Below is a summary of funds by Title that have been distributed to the states and/or allocated. The only payment that has not been made is for Grasslands which is not part of SRS and will be issued in March.

25% Payment	$11,240,437.85	**PSPS**

Title I	$259,924,261.65	**PSPS & PSSP**
Title III	$14,075,165.51	**PSPS & PSSP**
Special Acts	$12,825.09	**PSPS**
Special Acts	$6,150,000.00	**MNMN**
Total PTS	**$291,402,690.10**	

Plus Title II of $31,939,953.46 (SRS2) and $137,684.26 (SRSA) = $32,077,637.72

Grand total: $323,480,327.82

2) How is the Forest Service defining PPA in the instance of Secure Rural Schools? Defining PPA has been left up to the agencies. However, the agencies need to be able to explain why the definition they are using is reasonable. Please provide information on how the FS intends to implement the PPA in the instance of SRS and how this implementation is justified. Please work with the FS legal counsel to ensure compliance with the law.

Unlike the Agriculture approps bill, there was no discussion on PPAs (program, project, activity) in the Interior approps bill or report. The Forest Service became aware of this instruction through a BDR provided by OMB last August, 2012. The Forest Service has two PPAs that support Secure Rules Schools payments. One PPAs for the Treasury warrant we request which supports Title I,II and 1908 Act payments. The second PPA is for all FS receipts These funds support Title I, III ,1908 and Title II payme nts.

OGC does not read 2 USC 901 as requiring reductions based on "PPA's", so we don't see this question being relevant. What matters is how agencies define "account," because it is the budgetary resources in "accounts" on the date of sequestration that will be reduced upon sequestration. (2 USC 901(a)(2)). ("Each non-exempt account within a category shall be reduced...."). "Account" means "an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriati ons Acts, such term means an item for which there is a designated budget account identification code number in the President's budget." 2 USC 900(a)(6). For SRS, there is a designated budget account identification code number of 12 -9921-0-2-999 (0221) assigned to "National Forests Fund, Payment to States," which includes all three titles of SRS. OGC therefore believes that is the account to which the uniform percentage must be applied. More specifically, the budgetary resources in that account as of the date of sequestration will have to be reduced by the uniform percentage

3) How does the FS intend to comply with sequestration for SRS? *By multiplying the uniform percentage by the unobligated balance that is in the SRS account as of the sequestra tion date.* Can funding made available in Title II of SRS be used to cover the savings requirements for SRS as a whole under sequestration? What is the justification for using Title II to cover the savings requirements? Please work with the FS legal couns el in responding to these question. *The FS will not be using Title II of SRS to cover reductions for Titles I and III, because the funds for Titles I and III have already been disbursed. Because those funds will not be in the SRS account on March 1st, th ey will not be subject to sequestration and need not be covered by Title II allocations (or by any other budgetary resources that might remain in the SRS account*

There is a lot of high level interest in understanding how the FS is going to comply wit h sequestration. We would like to have the above addressed as soon as possible. When does USDA think they will be able to provide a response?

Kathleen Cahill
Program Examiner
Office of Management and Budget

Voice 202-395-6826
Fax 202-395-4941

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From:	Jones, Diem-Linh - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JONES, DIEM-LINH48A9EF1E-2A89-498C-B5E3-17607E5FC19B>
Sent:	Friday, March 01, 2013 9:00 AM
To:	Okal, Marianne - OBPA; Graham, Kathleen - OBPA; Barrack, Leslie D. - OBPA; Pollard, Nicole - OBPA
Cc:	Lippold, David -OBPA
Subject:	FW: Sample Transfer letters
Attachments:	signed copy 7360193.pdf; Senator Blunt.pdf

FYI - After yesterday's meeting with the Secretary, NRCS and the Forest Service were told to draft letters to Congress to use the 7 percent interchange authority to solve the sequestration issues for CSP/CStP and Secure Rural Schools. NRCS asked for sample letters. Don may be sending this to FS as well.

From: Bice, Don - OBPA
Sent: Friday, March 01, 2013 10:28 AM
To: Lawrence, Patty - NRCS, Washington, DC
Cc: Young, Mike - OBPA; Palmieri, Suzanne - OSEC; Jones, Diem-Linh - OBPA; West, Jeremy -OBPA
Subject: Sample Transfer letters

I understand you had inquired about sample letters notifying Congress about the use of the Secretary's interchange authority. Attached are two samples of recent letters submitted to the appropriations subcommittees. As you will see the letters specify invoking the authority, describes the situation that led to the need to invoke the authority, identifies the impact on the donating account, and includes a table that displays the calculations.

The statute allows the Secretary to transfer funds from any type of appropriation, including annual appropriations, no - year appropriations, supplemental appropriations, emergency appropriations, and user fee accounts (subject to limitations as to purpose). There are limits to how much can be transferred, but not on the type of appropriation from (or to) which transfer can be made. Subject to limitations on amount, transfers are permissible between the appropriations of a single USDA agency (e.g., from one FSA program to another FSA program, but not from FSA to APHIS.)

As to the restrictions on amount, there are two statutory references to 7 percent caps on transfers. The first reference prohibits the transfer of more than 7 percent <u>from</u> any given appropriation, regardless of the existence of any emergency. The second reference prohibits the transfer of more than 7 percent <u>to</u> any given appropriation, unless that transfer is justified by an extraordinary emergency. If the transfer provides more than 7 percent to the appropriation the letters must reference this being an extraordinary emergency.

If you have questions let me know.

From: Graham, Kathleen - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRAHAM, KATHLEENB61010EB-E2C2-40A6-BAA9-49BEC6A6CE94>
Sent: Friday, March 01, 2013 9:50 AM
To: Bice, Don - OBPA
Cc: Jones, Diem-Linh - OBPA; Okal, Marianne - OBPA
Subject: RE: Sample Transfer letters

Importance: High

Unfortunately, the Forest Service is exempt from the interchange in their 2012 Admin Provisions. I am sorry, I was not advised as to why FS balances were needed or I would have done further research yesterday.

None of the funds made available to the Forest Service in this Act or any other Act with respect to any fiscal year shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257), section 442 of Public Law 106–224 (7 U.S.C. 7772), or section 10417(b) of Public Law 107–107 (7 U.S.C. 8316(b)).

From: Jones, Diem-Linh - OBPA
Sent: Friday, March 01, 2013 11:31 AM
To: Okal, Marianne - OBPA; Graham, Kathleen - OBPA
Subject: FW: Sample Transfer letters

Don asks if one of you could forward his email to FS, he'd appreciate it. Thanks.

From: Jones, Diem-Linh - OBPA
Sent: Friday, March 01, 2013 11:00 AM
To: Okal, Marianne - OBPA; Graham, Kathleen - OBPA; Barrack, Leslie D. - OBPA; Pollard, Nicole - OBPA
Cc: Lippold, David -OBPA
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From: Jones, Diem-Linh - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JONES, DIEM-LINH48A9EF1E-2A89-498C-B5E3-17607E5FC19B>
Sent: Friday, March 01, 2013 9:52 AM
To: Lippold, David -OBPA
Subject: FW: Sample Transfer letters

Importance: High

FYI – Mike will not be happy.

From: Graham, Kathleen - OBPA
Sent: Friday, March 01, 2013 11:50 AM
To: Bice, Don - OBPA
Cc: Jones, Diem-Linh - OBPA; Okal, Marianne - OBPA
Subject: RE: Sample Transfer letters
Importance: High

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From: Bice, Don - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BICE, DON99193F2F-573D-4D74-9FDA-62923EEF7499>
Sent: Friday, March 01, 2013 9:57 AM
To: Young, Mike - OBPA
Subject: FW: Sample Transfer letters

Importance: High

Ouch.

From: Graham, Kathleen - OBPA
Sent: Friday, March 01, 2013 11:50 AM
To: Bice, Don - OBPA
Cc: Jones, Diem-Linh - OBPA; Okal, Marianne - OBPA
Subject: RE: Sample Transfer letters
Importance: High

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If you have questions let me know.

From: Rowe, Courtney - OC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROWE, COURTNEYF40BF9AB-0D18-4280-8758-9E9A3DA50E7C>
Sent: Monday, March 04, 2013 5:48 PM
To: Martin, Ashley - OSEC; Graham, Carlissia -OSEC; Holmes, Patrick - OSEC; Scanlon, Sarah - OSEC; Christenson, Daniel - OSEC; Cordova, Elvis - OSEC; Ramos, Adela - OSEC; Reiter, Liz - OSEC; Hochstrasser, Franz - OSEC; Abebe, Yeshimebet - OSEC; Palmieri, Suzanne - OSEC; Harden, Krysta - OSEC; Campbell, Todd - OSEC
Cc: Dubinsky, Rachael -OC; Jett, Carole - OSEC; Palmieri, Suzanne - OSEC
Subject: Sequester Timeline

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

March 5

[redacted]

Forest Service will notify all field units to desist spending Title II funding for Secure Rural Schools. This funding will be needed for the sequestered amount for Title I, II, and III.

March 6

March 7

March 8

March 11

FS will notify states that Secure Rural Schools funding is subject to sequester, and sequestered amount is $16.7 million. Whereas Title I and Title III funds have already been outlayed, the entire sequestered amount for SRS will come from Title II. This will be an approximate 50% reduction in Title II funding. Funding will be proportionally reduced for all states.

March 12

March 13

March 14

March 15

FY 2013 Sequester Planning (minus 5 percent)
Agency: Forest Service, 03/04/13

Account: Forest Service Permanent Appropriations
Category: Mandatory
Program, Project or Activity: National Forest Fund Payment to States

FY 2012 Enacted ($000)	FY 2013 Sequestrable Budget Authority	Amount Sequestered	FY 2013 Post-Sequestration Budget Authority
114,000	114,000	5,814	108,186

1. Briefly describe impact of actions associated with sequestration on government services to the public and agency operations (with specific delineation on any areas with significant deleterious effect on the agency's missions or otherwise raise life, safety, or health concerns). Include quantifiable impacts or performance measure wherever possible.

The sequestration would reduce these accounts by approximately $5,814,000. Payments to States under several authorities would be reduced as a result of the sequester, including:

- Payments to States, Act of 1908, that are used for schools and/or roads projects,
- Payments to States SRS, Act of 2000, Title II, that are used for roads and schools and other authorized purposes, as well as funding for specific resource improvement projects on the national forest where the county is located
- Payments and Transfers from the National Forest Fund (SRS Act of 2000, Title I & III)
- The sequester would result in less funding to States and counties for roads and schools and fewer projects accomplished on NFS lands. Titles I, III and 1908 Act payments were sent to States in January. Title II payments were allocated to the Regions in February for Resource Advisory Committee (RAC) projects that enhance forest ecosystems, restore and improve land health and w ater quality, and increase economic activity. All Title II project funding is subject to sequestration therefore all allocated project funding will be reduced by 5.1%. States will be given the option of using Title II funding to pay the total amount sequestered and their project allocations will be reduced. If a state has no Title II funding allocated, then they will be given a bill for collection for sequestered amounts for Title I, III and 1908 Act. All bills for collection will be issued 30 days f rom the date of the notification letter.

2. Describe funding flexibilities (such as reprogramming and/or transfer) that will be used and when, including timing of Congressional notification and authority for such reprogramming/transfers.

- The Forest Service will not seek reprogramming or transfer.

3. Describe specific impact on Federal employees. If furlough will be used, include number or days, number of employees, how the furlough would be implemented and when,

FY 2013 Sequester Planning (minus 5 percent)
Agency: Forest Service, 03/04/13

including a plan to provide appropriate and timely information to impacted unions and employees.

- Staffing levels in the Forest Service are dynamic by season and fiscal year. The National Forest System employs permanent, permanent seasonal and temporary employees to accomplish our annual work. Required adjustments to agency staffing level s due to sequestration would be implemented throughout FY 13, after a FY 13 appropriation is passed.
- Furloughs for agency employees are not anticipated as a result of sequestration. On, average, the Forest Service expends roughly 50 percent of its budget ary resources on salaries and benefits for employees. We will reduce funding in other spending categories such as contracts, grants and agreements. It is anticipated that any reduction in FTE would be accomplished through attrition and not filling vacant positions. There is no current union agreement in place for furlough and any potential furlough notice will require pre -decisional involvement.

4. Describe anticipated major contract actions that will be canceled, re -scoped, and/or delayed, and a plan to timely communicate planned actions to impacted contractors.

- Agency guidance under the CR directed that R/S/A should spend conservatively and in keeping with prior year obligations. In keeping with this guidance no new major contracts have been initiated with permanent funding and the sequestration would only constrain the available funding for any contracts initiated after a FY 2013 appropriation is passed.

5. Describe anticipated grant actions, including any planned delays, cancellation, or material decrease in payments. In addition, include a plan to timely communicate planned actions to impacted grantees.

- All Title II project funding is subject to sequestration therefore all allocated project funding will be reduced by 5.1%. States will be giv en the option of using Title II funding to pay the total amount sequestered and their project allocations will be reduced. If a state has no Title II funding allocated, then they will be given a bill for collection for sequestered amounts for Title I, III and 1908 Act. All bills for collection will be issued 30 days from the date of the notification letter.
- State Governors and County officials will be notified via letter on or about March 19, 2013.
- Local RACs will be notified by their DFO via email o n or about March 19, 2013.
- Congressional notifications will be made via email on or about March 19, 2013.

From: Lucas, Adrienne C.
Sent: Thursday, March 07, 2013 6:19 PM
To: Ericsson, Sally C.; Shulman, Sophie; Irwin, Janet; Cahill, Kathleen
Subject: Call with USDA on SRS Sequester

Here's a short summary of tonight's call. I'm happy to discuss further.

Suzanne Palmeiri, Benny Young, and Mike Young called to discuss the sequester impact on Secure Rural Schools payments. Following are the key points:

- There are three titles in the SRS authorization. All of Title 1 (direct payment to counties) and Title 3 (payments to counties for fire) have been made.
- Approximately $32 million is available (not allocated or expended) for Title 2 payments (for projects) .
- The reduction required by the sequester for all SRS payments is about $17 million.
- USDA is concerned because not all counties would get Title 2 payments (counties with small payments have the ability to select to participate in that Title). Therefore counties that only get Title 1 and 3 payments might be able to avoid any sequester hit, while the counties that selected the Title 2 payments will be hit disproportionately harder. Secretary sees this as an equity problem.
- The FY 2012 Interior appropriation s act prohibits the use of the Secretary's 7 percent transfer authority for the Forest Service. USDA does not see another way to move funds to SRS.

USDA asked whether OMB had any possible solution to this problem that we might be aware of based on other agencies experiences.

From: Hermann, Adam –OGC
Sent: Friday, March 08, 2013 9:25 AM
To: Young, Benjamin, Jr. –OGC
Subject: Re: SRS

Benny,

I guess we'll see what FS comes back with, but I thought all the title III money just flows through the State to the county. The State is simply a pass-through. The obligations and expenditures on actual title III projects are made by the counties. Whether some States are still sitting on the FY 2012 payments probably depends on each individual State's accounting processes and the efficiency of their treasury offices, which I would guess FS would know very little about.

If title III claw backs are an option, I might think about starting with counties that failed to "initiate" projects by September 20, 2012, as theoretically those funds should be destined for return to Treasury on October 1, 2013, by operation of section 304(b). The, I might look to counties that, while they did initiate on time, still haven't obligated funds yet (on the theory that it might be easier to claw back funds that the county hasn't obligated yet, rather than funds that the county has obligated but not yet expended yet). Of course, I think the FS has taken the position that it leaves it up to the counties to determine what constitutes an "obligation," so that could get real sticky or tricky quickly.

Adam J. Hermann
Office of General Counsel
General Law and Research Division

From: Young, Benjamin, Jr. – OGC
Sent: Friday, March 08, 2013 9:02 AM
To: Lynn, Kathryn –FS; Hermann, Adam – OGC
CC: Cooper, Barbara –FS
Subject: Re: SRS

As somehow I understood from Title III, it may be used for project funding similar to Title II except that States make awards based on the projects. If that is so, and this is close hold, we might be able to make an argument that we can claw back some of the Title III money not yet "awarded" so that Title II will not have to bear the brunt of sequester.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division

From: Barrack, Leslie D. – OBPA
Sent: Monday, March 04, 2013 12:53 PM
To: Graham, Kathleen – OBPA; Okal, Marianne – OBPA; Pollard, Nicole – OBPA
Subject: RE: breakout of funding

This is what I could do with the information provided to you and I. Please let me know if you have edits.

Sequester Impacts on Payments to States (Including Secure Rural Schools)

Impact

- There are 4 program, project and activity (PPA) in the Forest Service Permanent Appropriation account that represent payments to states. Secure Rural Schools Title I, II, and II funding are combined on 2 of the PPAs.
- The PPAs for Secure Rural Schools are National Forest Fund Payment to States and Payments to States transfers from Treasury. Also included in these PPAs are 1908 funding (previous Secure Rural Schools) and miscellaneous authorities.
- The other 2 PPAs that are payments to states are National Grasslands and Payments to Minnesota.
- Title I funding is $260 million and is fully disbursed.
- Title II funding is $32 million, is currently allocated to the regions, and $7 million has been disbursed.
- Title II funding is $14 million and is fully disbursed.
- National Grasslands is $15 million and had not been disbursed.
- Payments to Minnesota are $6.2 million and are fully disbursed.
- This leaves only the Title II Secure Rural Schools and National Grasslands funding with undisbursed balances.
- Title II funds are elected by communities in lieu of receiving Title I or Title II funds.
- Title II funds can be used for local projects that may or may not be on Forest Service land. So not all funding that is sequestered could be replaced by with other Forest Service program funds.

Options

- Achieve sequestration savings for Title I, Title III, Payments to Minnesota, 1908 funding and miscellaneous authorities through the remaining balance for Title II payments. This would require a sequestration of $17.6 million from the remaining balance of $25 million. See if there are other FS programs that could be used to fund the Title II programs if compliant with FS authorities.
- Clawback funds that have already been made in the Title I, Title III, Payments to Minnesota, 1908 funding and miscellaneous authorities programs. The Title II funding would either require

a 6.5% sequestration on the remaining undisbursed funds or sequester 5.1% of all payments, including payments that have been made.

From: Graham, Kathleen – OBPA
Sent: Monday, March 04, 2013 2:31 PM
To: Barrack, Leslie D. – OBPA; Okal, Marianne – OBPA; Pollard, Nicole – OBPA
Subject: RE: breakout of funding

PPA
NFF payment to states = 1908, Titles I, II and III
Payments to states transfers from Treasury = arbitrary portion of Title I and III not covered by receipts above

National Grasslands = National Grasslands
Payments to MN = Payments to MN

Kathy is not in today so I don't have confirmation of the $7M in disbursements referenced below.

The Forest Service indicated that the states get more funds under Titles I/II/III than they would under 1908 even without a full share of Title II.

From: Barrack, Leslie D. – OBPA
Sent: Monday, March 04, 2013 2:10 PM
To: Graham, Kathleen – OBPA; Okal, Marianne – OBPA; Pollard, Nicole – OBPA
Subject: RE: breakout of funding

Do we have those breakouts by the 4 PPA's? Also, we don't know if the $15 million for national grasslands is in the Title III funding line? So it might not be counted below?

What does FS mean by the last sentence? I think the only reason people are looking at Title II vs Title I and III is because Title II is the only one that has not fully disbursed yet. FS had told me on Friday that they thought they had disbursed $7 million of the $32 million Title II funds and that $25 million could potentially be pulled back from the regions to cover the sequestration. Does that sound accurate?

From: Graham, Kathleen – OBPA
Sent: Monday, March 04, 2013 1:46 PM
To: Okal, Marianne – OBPA; Pollard, Nicole – OBPA

CC: Barrack, Leslie D. – OBPA
Subject: RE: breakout of funding

- Title I - $259,970,387 – paid out
- Title II - $31,966,719 – allocated to regions; not clear how much spent since they used up carryover first
- Title III - $14,056,344 – paid out
- National Grasslands – may be a subset of Title III funds above – it goes to the same counties
- Payments to MN - $6,150,000 – paid out
- 1908 Funding (Old SRS) - $11,240,438 – paid out
- Misc authorities - $150,325 (AR, WA, KY, NV)
- Total - $323,534,213

Forest Service budget office advises that using other Forest Service funds to make Title II whole isn't practical since the funds are used for projects that may or may not be on the Forest (e.g. local road repair that benefits a Forest but is not on FS land) – the authority is broader than the Forest Service's authority. So it can't be predicted at this time whether the unfunded projects could be covered by other Forest Service funds. Plus title II projects are based on local Resource Advisory Committee priorities that may not mesh with the priorities of USDA/FS.

From: Okal, Marianne – OBPA
Sent: Monday, March 04, 2013 11:57 AM
To: Graham, Kathleen – OBPA
Subject: breakout of funding

Mike also needs a breakout of funding (disbursements already made and current estimate of undisbursed) for all 4 PPAs which includes:

- Title I
- Title II
- Title III
- National Grasslands
- Payments to MN
- 1908 Funding (Old SRS)

I expect you already know this, but am sending to confirm.

Thanks,
Marianne

From: Cahill, Kathleen
Sent: Friday, March 08, 2013 11:34 AM
To: Lucas, Adrienne C.
Subject: SRS

Based on data posted on the Forest Service website, for the 2012 payment, below is some information on the impact.

651 counties receive payments of which 343 do not get Title II.

The states most impacted by the reduction to Title II are:

Alaska: -$1M or -7.6%
Arizona: -1M or -7%
Arkansas: -0.7M or -8.5%
Idaho: -2M or -6.45%
Louisiana: -0.16 or -7.9%
Montana: -1.4M or -6.45%
Nevada: -0.25M or -6.2%
Oklahoma: -0.09M or 7.98%
Washington: -1.4M or 6.1%
West Virginia: -0.1M or 6.6%

Below are the states of interest.
California receives $35M in total payments which would be reduced to $33M, a reduction of 1.7M or 4.9%
Idaho receives $30M in total payments which would be reduced to $28M, a reduction of 2M or 6.45%
Oregon receives $70M in total pay ments which would be reduced to $66M, a reduction of 3.9M or 5.5%
Washington receives $23M in total payments which would be reduced to $21M, a reduction of 1.4M or 6.1%

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Cahill, Kathleen
Sent: Friday, March 08, 2013 2:50 PM
To: Lucas, Adrienne C.
Subject: RE: SRS

The lowest county payment is $2.22 to G Traverse Michigan.
The highest county payment is $11 million to Lane Oregon.

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Cahill, Kathleen
Sent: Friday, March 08, 2013 1:41 PM
To: Lucas, Adrienne C.
Subject: RE: SRS

Not sure what all is helpful.

There are 41 states and Puerto Rico that receive SRS payments. Of that 12 states and Puerto Rico do not receive title II. Their payments account for 6. 8M of which 5.3M is for 3 of the 12 states. The 6.8M is 2.2% of the total SRS payment (before sequestration) of 306M. North Dakota, for example, receives $629.

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Cahill, Kathleen
Sent: Friday, March 08, 2013 11:34 AM
To: Lucas, Adrienne C.
Subject: SRS

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Montana: -1.4M or -6.45%
Nevada: -0.25M or -6.2%
Oklahoma: -0.09M or 7.98%

Washington: -1.4M or 6.1%
West Virginia: -0.1M or 6.6%

Below are the states of interest.
California receives $35M in total payments which would be reduced to $33M, a reduction of 1.7M or 4.9%
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Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Rowe, Courtney - OC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROWE, COURTNEYF40BF9AB-0D18-4280-8758-9E9A3DA50E7C>
Sent: Friday, March 08, 2013 3:19 PM
To: Holmes, Patrick - OSEC; Lippstreu, Charles -OC
Cc: Dubinsky, Rachael -OC; Palmieri, Suzanne - OSEC
Subject: RE: Secure Rural Schools

Thank you. I'll add this to Tuesday's time line. Could you give me a bit more information on this —what Secure Rural Schools does, potential impact of this. Something that I can put in this timeline that explains this to those not familiar w SRS.

From: Holmes, Patrick - OSEC
Sent: Friday, March 08, 2013 5:09 PM
To: Lippstreu, Charles -OC
Cc: Rowe, Courtney - OC; Dubinsky, Rachael -OC; Palmieri, Suzanne - OSEC
Subject: Secure Rural Schools
Importance: High

All, NRE has cleared the following corresponden ce to Forest Service Stations/Regions instructing them to desist spending Secure Rural Schools title II funding. We would like this information to be sent as soon as possible and no later than Tuesday. On Monday, we expect to begin to address the outstandi ng policy issues over the mechanics of impact to SRS of the sequester. Letters to the states / congress will not be sent until policy issues are resolved or it is determined that a notification of impacts absent the mechanics is warranted. The immediate ne ed to notify stations/regions to stop spending has been deemed necessary.

From: Holmes, Patrick - OSEC <</O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=HOLMES, PATRICKC3A7A7BA-86DB-4154-A20D-A61C39519CFB83>
Sent: Friday, March 08, 2013 3:31 PM
To: Rowe, Courtney - OC
Cc: Lippstreu, Charles -OC; Dubinsky, Rachael -OC
Subject: RE: DRAFT Sequester for timeline for next week

Importance: High

NRE changes for the week ahead below, including Secure Rural Schools info. Sorry we're not tracking on this quite yet. We had two calls today to iron out the wrinkles —expect things to be smoother moving forward. -Patrick

---

From: Rowe, Courtney - OC
Sent: Thursday, March 07, 2013 8:37 PM
To: Martin, Ashley - OSEC; Graham, Carlissia -OSEC; Holmes, Patrick - OSEC; Scanlon, Sarah - OSEC; Christenson, Daniel - OSEC; Cordova, Elvis - OSEC; Ramos, Adela - OSEC; Reiter, Liz - OSEC; Hochstrasser, Franz - OSEC; Abebe, Yeshimebet - OSEC; Palmieri, Suzanne - OSEC; Campbell, Todd - OSEC; Naessens, Katie - OSEC; Ronholm, Brian - OSEC
Cc: Palmieri, Suzanne - OSEC; Batta, Todd - OSEC; Lippstreu, Charles -OC; Dubinsky, Rachael -OC; DeJong, Justin - OC; Paul, Matt - OC; Baenig, Brian - OSEC; Harden, Krysta - OSEC
Subject: DRAFT Sequester for timeline for next week

Hi all—below please see the timeline I have for next week. Again, I need all updates to this by **9 a.m. tomorrow.**

Thanks,

Courtney

Monday, March 11

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Tuesday, March 12

[redacted]

Forest Service will notify Regional Foresters and Station Directors that Secure Rural Schools funding is subject to sequester. Title I and Title III funds have already been outlaid requ iring that Regional Foresters and stations desist spending or obligating Title II funds. Forest Service is analyzing options for addressing this issue,

and additional guidance will be provided in the near future. Title II funds are authorized for projects that protect, restore, and enhance fish and wildlife habitat; improve the maintenance of existing Forest Service infrastructure; protect and enhance ecosystems on the national forests; and restore and improve land health and water quality. Projects are recommended through Resource Advisory Committees (RACs) comprised of local community members.

Wednesday, March 13

[redacted]

Forest Service Chief Tom Tidwell will testify before the House Agriculture Committee; Subcommittee on Conservation, Energy, and Forestry oversight hearing: "National Forest Management and Its Impact on Rural Economies and Communities."

[redacted]

Thursday, March 14

[redacted]

[redacted]

[redacted]

Friday, March 15

[redacted]

[redacted]

[redacted]

From: Adam Hermann
Sent: Monday, March 11, 2013 9:08 AM
To: Lori Monfort
CC: Benjamin Young
Subject: RE: Draft statement on SRS sequester for Hill distribution

Lori,

I haven't been involved in all of the high-level discussions with Secretary's office and OMB regarding SRS sequestration. CC'ing Benny as he would have the latest info on our end.

Please send any FLAME stuff to Mark too.

From: Lori Monfort
Sent: Monday, March 11, 2013 10:54 AM
To: Adam Hermann
Subject: FW: Draft statement on SRS sequester for Hill distribution

Yikes. I guess I need an update if the trailing summary is accurate. I'm back home (in VA) for this week. Today I am WAH and can be reached at [redacted]. I also have been sent amendments to the FLAME Act that I will likely need to discuss with you.

From: Katherine Armstrong
Sent: Monday, March 11, 2013 10:38AM
To: Lori Monfort
CC: Jean Masquelier; Doug Crandall
Subject: FW: Draft statement on SRS sequester for Hill distribution

???

From: Katherine Armstrong
Sent: Friday March 8, 2013 11:17 AM
To: Tim DeCoster
CC: Leo Kay; Doug Crandall
Subject: Draft statement on SRS sequester for Hill distribution

The across-the-board budget cuts that took effect Friday, March 1, 2013 affect all FS programs and services, including Secure Rural Schools and Payments to States. States that have either recently

received a payment in fiscal year 2013, or will receive a payment based on revenue generated in fiscal year 2012, will be notified that these payments are subject to sequestration. As mandated by sequestration, we will need to withdraw 5.1 percent of the payment that has already been received or reduce the amount to be dispersed in the coming weeks. The total amount to be sequestered is $16.7 million across Titles I, II and II of Secure Rural Schools, Special Authorities, and the 25% Fund.

Although we are limited by law in our opinions to recover the $16.7 million, we are exploring the most feasible way to meet the sequestration requirements. If payments have already been disbursed to States, as is the case with SRS Title I and II, or Special Act authorities, we are required to sequester these payments by 5.1 percent. In order for the Forest Service to meet the intent of sequestration the Agency will, where available, withdraw Title II funds equal to the sequestered amount. States that do not have funds allocated under Title II will receive a bill for collection to return the sequestered amount to Treasury.

Further information regarding the effects of this action will be provided in the near future.

From: Armstrong, Katie –FS
Sent: Monday, March 11, 2013 10:25 AM
To: Monfort, Lori –OGC
Subject: Re: Draft statement on SRS sequester for Hill distribution.

Apparently the Chief and the Secretary are meeting this afternoon to talk Sequester (I'm not sure if it's specific to SRS or a broader conversation). We should know more after that meeting. The statement was originally sent over to the Department for clearance as notification to Hill. That being said, the content may change after this afternoon.

Jeannie had asked for the statement so that she could include the updated information in the budget prep.

Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service

From: Monfort, Lori –OGC
Sent: Monday, March 11, 2013 11:37 AM
To: Armstrong, Katie –FS
Subject: Re: Draft statement on SRS sequester for Hill distribution

Just to confirm. This is for briefing book for hearing, right?

Lori Monfort
Senior Counsel
Natural Resources and Environment Division
Office of General Counsel
U.S. Department of Agriculture

From: Armstrong, Katie –FS
Sent: Monday, March 11, 2013 10:38 AM
To: Monfort, Lori –OGC
CC: Masquelier, Jean –FS; Crandall, Doug –FS
Subject: FW: Draft statement on SRS sequester for Hill distribution.
Importance: High

Hello Lori,

Here's the latest I've got. Please let us know if you hear anything (or have feedback) and we'll do the same.

Thanks,

Katie

Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service

From: Armstrong, Katie –FS
Sent: Monday, March 11, 2013 11:57 AM
To: DeCoster, Tim –FS
CC: Kay, Leo -FS; Crandall, Doug –FS
Subject: Draft statement on SRS sequester for Hill distribution.
Importance: High

[Draft Statement appears elsewhere]

From: Holmes, Patrick - OSEC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=HOLMES, PATRICKC3A7A7BA-86DB-4154-A20D-A61C39519CFB83>
Sent: Tuesday, March 12, 2013 2:48 PM
To: Rowe, Courtney - OC
Subject: RE: Interchange letter

Here's the SRS piece for March 14:

The **Forest Service** will send letters to States to notify them that the sequester applies to Secure Rural Schools and similar payments, and provide information on how the $16 million reduction will be applied. Each state will be apprised as to the amount of sequester that applies to them, and provided with direction on repayment of amounts previously paid or the option, where applicable, to offset with reduced payments yet to be made. When the State letters are sent, FS will call Governors offices, and notify by email Congress and the National Association of Counties. After that, FS will notify by email field leadership and the Designated Federal Officials who work with County Resource Advisory Committees on th e selection of projects to be supported by funds from Secure Rural Schools payments.

From: Rowe, Courtney - OC
Sent: Tuesday, March 12, 2013 4:32 PM
To: Holmes, Patrick - OSEC
Cc: Dubinsky, Rachael -OC; Lippstreu, Charles -OC
Subject: Interchange letter

Hey Patrick- any update on the interchange letter?

Also can you get me a paragraph on the CSP and SRS announcements for Thursday?

Thanks,
Courtney

From: Rowe, Courtney - OC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROWE, COURTNEYF40BF9AB-0D18-4280-8758-9E9A3DA50E7C>
Sent: Tuesday, March 12, 2013 2:50 PM
To: Holmes, Patrick - OSEC
Subject: RE: Interchange letter

Can you give me a line or two will what the "real world' impacts of this will be?

From: Holmes, Patrick - OSEC
Sent: Tuesday, March 12, 2013 4:48 PM
To: Rowe, Courtney - OC
Subject: RE: Interchange letter

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From: Rowe, Courtney - OC
Sent: Tuesday, March 12, 2013 4:32 PM
To: Holmes, Patrick - OSEC
Cc: Dubinsky, Rachael -OC; Lippstreu, Charles -OC
Subject: Interchange letter

Hey Patrick- any update on the interchange lette r?

Also can you get me a paragraph on the CSP and SRS announcements for Thursday?

Thanks,
Courtney

From: Holmes, Patrick - OSEC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=HOLMES, PATRICKC3A7A7BA-86DB-4154-A20D-A61C39519CFB83>
Sent: Tuesday, March 12, 2013 4:48 PM
To: Rowe, Courtney - OC
Subject: Fw: NRE Sequestration Timeline 030513 FINAL.docx

Courtney, here is what we have on SRS. Thanks!

From: DeCoster, Tim -FS
Sent: Tuesday, March 12, 2013 10:46 PM
To: Holmes, Patrick - OSEC
Subject: RE: NRE Sequestration Timeline 030513 FINAL.docx

How about this:

The **Forest Service** will send letters to States to notify them that the sequester applies to Secure Rural Schools and similar payments, and provide information on how the $16.7 million reduction will be applied. Each state will be apprised as to the amount of sequester that applies to them, and provided with direction on repayment of amounts previously paid or the option, where applicable, to offset with reduced payments yet to be made. 29 States will have funds reduced from upcoming Title II payments to offset the Title I a nd Title III sequestration amounts already paid. 13 States have no Title II payments, and will have a total reduction of about $375,000 in their payments for Titles I and III which will impact projects for roads, schools and forest restoration on non - federal lands. When the State letters are sent, FS will call Governors offices, and notify by email Congress and the National Association of Counties. After that, FS will notify by email field leadership and the Designated Federal Officials who work with Cou nty Resource Advisory Committees on the selection of projects to be supported by funds from Secure Rural Schools payments.

(I don't have final dollar numbers from our CFO, but I think these figures are close.)

Tim DeCoster
Chief of Staff
U.S. Forest Service
202-205-0998

From: Holmes, Patrick - OSEC
Sent: Tuesday, March 12, 2013 5:11 PM
To: DeCoster, Tim -FS
Subject: RE: NRE Sequestration Timeline 030513 FINAL.docx

This is helpful. I think spelling out 34 states will likely have impacts to Title II and 10 states will need to pull from title I, which could impact roads schools... and the amount if possible of those impacts... xxx,000 out of the 16.7 million.

From: DeCoster, Tim -FS
Sent: Tuesday, March 12, 2013 5:06 PM
To: Holmes, Patrick - OSEC
Subject: FW: NRE Sequestration Timeline 030513 FINAL.docx

While I search for title I material, I'll send the Title II blurb to see if you can use something from this...

Tim DeCoster
Chief of Staff
U.S. Forest Service
202-205-0998

From: DeCoster, Tim -FS
Sent: Tuesday, March 05, 2013 5:00 PM
To: Scanlon, Sarah - OSEC; Holmes, Patrick - OSEC
Cc: Tom Tidwell (ttidwell@fs.fed.us); Mary Wagner (mwagner@fs.fed.us); Lago, Lenise -FS; Cooper, Barbara -FS
Subject: RE: NRE Sequestration Timeline 030513 FINAL.docx

Sarah—
Here is additional material on Secure Rural Schools projects:

During 2008-2012, 118 resource advisory committees recommended nearly 4400 Title II funded projects in more than 300 counties in 41 states and Puerto Rico. The $170 million dollars in Title II funds not only leveraged additional dollars but directly contri buted to economic stimulus and job creation in some of our Nation's most rural communities. Title II funds go beyond improving forest and watershed health on National Forests, they improve relationships. Before dollars can be obligated, a Resource Advisory Committee or (RAC) with members appointed by the Secretary of Agriculture must unanimously agree and recommend projects that are critical to their communities. Title II dollars provide a positive process where elected officials, federal employees and residents can make a difference. Projects recommended by RACs have significantly less appeals filed against them and are able to leverage resources that would otherwise be unavailable to the US Forest Service.

Example
Tahoe National Forest -- California
Sierra County RAC - Reducing Hazardous Fuels
In Sierra County, California, a partnership with the Sierra County Fire Safe & Watershed Council supported by Title II funding has resulted in a number of high priority projects to reduce hazardous fuels within and adjacent to the communities within Sierra County and the National Forest. The fuels reduction projects on private lands have complimented fuels reduction activities on adjacent National Forest System Lands and are resulting in higher level of effective fu els reduction treatments within the Wildland Urban Interface. In rural Sierra County, the partnerships and Title II funds have provided more than $200,000 and the financial mechanism for success. An additional benefit of these projects has been an incr eased level of opportunity for local employment within the County. The RAC recommended fuel reduction projects in the Tahoe National Forest and the Humboldt Toiyabe National Forest.

Tim DeCoster
Chief of Staff
U.S. Forest Service
202-205-0998

From: Scanlon, Sarah - OSEC
Sent: Tuesday, March 05, 2013 4:00 PM

To: DeCoster, Tim -FS; Holmes, Patrick - OSEC
Subject: FW: NRE Sequestration Timeline 030513 FINAL.docx

Another question – is there a project example that creates jobs that FS could share?

From: Palmieri, Suzanne - OSEC
Sent: Tuesday, March 05, 2013 3:59 PM
To: Scanlon, Sarah - OSEC; Rowe, Courtney - OC; Dubinsky, Rachael -OC; Chan, Stephanie - OC; Lippstreu, Charles -OC
Cc: Young, Mike - OBPA; Holmes, Patrick - OSEC; Harden, Krysta - OSEC
Subject: Re: NRE Sequestration Timeline 030513 FINAL.docx

Since we are down this road, is there a project example? One that creates jobs? Thanks
Suzanne Smith Palmieri, Chief of Staff, Office of the Deputy Secretary, USDA

From: Scanlon, Sarah - OSEC
Sent: Tuesday, March 05, 2013 08:50 PM
To: Palmieri, Suzanne - OSEC; Rowe, Courtney - OC; Dubinsky, Rachael -OC; Chan, Stephanie - OC; Lippstreu, Charles - OC
Cc: Young, Mike - OBPA; Holmes, Patrick - OSEC; Harden, Krysta - OSEC
Subject: RE: NRE Sequestration Timeline 030513 FINAL.docx

Apologize for the delay – here is what FS just sent:

The Secure Rural Schools and Community Self-Determination Act of 2000 (Secure Rural Schools) provides funding to counties for roads and schools and specific resource improvement projects on the national forest where a county is located. The benefits of these projects include enhancement of forest ecosystems, restoration and improvement of land health and water quality, and the increase of economic act ivity through job retention and creation.

From: Palmieri, Suzanne - OSEC
Sent: Tuesday, March 05, 2013 12:57 PM
To: Scanlon, Sarah - OSEC; Rowe, Courtney - OC; Dubinsky, Rachael -OC; Chan, Stephanie - OC; Lippstreu, Charles -OC
Cc: Young, Mike - OBPA; Holmes, Patrick - OSEC; Harden, Krysta - OSEC
Subject: RE: NRE Sequestration Timeline 030513 FINAL.docx

What kind of benefit to the forest does SRS provide? Aren't these projects about creating economic activity around the forest? Could you please tease out a bit more? Thanks.

From: Scanlon, Sarah - OSEC
Sent: Tuesday, March 05, 2013 12:54 PM
To: Rowe, Courtney - OC; Dubinsky, Rachael -OC; Chan, Stephanie - OC; Lippstreu, Charles -OC
Cc: Palmieri, Suzanne - OSEC; Young, Mike - OBPA; Holmes, Patrick - OSEC
Subject: NRE Sequestration Timeline 030513 FINAL.docx

Attached is NRE's timeline with additional details. Please let us know if edits or changes need to be made.

Thanks!
-s

From: Rowe, Courtney - OC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROWE, COURTNEYF40BF9AB-0D18-4280-8758-9E9A3DA50E7C>
Sent: Wednesday, March 13, 2013 6:39 AM
To: Martin, Ashley - OSEC; Graham, Carlissia -OSEC; Holmes, Patrick - OSEC; Scanlon, Sarah - OSEC; Christenson, Daniel - OSEC; Cordova, Elvis - OSEC; Ramos, Adela - OSEC; Reiter, Liz - OSEC; Hochstrasser, Franz - OSEC; Abebe, Yeshimebet - OSEC; Palmieri, Suzanne - OSEC; Campbell, Todd - OSEC; Naessens, Katie - OSEC; Yezak, Jennifer - OSEC
Cc: Palmieri, Suzanne - OSEC; Paul, Matt - OC; Dubinsky, Rachael -OC; DeJong, Justin - OC; Baenig, Brian - OSEC; Harden, Krysta - OSEC; Lippstreu, Charles -OC; Batta, Todd - OSEC
Subject: DRAFT USDA Sequester Timeline for 3/14/13

Good morning- below please see the list of items for Thursday. Please let me know **by NOON** if there are any edits to this. If we need to push any of these letters that are still being finalized to Friday, please let me know by noon.

Thanks!

Courtney

Thursday, March 14

Impacts and Significant Actions:

- [redacted]

- [redacted]

- [redacted]

[redacted]

- [redacted]

- **The Forest Service** will send letters to States to notify them that the sequester applies to Secure Rural Schools and similar payments, and provide information on how the $16.7 million reduction will be applied. Each state will be apprised as to the amount of sequester that applies to them, and provided with direction on repayment of amounts previously paid or the option, where applicable, to offset with reduced payments yet to be made. 29 States will have funds reduced from upcoming Title II payments to offset the Title I and Title III sequestration amounts already paid. 13 States have no Title II payments, and will have a total reduction of about $375,000 in their payments for Titles I and III which will impact projects for roads, schools and forest restoration on non -federal lands. When the State letters are sent, FS will call Governors offices, and notify by email Congress and the National Association of Counties. After that, FS will notify by email field leadership and the Designated Federal Officials who work with County Resource Advisory Committees on the selection of projects to be supported by funds from Secure Rural Schools payments.

- [redacted]

- [redacted]

- [redacted]

- [redacted]

- [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

- [redacted]

From: Rowe, Courtney - OC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROWE, COURTNEYF40BF9AB-0D18-4280-8758-9E9A3DA50E7C>
Sent: Tuesday, March 19, 2013 9:37 AM
To: Bonnie, Robert - OSEC; Batta, Todd - OSEC; Holmes, Patrick - OSEC; YOUNG, BENJAMIN, JR. - OGC; DeCoster, Tim -FS; Lippstreu, Charles -OC; Paul, Matt - OC; Baenig, Brian - OSEC; MacMillan, Anne - OSEC; DeJong, Justin - OC
Subject: DRAFT Secure Rural Schools statement

We expect to get press inquiries on SRS. This is for press, so I'm trying to keep it simple, but accurate. See below for a draft statement and let me know if you have edits.

"The Forest Service regrets to announce today that, as mandated by sequestration, $16.7 million must be withdrawn from the Secure Rural Schools account. The Forest Service is notifying states of the impacts and communities will be informed of potential opti ons including repayment or other reductions. The Forest Service is committed to minimizing the impact on the communities we serve as we implement these cuts."

From:	Graham, Kathleen - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRAHAM, KATHLEENB61010EB-E2C2-40A6-BAA9-49BEC6A6CE94>
Sent:	Tuesday, March 19, 2013 10:39 AM
To:	West, Jeremy -OBPA
Cc:	Pollard, Nicole - OBPA
Subject:	RE: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources
Importance:	High

Thanks. In the future, please coordinate budget information with the Budget Division.
The sequester for SRS is NOT 16.6M it is $17.3M, based on tables provided by OMB.

From: West, Jeremy -OBPA
Sent: Tuesday, March 19, 2013 12:29 PM
To: Graham, Kathleen - OBPA
Subject: FW: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources
Importance: High

Hey. Forgot to cc you on this email below, FYI. The bullet points I'm referring to are in the pro gram analysis folder, under 2013 sequestration, oversight committee.

Jeremy

From: West, Jeremy -OBPA
Sent: Tuesday, March 19, 2013 11:47 AM
To: Bice, Don - OBPA
Cc: Staiert, Jim - OBPA; Zehren, Chris - OBPA
Subject: RE: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources
Importance: High

Don,

So far, all the information shared is consistent with my bullet points for Mike.

- The Chief has avoided answering why a 5.0% reduction has resulted in a 15% redu ction to harvest. Actually, no one yet has answered this question directly. I have provided information in the context of Forest Products PPA alone, which comes out to a 10% reduction. I suspect when you look at Salvage operations, etc, the cumulative value is a 15% reduction. We do know the math behind Forest Products PPA, so this is defensible.

- Everything said about SRS payments already made (and sequestration guidance/claims letter) is consistent with what we've been discussing, except that the Chie f stated Title I and III funding went out in December, and I understood they went out in January.

- The Chief has deferred on questions about alternative, longer term solutions to the issue of providing consistent funding to the counties (729 total). Murkowski has mentioned several times the potential of having states manage National Forests as state forests. As I've pointed out in bullets, many state forests are managed for

profit, but National Forests are managed for multiple uses and guided by strict en vironmental legislation. State management of National Forests for profit would be inconsistent with how NFS lands can be managed.

- The Chief has mentioned several times "accelerated restoration" which is discussed in my bullet points. This is a collaborative approach to using harvesting as a restoration tool, which is highly intensive in community/stakeholder outreach very early in the sale preparation process to ensure buy in and support for harvesting.

- It is also important to note that reductions in Ti tle II and III funds to the counties means a reduction to restoration activities, since these funds can be used by the counties for collaborative restoration projects on NFS lands or to develop Community Wildfire Protection Plans (which is a requirement fo r hazardous fuels reduction at the WUI). This has an impact on wildfire potential in future years.

- Stewardship contracting authority was not discussed in any detail, but may come up for Mike. This is covered in my bullet points but we can further discus s if necessary.

I think Mike should defer answering questions on management/policy issues, as this is not our purview.

I am wrapping up the bullet points you requested now.

Jeremy

From: Graham, Kathleen - OBPA
Sent: Tuesday, March 19, 2013 11:33 AM
To: Jones, Diem-Linh - OBPA; Okal, Marianne - OBPA; West, Jeremy -OBPA; Staiert, Jim - OBPA
Cc: Lippold, David -OBPA
Subject: RE: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources

So far just a brief interchange between Wyden and Tidwell.

Wyden
What is the impact of sequestration on the payments that have gone out – he has heard that Title II/RAC projects would be impacted but all agree collaboration is the way to go in the future. How will the states be made whole?
Tidwell
We are in the process of informing the states and counties that SRS is subject to sequester.
Title I and III payments were made in Dec.
States with Title II payments can take Title I and III sequester amounts against Title II if th ey choose
He regrets that Title II will need to be reduced; if the state has no Title II funds, the FS will need to recover the sequestration amount from the state or county

---

From: Jones, Diem-Linh - OBPA
Sent: Tuesday, March 19, 2013 9:55 AM
To: Graham, Kathleen - OBPA; Okal, Marianne - OBPA; West, Jeremy -OBPA; Staiert, Jim - OBPA
Cc: Lippold, David -OBPA
Subject: RE: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources

Don asked that we view the hearing and let him know what the Chief says about SRS and sequestration. Mike needs this info for his hearing this afternoon. Thanks.

From: Graham, Kathleen - OBPA
Sent: Monday, March 18, 2013 2:33 PM
To: Young, Mike - OBPA; Bice, Don - OBPA
Cc: Jones, Diem-Linh - OBPA; Okal, Marianne - OBPA

Subject: Chief to Testify on Secure Rural Schools March 19, 2013 10:00EST Senate Energy and Natural Resources
Importance: High

Although their March 20 hearing was cancelled they still have Senate Energy and Natural Reso urces tomorrow. This committee includes Mr. Wyden.
FS budget still has concerns about the final amount and whether the math will work for every state. The plan in the letters seems to have been developed at a high level.

From: McArthur, Cindy -FS
Sent: Friday, March 15, 2013 01:49 AM
To: Sosbe, Kathryn G -FS; Innes, James C -FS; Ratzlaff, Jace I -FS; Chavez, Mark M -FS; O'Connor, Erin S -FS; Brunelle, Andy -FS; Frolli, Theresa M -FS; Nota, Christine -FS; Terry, Shandra -FS; Bekkerus, Steven M -FS; Hokans, Rickard H -FS; Alexander, Susan -FS; McKenzie, Carol -FS; Vargas, George -FS; Mills, Kerri P -FS; Abraham, Helen -FS; Rogers, Carol E -FS; Kohrman, Elaine B -FS; Brown, Reynardo E -FS; Olson, L LaRay -FS; McElmurry, Bonnie M -FS
Cc: Meade, Joe -FS; MONFORT, LORI - OGC; Babcock, Lindsey G (lbabcock@blm.gov) <lbabcock@blm.gov>; Masquelier, Jean -FS
Subject: Watch the Chief Testify on Secure Rural Schools March 19, 2013 1 0:00EST

Please share with your RAC coordinators and DFO's

Mar 19 2013

FULL COMMITTEE HEARING: Keeping the Commitment to Rural Communities

Options for reauthorizing and reforming the Secure Rural Schools and Community Self-Determination Act and Payments in Lieu of Taxes

SD-366 Senate Dirksen Building 10:00 AM

The purpose of the hearing is to examine the options and challenges related to possible reauthorization and reform of two payment programs for local governments - the recently expired Secure Rural Schools and Community Self-Determination Act and the Paymen t in Lieu of Taxes.

The hearing will be webcast live on the Committee's website, and an archived video will be available shortly after the hearing is complete. Witnesses' testimony will be available on the website at the start of the hearing.

http://www.energy.senate.gov/public/index.cfm/hearings -and-business-meetings?ID=59c3a874-10f7-4dd5-878d-8187bf8d6109

List of committee members: http://www.energy.senate.gov/public/index.cfm/members

Cynthia McArthur
US Forest Service National Partnership Coordinator
cmcarthur@fs.fed.us
202-577-7863 (cell)
808-744-2792 (Hawaii landline)

From: Graham, Kathleen - OBPA </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GRAHAM, KATHLEENB61010EB-E2C2-40A6-BAA9-49BEC6A6CE94>
Sent: Wednesday, March 20, 2013 2:30 PM
To: Okal, Marianne - OBPA
Subject: SRS timeline for various deliverables

Thursday, March 14 – notified FS budget office of new scenario for SRS sequestration. They had not seen the new plan so I faxed them the one pager that Mike provided. Verbal request to update the SRS sections of the sequester plan.
Friday, March 15 – FS budget promised by phone to provide FTE information for Nicole and support table for payments to states to us on Friday. My computer was down Thursday afternoon through Friday afternoon due to the move and despite numerous reminders by Sam. I sent an email reminder 4:44 p.m. Friday for the FTE information and support table. FS budget promised these items would be sent Friday.
Sunday, March 17 – FS sent support table and FTE information
Monday, March 18 – email reminder sent 11:53 a.m. for the seque ster plan – FS promised to provide sequester plan on Monday – another reminder sent Monday 5:09 p.m.
Tuesday, March 19 –Barbara sent email Tuesday 10 a.m. promising sequester plan on Tuesday. Status update requested Tuesday 4 p.m., and FS replied it's wit h the Chief's office. Another reminder sent 6 p.m.
Wednesday, March 20 – Sequestration plan received Wednesday 10:26 a.m. Reviewed and provided to NP and DL 3:43 p.m.

Kathleen Graham
U.S. Department of Agriculture
Office of Budget and Program Analysis
Jamie L. Whitten Building, Room 113E
1400 Independence Avenue, SW
Washington, DC 20250

Phone: 202-720-2881
Fax: 202-720-8635
email: Kathleen.Graham@obpa.usda.gov

From: YOUNG, BENJAMIN, JR. - OGC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=YOUNG, BENJAMIN, JR3274C17E-27AE-401D-988D-C68D5DA9A37210E>
Sent: Wednesday, March 27, 2013 9:45 AM
To: Armstrong, Katherine E -FS
Subject: RE: Sequester -- Hill question

I'm going to try and talk to OMB tomorrow.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Armstrong, Katherine E -FS
Sent: Wednesday, March 27, 2013 11:39 AM
To: Strong, Thelma -FS; DeCoster, Tim -FS; YOUNG, BENJAMIN, JR. - OGC
Subject: RE: Sequester -- Hill question

Hello all, just wanted to check on the status of this response. We've got key Committee staff who are quite interested in seeing our answer. I know clearance is tricky, but if I could at least give them an idea of when to expect an answer…

Thanks-

****
Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Strong, Thelma -FS
Sent: Friday, March 22, 2013 2:38 PM
To: DeCoster, Tim -FS; Armstrong, Katherine E -FS
Cc: YOUNG, BENJAMIN, JR. - OGC
Subject: FW: Sequester -- Hill question

To the question regarding when can Lucy hear back from us, Tim, how long is it taking USDA to clear information to be released? Benny's checking with legal group today; the response then has to be cleared by USDA—probably different offices at USDA—then we can respond to requester. This sounds like it's going to be at least next Wed before we can respond to this. Is this about right, or am I reading too much into it? How should Katie respond to this? Thanks

Thelma J. Strong
Chief Financial Officer
USDA Forest Service
(202) 205-0429-office
(202) 205-1321-voicemail
(202) 253-4734-mobile

From: YOUNG, BENJAMIN, JR. - OGC
Sent: Friday, March 22, 2013 2:27 PM
To: Strong, Thelma -FS; Armstrong, Katherine E -FS; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Re: Sequester -- Hill question

I need to coordinate the answer on this with OMB Counsel's offi ce.

From: Strong, Thelma -FS
Sent: Friday, March 22, 2013 06:07 PM
To: Armstrong, Katherine E -FS; YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: RE: Sequester -- Hill question

Response to Lucy Murfitt's questions for your review. Benny, these are your responses to my questions sent to you earlier this week. Do we want to add more? Maybe a sentence that says "states and counties expect to receive their SR S allocation in late January, early February each year. When the allocations were made, we had no grounds to withhold 5.1% because congressional action regarding averting sequestration had not taken place."
****
I would like an explanatio n as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:
Any budget authority being made available for expenditure in fiscal year 2013 is subject to sequ estration, including these receipt accounts. While SRS payments were based on fiscal year 2012 receipts, the statute directs that it be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the Budget Control Act of 2011.

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer: Secure Rural Schools is one "direct spending" program and the sequester must be taken against the entire program, so it does not matter which Title is cut in order to meet the full sequester amount. That is why states/counties receiving Title II funds are receiving the option of for egoing their Title II funding yet to be allocated in lieu of repaying funds already received for Title I and III allocations.

Thelma J. Strong
Chief Financial Officer
USDA Forest Service

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From: Armstrong, Katherine E -FS
Sent: Friday, March 22, 2013 1:44 PM
To: YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

Please see trailing question from Lucy Murfitt, Senate Energy staff. In a separate thread, Lucy has also asked for an estimate of how soon she should expect an answer.

Thanks,
Katie

****
Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
To: Armstrong, Katherine E -FS
Cc: Crandall, Doug -FS
Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
Importance: High

Thanks, got the clear scan. I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration. And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

From: DeCoster, Tim -FS </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DECOSTER, TIM19FC2A42-050B-47E2-9C80-3819EEDC8A96>
Sent: Wednesday, March 27, 2013 9:45 AM
To: Armstrong, Katherine E -FS; Strong, Thelma -FS; YOUNG, BENJAMIN, JR. - OGC
Subject: RE: Sequester -- Hill question

I haven't seen an answer from OGC yet that we can then clear. I expect when we have that draft we will be able to clear through department fairly quickly, because OGC and OBPA will have already concurred.

Tim DeCoster
Chief of Staff
U.S. Forest Service
202-205-0998

From: Armstrong, Katherine E -FS
Sent: Wednesday, March 27, 2013 11:39 AM
To: Strong, Thelma -FS; DeCoster, Tim -FS; YOUNG, BENJAMIN, JR. - OGC
Subject: RE: Sequester -- Hill question

Hello all, just wanted to check on the status of this re sponse. We've got key Committee staff who are quite interested in seeing our answer. I know clearance is tricky, but if I could at least give them an idea of when to expect an answer…

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Sent: Friday, March 22, 2013 2:38 PM
To: DeCoster, Tim -FS; Armstrong, Katherine E -FS
Cc: YOUNG, BENJAMIN, JR. - OGC
Subject: FW: Sequester -- Hill question

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From: YOUNG, BENJAMIN, JR. - OGC
Sent: Friday, March 22, 2013 2:27 PM
To: Strong, Thelma -FS; Armstrong, Katherine E -FS; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Re: Sequester -- Hill question

I need to coordinate the answer on this with OMB Counsel's office.

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To: Armstrong, Katherine E -FS; YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
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Answer: Secure Rural Schools is one "direct spending" program and the sequester must be taken against the entire program, so it does not matter which Title is cut in order to meet the full sequester amount. That is why states/counties receiving Title II funds are receiving the option of foregoing their Title II funding yet to be allocated in lieu of repaying funds already received for Title I and III allocations.

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From: Armstrong, Katherine E -FS
Sent: Friday, March 22, 2013 1:44 PM
To: YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

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Thanks,
Katie

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From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
To: Armstrong, Katherine E -FS
Cc: Crandall, Doug -FS
Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
Importance: High

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From: Young, Benjamin, Jr. –OGC
Sent: Wednesday, March 27, 2013 1:25 PM
To: Monfort, Lori –OGC
CC: Grahn, David –OGC
Subject: FW: Sequester – Hill question
Importance: High

FYI my draft response to Senate questions that I sent to OMB after talking to them today. The only legal theory they have still is that the sequester is taken against the full budget amount, and if we don't have the funds, we have to get it back.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division

From: Young, Benjamin, Jr. –OGC

Sent: Wednesday, March 27, 2013 2:15 PM

To: Berger, Sam (OMB)

Subject: FW: Sequester – Hill question

Importance: High

[Text appears elsewhere and not copied]

From: Cahill, Kathleen
Sent: Friday, March 29, 2013 2:14 PM
To: Berger, Sam; Lue, Thomas; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

Minor edit in yellow.

Otherwise I am ok with Option 1.

From: Berger, Sam
Sent: Friday, March 29, 2013 1:56 PM
To: Lue, Thomas; Cahill, Kathleen
Subject: RE: Sequester of SRS -- Hill question

Suggested edits below. I only edited Option 1, as I thought it was preferable to Option 2 (which is a single answer to both questions). Kathleen: can you confirm that the description of the accounts is accurate?

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011, required that sequestration be taken at the budget authority account level, and applied equally ~~against the~~ to each project, program~~s~~, and activity ~~activities~~ (PPA) in those accounts. In the case of SRS, the account was Forest Service Permanent Appropriations which included two PPA's for Secure Rural Schools: one comprising the budget authority from receipts in calendar year 2012 and the other comprising additional budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

In calculating the amount of the sequester, the BBEDCA repeatedly refers to the amounts for a "fiscal year" or "that year." 2 U.S.C. 901a. Thus, consistent with the application of sequestration across all USDA programs and across the Government as a whole, the amount of the sequester is based upon the full budgetary authority in the receipts PPA and the Treasury payments PPA for the entire ~~not~~ year, not on the amount ~~in the amount of budget authority~~ remaining available on the date of the sequester order. Since Title I and Title III payments already had been made for fiscal year 2013, the only money remaining in these PPAs against which the sequester could be taken were the Title II funds.

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer: Regardless of the elections under the SRS Act, and whether the choice of payment was from the formula under the 1908 law, ~~the fact of the matter is that~~ the funding for all the payments is provided in the SRS Act itself from two sources: receipts and the Treasury payments. The funding sources are not tied to a SRS Title or particular elections so for purposes of the budgetary exercise of sequestration it does not matter which Title's funding stream is cut in order to meet the full sequester amount, as long as the required reductions are taken from each PPA. Thus, USDA could have

taken the sequester against the only Title II funds in a PPA, and not asked for any Tit le I and Title III money back. Instead, States/counties were given the option of either paying back the sequestered amounts from their Title I and Title III money, or, to avoid the problems that would result from paying back funds already committed, redu cing their Title II funds by the requisite amount. Or to put it differently, if a State or country don't want its Title II funds to bear the full brunt of the sequester, it can pay back some of its Title I and Title III money. ~~Given the Congressional requirement that sequestration be taken at the account and PPA level, the Department opted to use the flexibility provided the funding sources for SRS to offer states/counties the choice of repaying the sequester amount of their Title I and Title III funds, or in lieu of repayment of the full or partial amount, foregoing all or part of their share of the Title II fund allocation to meet their overall required sequester amount under the Act.~~

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Friday, March 29, 2013 1:32 PM
To: Berger, Sam
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Any response? We are expecting a House Democratic version of yesterday's 31 -member bipartisan letter this afternoon.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Thursday, March 28, 2013 5:34 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Benny,

As I mentioned on our call just now, we haven't had a chance to review this yet. Given the technical nature of the response, we'd recommend holding this until we have a chance to review.

Thanks,

Sam

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 2:15 PM
To: Berger, Sam
Subject: FW: Sequester -- Hill question
Importance: High

Sam, take a look at two options for responding below. Option 1 is trying to respond to the specific questions raised separately. I find that a little disjointed. Option 2 is a modified version of the explanation of how this works that I gave in response to questions from FS officials at the operational level to explain how this works which I think flows more smoothly.

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budge t Control Act of 2011, required that sequestration be taken at the budget authority account level, and applied equally against the project, programs, and activities (PPA) in those accounts. In the case of SRS, the account was Forest Service Permanent Appropriations which included two PPA's for Secure Rural Schools: one comprising the budget authority from receipts in calendar year 2012 and the other comprising additional budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequest ration under the BBEDCA.

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Option 2 (one answer)

Sequestration applies to budget authority, and must be taken at the account level, equally applied to programs, projects, and activities (PPA) in the account. Regardless of the elections under the SRS Act, and whether the choice of payment was from the formula under the 1908 law, the fact of the matter is that the funding for all the payments is authorized under the SRS Act which has two PPAs: one spending PPA based on the receipts and a second PPA comprised of funding from Treasury to make up for any shortfall in the receip ts account to make the required payments. Thus the 5.1 percent sequester is taken against the budget account and the PPAs. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

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U.S.C. 901a) and thus we had to meet the s equester number for the full budget authority provided for SRS in all three Titles in fiscal year 2013. (While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.) We could have taken the sequester against the Title II funds only, and not asked for any Title I and Title III money back. Instead, we gave States/counti es the choice of either paying back the sequester amounts from their Title I and Title III money, or to avoid the hardship that would cause with funds already committed, in lieu thereof letting their 5.1 percent share be taken against the Title II funds – which would have been the default result if we had not asked for money back. Or to put it differently, if you don't want your Title II funds to bear the full brunt of the sequester, you have to pay back some of your Title I and Title III money. Nobody is giving Title II funding to the counties that elected the 25 percent payment, but the budgetary authority between the Titles is fungible for the purposes of the sequester law.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Di vision
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: YOUNG, BENJAMIN, JR. - OGC
Sent: Wednesday, March 27, 2013 12:57 PM
To: 'Berger, Sam'
Subject: RE: Sequester -- Hill question

FYI. Proposed answers:

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Answer:

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And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer:

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division

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202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 12:00 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

Want to give me a call then? 395-2862.

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Sent: Wednesday, March 27, 2013 11:54 AM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

1:00 is good.

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From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 11:50 AM
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Cc: Grahn, David - OGC; Lue, Thomas
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Sent: Tuesday, March 26, 2013 7:48 PM
To: YOUNG, BENJAMIN, JR. - OGC

Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

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Sent: Tuesday, March 26, 2013 5:52 PM
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Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

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There isn't a common answer that we've suggested agencies use in respond ing to this type of question. But we're happy to discuss with you potential answers if that would be helpful.

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Sent: Friday, March 22, 2013 6:38 PM
To: Berger, Sam
Cc: Grahn, David - OGC
Subject: FW: Sequester -- Hill question
Importance: High

Sam, we have sent letters to the States notifying that them that they must repay funds provided to them earlier under the Secure Rural Schools program in order to meet the sequester. Please see the questions from Senate Energy staff below. With respect to the question I highlighted, is there a common answer that OMB is seeking to use when addressing the question of why seeking return of payment s is legal?

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General Law and Research Division
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202-720-4814 (D)
202-720-5837 (F)

From: Armstrong, Katherine E -FS
Sent: Friday, March 22, 2013 1:44 PM
To: YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

Please see trailing question from Lucy Murfitt, Senate Energy staff. In a separ ate thread, Lucy has also asked for an estimate of how soon she should expect an answer.

Thanks,
Katie

****
Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
To: Armstrong, Katherine E -FS
Cc: Crandall, Doug -FS
Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
Importance: High

Thanks, got the clear scan. I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration. And how USFS get over a potential violation of the SRS law, by offering to use T itle II funds to cover the sequester amount.

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From: Stigile, Art
Sent: Friday, March 29, 2013 2:50 PM
To: Berger, Sam; Lue, Thomas; Cahill, Kathleen; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

See additional technical edits

From: Berger, Sam
Sent: Friday, March 29, 2013 2:05 PM
To: Lue, Thomas; Cahill, Kathleen; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

To be clear, please provide any edits by 4pm.

From: Berger, Sam
Sent: Friday, March 29, 2013 2:04 PM
To: Lue, Thomas; Cahill, Kathleen; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

+ BRD as well to see if the y have any edits.

From: Berger, Sam
Sent: Friday, March 29, 2013 1:56 PM
To: Lue, Thomas; Cahill, Kathleen
Subject: RE: Sequester of SRS -- Hill question

Suggested edits below. I only edited Option 1, as I thought it was preferable to Option 2 (which is a single answer to both questions). Kathleen: can you confirm that the description of the accounts is accurate?

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011, required that sequestration be taken at the budget ~~authority~~ account level, and applied equally ~~against the~~ to each project, program~~s~~, and activity ~~activities~~ (PPA) in those accounts. In the case of SRS, the account was Forest Service Permanent Appropriations which included two PPA's for Secure Rural Schools: one comprising the budge t authority from receipts in calendar year 2012 and the other comprising additional budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority is scored ~~outlayed~~ in fiscal year 2013 and subject to sequestration under the BBEDCA.

In calculating the amount of the sequester, the B BEDCA repeatedly refers to the amounts for a "fiscal year" or "that year." 2 U.S.C. 901a. Thus, consistent with the application of sequestration across all USDA programs and across the Government as a whole, the amount of the sequester is based upon the full budgetary authority in the receipts PPA and the Treasury payments PPA for the entire ~~not~~ year, not on the amount ~~in the amount of budget authority~~ remaining

available on the date of the sequester order. Since Title I and Title III payments already h ad been made for fiscal year 2013, the only money remaining in these PPAs against which the sequester could be taken were the Title II funds.

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the seq uester amount.

Answer: Regardless of the elections under the SRS Act, and whether the choice of payment was from the formula under the 1908 law, ~~the fact of the matter is that~~ the funding for all the payments is provided in the SRS Act itself from two sources: receipts and the Treasury payments. The funding sources are not tied to a SRS Title or particular elections so for purposes of the budgetary exercise of sequestration it does not matter which Title's funding stream is cut in order to meet the full sequester amount, as long as the required reductions are taken from each PPA . Thus, USDA could have taken the sequester against the only Title II funds in a PPA, and not asked for any Title I and Title III money back. Instead, States/counties were g iven the option of either paying back the sequestered amounts from their Title I and Title III money, or, to avoid the problems that would result from paying back funds already committed, reducing their Title II funds by the requisite amount. Or to put it differently, if a State or country don't want its Title II funds to bear the full brunt of the sequester, it can pay back some of its Title I and Title III money. ~~Given the Congressional requirement that sequestration be taken at the account and PPA leve l, the Department opted to use the flexibility provided the funding sources for SRS to offer states/counties the choice of repaying the sequester amount of their Title I and Title III funds, or in lieu of repayment of the full or partial amount, foregoing all or part of their share of the Title II fund allocation to meet their overall required sequester amount under the Act.~~

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Friday, March 29, 2013 1:32 PM
To: Berger, Sam
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Any response? We are expecting a House Democratic version of yesterday's 31 -member bipartisan letter this afternoon.

L. Benjamin Young, Jr.
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202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Thursday, March 28, 2013 5:34 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Benny,

As I mentioned on our call just now, we haven't had a chance to review this yet. Given the technical nature of the response, we'd recommend holding this u ntil we have a chance to review.

Thanks,

Sam

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 2:15 PM
To: Berger, Sam
Subject: FW: Sequester -- Hill question
Importance: High

Sam, take a look at two options for responding below. Option 1 is trying to respond to the specific questions raised separately. I find that a little disjointed. Option 2 is a modified version of the explanation of how this works that I gave in response to questions from FS officials at the operational level to explain how this works which I think flows more smoothly.

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since th ese funds went out the door knowing they would be subject to sequestration.

Answer:

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Option 2 (one answer)

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Subject: FW: Sequester -- Hill question
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Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

Please see trailing question from Lucy Murfitt, Senate Energy staff. In a separate thread, Lucy has also asked for an estimate of how soon she should expect an answer.

Thanks,
Katie

****
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Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
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Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
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From: Powell, Lindsey
Sent: Friday, March 29, 2013 2:53 PM
To: Lue, Thomas; Cahill, Kathleen; Berger, Sam; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

I've made a few additional suggestions below. Thanks.

From: Lue, Thomas
Sent: Friday, March 29, 2013 2:39 PM
To: Cahill, Kathleen; Berger, Sam; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Cc: Powell, Lindsey
Subject: RE: Sequester of SRS -- Hill question

+ Lindsey

From: Cahill, Kathleen
Sent: Friday, March 29, 2013 2:14 PM
To: Berger, Sam; Lue, Thomas; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

Minor edit in yellow.

Otherwise I am ok with Option 1.

From: Berger, Sam
Sent: Friday, March 29, 2013 1:56 PM
To: Lue, Thomas; Cahill, Kathleen
Subject: RE: Sequester of SRS -- Hill question

Suggested edits below. I only edited Option 1, as I thought it was preferable to O ption 2 (which is a single answer to both questions). Kathleen: can you confirm that the description of the accounts is accurate?

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Answer: Regardless of the elections under the SRS Act or~~, and~~ whether the choice of payment was from the formula under the 1908 law, ~~the fact of the matter is that~~ the SRS Act provides funding for all ~~the~~ payments ~~is provided in the SRS Act itself~~ from two sources: receipts and the Treasury payments. The funding sources are not tied to a SRS Title or particular elections, so for purposes of the budgetary exercise of sequestration it does not matter which Title' s funding stream is cut in order to meet the full sequester amount , as long as the required reductions are taken from each PPA. Thus, USDA could have taken the sequester against ~~the~~ only the Title II funds in a PPA, and not asked for any Title I and Title III money back. Instead, States/counties were given the option of either paying back the sequestered amounts from their Title I and Title III money, or, to avoid the problems that would result from paying back funds already committed, reducing their Ti tle II funds by the requisite amount. ~~Or t~~ To put it differently, if a State or country do es not want its Title II funds to bear the full brunt of the sequester, it can pay back some of its Title I and Title III money. ~~Given the Congressional requirement that sequestration be taken at the account and PPA level, the Department opted to use the flexibility provided the funding sources for SRS to offer states/counties the choice of repaying the sequester amount of their Title I and Title III funds, or in li eu of repayment of the full or partial amount, foregoing all or part of their share of the Title II fund allocation to meet their overall required sequester amount under the Act.~~

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Friday, March 29, 2013 1:32 PM
To: Berger, Sam
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Any response? We are expecting a House Democratic version of yesterday's 31-member bipartisan letter this afternoon.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Thursday, March 28, 2013 5:34 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Lue, Thomas
Subject: RE: Sequester -- Hill question

Benny,

As I mentioned on our call just now, we haven't had a chance to review this yet. Given the technical nature of the response, we'd recommend holding this until we have a chance to review.

Thanks,

Sam

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 2:15 PM
To: Berger, Sam
Subject: FW: Sequester -- Hill question
Importance: High

Sam, take a look at two options for responding below. Option 1 is trying to respond to the specific questions raised separately. I find that a little disjointed. Option 2 is a modified version of the explanation of how this works that I gave in response to questions from FS officials at the operational level to explain how this works which I think flows more smoothly.

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011, required that sequestration be taken at the budget authority account level, and applied equally against the project, programs, and activiti es (PPA) in those accounts. In the case of SRS, the account was Forest Service Permanent Appropriations which included two PPA's for Secure Rural Schools: one comprising the budget authority from receipts in calendar year 2012 and the other comprising ad ditional budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

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Option 2 (one answer)

Sequestration applies to budget authority, and must be taken at the account level, equally applied to programs, projects, and activities (PPA) in the account. Regardless of the elections un der the SRS Act, and whether the choice of payment was from the formula under the 1908 law, the fact of the matter is that the funding for all the payments is authorized under the SRS Act which has two PPAs: one spending PPA based on the receipts and a se cond PPA comprised of funding from Treasury to make up for any shortfall in the receipts account to make the required payments. Thus the 5.1 percent sequester is taken against the budget account and the PPAs. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

With respect to the counties who elected not to receive Title II funds now being able to use other counties' Title II funds, that is not correct. No Title II funds are going to counties that did not elect to receive those. When the sequester took effect, all Title I and Title III payments had been mad e – the only SRS money still in the hands of the government was the Title II funds. The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011, however, applies the sequester to the full budget auth ority a "fiscal year" or "for that year" (2 U.S.C. 901a) and thus we had to meet the sequester number for the full budget authority provided for SRS in all three Titles in fiscal year 2013. (While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.) We could have taken the sequester against the Title II funds only, an d not asked for any Title I and Title III money back. Instead, we gave States/counties the choice of either paying back the sequester amounts from their Title I and Title III money, or to avoid the hardship that would cause with funds already committed, in lieu thereof letting their 5.1 percent share be taken against the Title II funds – which would have been the default result if we had not asked for money back. Or to put it differently, if you don't want your Title II funds to bear the full brunt of the sequester, you have to pay back some of your Title I and Title III money. Nobody is giving Title II funding to the counties that elected the 25 percent payment, but the budgetary authority between the Titles is fungible for the purposes of the sequester law.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: YOUNG, BENJAMIN, JR. - OGC
Sent: Wednesday, March 27, 2013 12:57 PM
To: 'Berger, Sam'
Subject: RE: Sequester -- Hill question

FYI. Proposed answers:

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

Any budget authority being made available for expenditure in fiscal year 2013 is subject to sequestration, including these receipt accounts. While SRS payments were based on fiscal year 2012 receipts, the statute directs that it be paid

after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the Budget Control Act of 2011. Given that Congress has required reductions against the accounts, we have to use all available ways to do t his. We have to operate this program.

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer:

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel K. Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 12:00 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

Want to give me a call then? 395-2862.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 11:54 AM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

1:00 is good.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel K. Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 11:50 AM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

I could talk between 1 and 2 if that works or between 3:30 and 4:00.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 11:45 AM
To: Berger, Sam

Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

No time available today?

L. Benjamin Young, Jr.
Associate General Counsel
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202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Tuesday, March 26, 2013 7:48 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

Thursday morning would work for me.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Tuesday, March 26, 2013 5:52 PM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

When would be a convenient time to chat.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
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202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Monday, March 25, 2013 1:21 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

There isn't a common answer that we've suggested agencies use in responding to this type of question. But we're happy to discuss with you potential answers if that would be helpful.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Friday, March 22, 2013 6:38 PM
To: Berger, Sam
Cc: Grahn, David - OGC
Subject: FW: Sequester -- Hill question
Importance: High

Sam, we have sent letters to the States notifying that them that they must repay funds provided to them earlier under the Secure Rural Schools program in order to meet the sequester. Please see the questions from Senate Energy staff

below. With respect to the question I highlighted, is there a common answer that OMB is seeking to use when addressing the question of why seeking return of payments is legal?

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
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202-720-4814 (D)
202-720-5837 (F)

From: Armstrong, Katherine E -FS
Sent: Friday, March 22, 2013 1:44 PM
To: YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

Please see trailing question from Lucy Murfitt, Senate Energy staff. In a separate thread, Lucy has also asked for an estimate of how soon she should expect an answer.

Thanks,
Katie

****
Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
To: Armstrong, Katherine E -FS
Cc: Crandall, Doug -FS
Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
Importance: High

Thanks, got the clear scan. I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration. And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

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law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

From: Lue, Thomas
Sent: Friday, March 29, 2013 3:27 PM
To: Berger, Sam
Subject: FW: Sequester of SRS -- Hill question

Some suggested edits below along with the question we discussed. Many thanks.

From: Berger, Sam
Sent: Friday, March 29, 2013 3:05 PM
To: Powell, Lindsey; Lue, Thomas; Cahill, Kathleen; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

Thanks all.

Tom: below is the final version compiling everyone's edits for your review.

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended ~~by the Budget Control Act of 2011~~, requires ~~d~~ that sequestration be taken at the budget ~~authority~~ account level, and applied equally ~~against the~~ to each program, project~~, programs,~~ and activity ~~activities~~ (PPA) in those accounts. In the case of Secure Rural Schools, the relevant account is the Forest Service Permanent Appropriations account, which includes two PPAs for Secure Rural Schools: one comprising the FY 2013 budget authority from receipts in calendar year 2012 (the "receipts PPA"), and the other comprising additional FY 2013 budget authority provided from Treasury to cover the shortfall in receipts nece ssary to make the full SRS payments (the "Treasury payments PPA"). While SRS payments are based on the level of fiscal [CALENDAR YEAR?] year 2012 receipts, the statute [CAN WE ADD A CITATION HERE?] directs that the funds be paid after the end of the fiscal year and therefore it is budget authority ~~outlayed~~ scored in fiscal year 2013 and subject to sequestration under the BBEDCA.

In calculating the amount of the sequester, the BBEDCA repeatedly refers to the amounts for a "fiscal year" or "that year." 2 U.S.C. 901a. Thus, consistent with the application of sequestration across all USDA programs and across the Government as a whole, the amount of the sequester is based upon the full budgetary authority in the receipts PPA and the Treasury payments PPA for the entire ~~not~~ fiscal year, not on the amount ~~in the amount of budget authority~~ remaining available on March 1, 2013, the date of the sequester order. Since Title I and Title III payments already had been made for fiscal year 2013, the only money remai ning in these PPAs against which the sequester could be taken were the Title II funds. [CAN WE ADD AN EXPLANATION MAKING CLEAR HOW TITLE I, TITLE II, AND TITLE III PAYMENTS ARE MADE—I.E. FROM WHAT ACCOUNT/PPA?]

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer: Regardless of the elections under the SRS Act or~~, and~~ whether the choice of payment was from the formula under the 1908 law [WHAT IS THAT?], ~~the fact of the matter is that~~ the SRS Act provides funding for all ~~the~~ payments ~~is provided in the SRS Act itself~~ from two sources: receipts and the Treasury payments. The funding sources are not tied

to a SRS Title or particular elections , so for purposes of the budgetary exercise of sequestration it does not matter which Title's funding stream is cut in order to meet the full sequester amount , as long as the required reductions are taken from each PPA. Thus, USDA could have taken the sequest er against ~~the~~ only the Title II funds in a PPA, and not asked for any Title I and Title III money back. Instead, States/counties were given the option of either paying back the sequestered amounts from their Title I and Title III money, or, to avoid any issues that may result from paying back funds already committed, reducing their Title II funds by the requisite amount. To put it differently, if a State or county does not want its Title II funds to bear the full brunt of the sequester, it can pay back some of its Title I and Title III money. ~~Given the Congressional requirement that sequestration be taken at the account and PPA level, the Department opted to use the flexibility provided the funding sources for SRS to offer states/counties the choice of repaying the sequester amount of their Title I and Title III funds, or in lieu of repayment of the full or partial amount, foregoing all or part of their share of the Title II fund allocation to meet their overall required sequester amount under the Act.~~

From: Powell, Lindsey
Sent: Friday, March 29, 2013 2:53 PM
To: Lue, Thomas; Cahill, Kathleen; Berger, Sam; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

I've made a few additional suggestions below. Thanks.

From: Lue, Thomas
Sent: Friday, March 29, 2013 2:39 PM
To: Cahill, Kathleen; Berger, Sam; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Cc: Powell, Lindsey
Subject: RE: Sequester of SRS -- Hill question

+ Lindsey

From: Cahill, Kathleen
Sent: Friday, March 29, 2013 2:14 PM
To: Berger, Sam; Lue, Thomas; Stigile, Art; Jun, Hee K.; LaVine, Jessie
Subject: RE: Sequester of SRS -- Hill question

Minor edit in yellow.

Otherwise I am ok with Option 1.

From: Berger, Sam
Sent: Friday, March 29, 2013 1:56 PM
To: Lue, Thomas; Cahill, Kathleen
Subject: RE: Sequester of SRS -- Hill question

Suggested edits below. I only edited Option 1, as I thought it was preferable to Option 2 (which is a single answer to both questions). Kathleen: can you confirm that the description of the accounts is accurate?

Option 1

I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

The Balance Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the Budget Control Act of 2011, required that sequestration be taken at the budget authority account level, and applied equally ~~against the~~ to each program, project~~, programs,~~ and activity ~~activities~~ (PPA) in those accounts. In the case of SRS, the account was Forest Service Permanent Appropriations, which included two PPA's for Secure Rural Schools: one comprising the budget authority from receipts in calendar yea r 2012, and the other comprising additional budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

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Sent: Friday, March 29, 2013 1:32 PM
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Subject: RE: Sequester -- Hill question

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Subject: RE: Sequester -- Hill question

Benny,

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Thanks,

Sam

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Sent: Wednesday, March 27, 2013 2:15 PM
To: Berger, Sam
Subject: FW: Sequester -- Hill question
Importance: High

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Option 1

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Answer:

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Option 2 (one answer)

Sequestration applies to budget authority, and must be t aken at the account level, equally applied to programs, projects, and activities (PPA) in the account. Regardless of the elections under the SRS Act, and whether the choice of payment was from the formula under the 1908 law, the fact of the matter is that the funding for all the payments is authorized under the SRS Act which has two PPAs: one spending PPA based on the receipts and a second PPA comprised of funding from Treasury to make up for any shortfall in the receipts account to make the required paym ents. Thus the 5.1 percent sequester is taken against the budget account and the PPAs. While SRS payments were based on fiscal year 2012 receipts, the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority outlayed in fiscal year 2013 and subject to sequestration under the BBEDCA.

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L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
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I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration.

Answer:

Any budget authority being made available for expenditure in fiscal year 2013 is subject to sequestration, including these receipt accounts. While SRS payments were based on fiscal year 2012 receipts, the statute directs that it be paid after the end of the fiscal year and therefore it is budget authority outlaye d in fiscal year 2013 and subject to sequestration under the Budget Control Act of 2011. Given that Congress has required reductions against the accounts, we have to use all available ways to do this. We have to operate this program.

And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

Answer:

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel K. Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 12:00 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

Want to give me a call then? 395-2862.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 11:54 AM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

1:00 is good.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel K. Berger@omb.eop.gov]
Sent: Wednesday, March 27, 2013 11:50 AM
To: YOUNG, BENJAMIN, JR. - OGC

Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

I could talk between 1 and 2 if that works or between 3:30 and 4:00.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Wednesday, March 27, 2013 11:45 AM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

No time available today?

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Tuesday, March 26, 2013 7:48 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

Thursday morning would work for me.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Tuesday, March 26, 2013 5:52 PM
To: Berger, Sam
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

When would be a convenient time to chat.

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Berger, Sam [mailto:Samuel_K._Berger@omb.eop.gov]
Sent: Monday, March 25, 2013 1:21 PM
To: YOUNG, BENJAMIN, JR. - OGC
Cc: Grahn, David - OGC; Lue, Thomas
Subject: RE: Sequester -- Hill question

There isn't a common answer that we've suggested agencies use in respond ing to this type of question. But we're happy to discuss with you potential answers if that would be helpful.

From: YOUNG, BENJAMIN, JR. - OGC [mailto:BENJAMIN.YOUNG@OGC.USDA.GOV]
Sent: Friday, March 22, 2013 6:38 PM
To: Berger, Sam
Cc: Grahn, David - OGC
Subject: FW: Sequester -- Hill question
Importance: High

Sam, we have sent letters to the States notifying that them that they must repay funds provided to them earlier under the Secure Rural Schools program in order to meet the sequester. Please see the questions from Senate Energy staff below. With respect to the question I highlighted, is there a common answer that OMB is seeking to use when addressing the question of why seeking return of payment s is legal?

L. Benjamin Young, Jr.
Associate General Counsel
General Law and Research Division
202-720-5565 (O)
202-720-4814 (D)
202-720-5837 (F)

From: Armstrong, Katherine E -FS
Sent: Friday, March 22, 2013 1:44 PM
To: YOUNG, BENJAMIN, JR. - OGC; Hermann, Adam - OGC
Cc: MONFORT, LORI - OGC; DeCoster, Tim -FS; Strong, Thelma -FS; Cooper, Barbara -FS; Crandall, Doug -FS
Subject: Sequester -- Hill question
Importance: High

Please see trailing question from Lucy Murfitt, Senate Energy staff. In a separate thread, Lucy has also asked for an estimate of how soon she should expect an answer.

Thanks,
Katie

****
Katie Armstrong
Legislative Affairs Specialist
U.S. Forest Service
201 14th Street, SW
Washington, DC 20250
(202) 205-1670 desk
(202) 641-3578 mobile
karmstrong@fs.fed.us
****

From: Murfitt, Lucy (Energy) [mailto:Lucy_Murfitt@energy.senate.gov]
Sent: Friday, March 22, 2013 1:24 PM
To: Armstrong, Katherine E -FS
Cc: Crandall, Doug -FS
Subject: RE: Regarding effects of sequestration on Secure Rural Schools payments and Payments to States (NEED INFO)
Importance: High

Thanks, got the clear scan. I would like an explanation as to what grounds legally USFS has to engage in collections since these funds went out the door knowing they would be subject to sequestration. And how USFS get over a potential violation of the SRS law, by offering to use Title II funds to cover the sequester amount.

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure o f the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

From: YOUNG, BENJAMIN, JR. – OGC
Sent: Saturday, March 30, 2013 2:29 PM
To: Hermann, Adam – OGC; Monfort, Lori – OGC
CC: Grahn, David - OGC
Subject: FW: Sequester -- Hill question
Importance: High

Adam, Lori:

I will be out on Monday and Tuesday, and do not plan to spend a lot of time on my BB and certainly will not be standing eagerly by my laptop. So I'm providing you the below as backup.

I've been working with the FS folks on providing answers to Hill questions on SRS. I forwarded the below options to OMB on Tuesday, but did not hear back from them until late Friday and didn't connect.

In the meantime, there have two letters received from Congress: a Republican-led bipartisan one from 31 House members and a second one from 19 Democratic House members. Additionally, Thelma Strong, the FS CFO, fielded a call from the Deputy Director of the National Governors Ass'n on Friday. In essence, they all want to know why we did what we did and what is the legal authority for asking for the money back.

I'm going to forward a couple of other emails on from late last week explaining how what money the FS asked for back and another from OBPA explaining how FS will use SRS carryover money to meet the OMB sequester number which is higher. I've repeatedly made the point that I don't care what OMB estimated the sequester number to be, or what the FS asked for warrants based on the estimate, the statutory budgetary authority is receipts-based payments backed up by Treasury funds only to the extent the receipts funds are not sufficient to meet the required payments -- we cannot ask for more money back than what we paid out (SRS), nor can we fail to sequester the actual amounts where they were more than the estimates (grasslands, etc.). In order to meet the OMB difference, FS will use carryover funds; so be it, but I see no basis for it.

It's bad enough OMB is forcing us to get the money back or cut the Title II program by approx. 55%.

I also will forward you the last email of a short statement that OSEC was preparing on Thursday that I never found out the purpose for. With these three emails, you'll have the current state of play and the principal players involved from FS and OSEC.

I will try to take the call from OMB on Monday, and then translate back to you but you will have to take it from there to try and get a response done to these letters that I'm sure will go out before I get back Wednesday.

Not official copies. Based on notes by Committee on Natural Resources Majority Staff made during inspection of withheld Secure Rural Schools documents at USDA Headquarters on January 13, 2014.

I've tried to keep the front office in the loop, but I'm not sure they understand it at all at any meaningful level. Since David and I were dealing with OMB on these sequester mandatory payment anomalies, he's somewhat in the loop which is why I've cc'd him here.

L. Benjamin Young
Associate General Counsel

--FORWARDED—

From: YOUNG, BENJAMIN, JR. – OGC
Sent: Wednesday, March 27, 2013 2:15 PM
To: Berger, Sam <Samuel_K_Berger@omb.eop.gov>
Subject: FW: Sequester -- Hill question
Importance: High

From:	Strong, Thelma -FS <tstrong@fs.fed.us>
Sent:	Wednesday, April 03, 2013 2:46 PM
To:	Anderson, Barry
Subject:	Legality of sequestering SRS funds already allocated to states
Attachments:	QUESTION ON LEGALITY OF WITHDRAWING SRS FUNDS4.3.2013.docx

Barry, here is the response to your question on the legality of withdrawing SRS funds already allocated to states. Please let me know if you have further questions.

Thelma J. Strong
Chief Financial Officer
USDA Forest Service
(202) 205-0429-office
(202) 205-1321-voicemail
(202) 253-4734-mobile

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it conta ins may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

April 3, 2013

This is the response to the legality of sequestering funds already allocated to states:

The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended, requires that sequestration be taken at the budget account level, and applied equally to each program, project, and activity (PPA) in those accounts. In the case of Secure Rural Schools, the relevant account is the Forest Service Permanent Appropriations account, which includes two PPAs for Secure Rural Schools: one comprising the FY 2013 budget authority from receipts in fiscal year 2012 (the "receipts PPA"), and the other comprising additional FY 2013 budget authority provided from Treasury to cover the shortfall in receipts necessary to make the full SRS payments (the "Treasury payments PPA"). While funding for SRS payments is based on the level of fiscal year 2012 receipts, section 102(e) of the statute directs that the funds be paid after the end of the fiscal year and therefore it is budget authority for fiscal ye ar 2013 and subject to sequestration under BBEDCA.

In calculating the amount of the sequester, BBEDCA repeatedly refers to the amounts for a "fiscal year" or "that year." 2 U.S.C. 901a. Thus, consistent with the application of sequestration across all USDA programs and across the Government as a whole, the amount of the sequester is based upon the full budgetary authority in the receipts PPA and the Treasury payments PPA for the entire fiscal year, not on the amount remaining available on March 1, 2013, the date of the sequester order.

SRS payments are made from both PPAs. The funding sources are not tied to a particular Title so for purposes of sequestration, it does not matter which Title's funding stream is cut in order to meet the full seques ter amount as long as the required reductions are taken from each PPA. In theory, USDA could have taken the sequester against only the Title II funds, and not asked for any Title I and Title III money back. However, USDA has determined that in order to ensure equity in the treatment of States, each State should take the same percentage reduction to SRS payments regardless of which Title they are provided pursuant to. States were given the option of either paying back the sequestered amounts from their T itle I and Title III money, or reducing Title II allocations by the requisite amount (provided they can take the requisite reduction from the Title II amounts). This approach best ensures equity and uniformity in the implementation of the reductions as it applies the same percentage reduction to the payments for each State.

NATIONAL GOVERNORS ASSOCIATION

Jack Markell
Governor of Delaware
Chair

Mary Fallin
Governor of Oklahoma
Vice Chair

Dan Crippen
Executive Director

April 4, 2013

Thomas L. Tidwell
Chief, Washington Office
Forest Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

RE: Sequestration and USFS Payments to States

Dear Mr. Tidwell:

This letter requests further clarification to the legal justification to support the recent written demands to governors by the U.S. Forest Service (USFS) for the return of certain non-defense mandatory funds previously obligated. Specifically, the USFS wants states to return a portion of the fiscal year 2013 payments provided them earlier this year under Title I and Title III of the Secure Rural Schools program (including for some states the 25 Percent Fund Payments), and for some states a portion of their Quartz, Quinault, and Thye-Blatnick Payments.

Other than the general references to the March 1, 2013, sequestration mandated by the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), (none of which apply directly to states) as amended by the Budget Control Act of 2011, and to the Anti-deficiency Act, 31 U.S.C. Section 1341, the March 19 letters provide no specific legal citation to support this demand to return obligated funds.

Section 256 (k)(2) of the BBEDCA requires that sequester be applied equally at the program, project, and activity (PPA) level within each budget account. For accounts included in appropriations acts, PPAs within each budget account are delineated in those acts or accompanying reports; and for accounts not included in appropriations acts, they are delineated in the most recently submitted President's budget. Please specify what PPAs the USFS assumed in making its demands and how these assumptions are consistent with the provisions of the BBEDCA.

Given that states have until April 19 to respond to the USFS, please respond to this request for clarification as soon as possible. If you have further questions, please contact David Parkhurst, NGA General Counsel, at 202.624.5328, or by email at dparkhurst@nga.org, or Craig Sundstrom, Esq., Senior Legislative Associate, Natural Resources Committee at 202.624.3623, or by email at csundstrom@nga.org.

Sincerely,

Dan Crippen

Cc: The Honorable Thomas Vilsack, Secretary of Agriculture
Cc: The Honorable Jeffery Zients, Acting Director, Office of Management and Budget

From: Cahill, Kathleen
Sent: Thursday, April 18, 2013 1:24 PM
To: Lucas, Adrienne C.
Subject: RE: Secure Rural Schools - AP writing

Just a note (which I know you know), the Forest Service did not hold back funds, DOI did. The Forest Service notified states of the need to claw back funds in March.

Even though the payment is for 2012, the funds are not made available until 2013 and are scored as such. These are not unobligated balances, they are newly available funds. As they are provided in 2013, they are subject to sequestration.

I am fine with the response to whether other agencies have held back or clawed back funds.

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Lucas, Adrienne C.
Sent: Thursday, April 18, 2013 1:19 PM
To: Cahill, Kathleen
Subject: FW: Secure Rural Schools - AP writing

Views?

From: Vorhaus, Dave
Sent: Thursday, April 18, 2013 12:48 PM
To: Santillo, Jessica; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Lucas, Adrienne C.; Berger, Sam
Subject: RE: Secure Rural Schools - AP writing

Unless I'm missing something here (which is entirely possible), they definitely cannot claim that it is '12 money, otherwise it wouldn't be subject to sequestration (the only a gency where prior-year balances are subject to sequestration is DoD).

On the statement, I'll defer to Sally and her team, but I think that line is still the appropriate one, and addresses his fir st question.

In terms of the question about whether other a gencies have held or clawed back money, I might suggest something like the below:

"All agencies are actively working to cope with the reduced funding levels required by sequestration. Particular strategies vary by agency depending on their specific progr ams and account structures. In all cases though, agencies are working to implement sequestration in ways that protect their mission to serve the public, to the greatest extent possible."

Again, defer to others for their thoughts though.

Thanks!

From: Santillo, Jessica
Sent: Thursday, April 18, 2013 12:42 PM
To: Vorhaus, Dave; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven
Subject: Secure Rural Schools - AP writing

The Associated Press (Richard Lardner) is doing a story about secure rural schools today, focused on lawmakers being upset that the Forest Service began to hold back funding in March. He says lawmakers are saying that was 2012 money and should not have been held back.

The previous statement we had cleared on this (in March) was this, but it may need some adjustments:

"As mandated by sequestration, the Forest Service is required to reduce all county payments by $17.9 million, of which $15.6 million is for the Secure Rural Schools Act. The Forest Service is working with States and communities to inform them of potential options to help minimize the impact of these reductions."

He would like to know:

1. Why was this decision made?
2. Is it correct that it was FY2012 money?
3. Is this an isolated case, or have other agencies also held back, or clawed back funds?
    a. He specifically asked about HUD grants.

He has already been in touch with the Forest Service, and I will alert the USDA, who I think should take the lead here. Please advise on any messaging or framing points.

Jessica Santillo
OMB Press Secretary
Direct: 202-395-1061

From: Vorhaus, Dave
Sent: Thursday, April 18, 2013 2:34 PM
To: Santillo, Jessica; Lucas, Adrienne C.; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

On the withholding of funds, it's a bit convoluted unfortunately. Both DOI and USDA have Secure Rural Schools funds. It was DOI that withheld their funds prior to March 1. USDA/Forest Service *didn't* withhold their funds, which means now they are put in the position of having to try and claw back funds.

There are definitely other instances of agencies withholding funds prior to March 1 due to sequestration, though I probably wouldn't point that out, as it runs counter to our guidance that was in effect through mid -February, which was to spend at the normal rate. In terms of clawing back funds, I'm not personally aware of any other instances where that is occurring (that's not to say definitively that it is not happening, but that's my best guess).

Fully defer to Adrienne, Sally and the team on providing the information about the color of the money here, but no concerns with that from this end.

Thanks!

From: Santillo, Jessica
Sent: Thursday, April 18, 2013 2:30 PM
To: Lucas, Adrienne C.; Vorhaus, Dave; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

Thank you – are you ok with me providing this information on the funds to the reporter?

Also, as far as Dave's statement about other federal agencies, I can give the statement, but am I correct that the Secure Rural Schools situation was unique? Other programs did not proactively withhold funds before March 1?

From: Lucas, Adrienne C.
Sent: Thursday, April 18, 2013 1:37 PM
To: Vorhaus, Dave; Santillo, Jessica; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

Kathleen provided the following information on why the funding is 2013 -- Even though the payment is for 2012, the funds are not made available until 2013 and are scored as such. These are not unobligated balances, they are newly available funds. As they are provided in 2013, they are subject to sequestration.

We are okay using the previous cleared statement.

From: Vorhaus, Dave
Sent: Thursday, April 18, 2013 12:48 PM
To: Santillo, Jessica; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Lucas, Adrienne C.; Berger, Sam
Subject: RE: Secure Rural Schools - AP writing

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"All agencies are actively working to cope with th e reduced funding levels required by sequestration. Particular strategies vary by agency depending on their specific programs and account structures. In all cases though, agencies are working to implement sequestration in ways that protect their mission to serve the public, to the greatest extent possible."

Again, defer to others for their thoughts though.

Thanks!

From: Santillo, Jessica
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To: Vorhaus, Dave; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven
Subject: Secure Rural Schools - AP writing

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    a. He specifically asked about HUD grants.

He has already been in touch with the Forest Service, and I will alert the USDA, who I think should take the lead here. Please advise on any messaging or framing points.

Jessica Santillo
OMB Press Secretary

Direct: 202-395-1061

From: Berger, Sam
Sent: Thursday, April 18, 2013 2:58 PM
To: Vorhaus, Dave; Santillo, Jessica; Lucas, Adrienne C.; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

Some suggested nits to the responses (please confirm that everyone is comfortable with citing the STA report, as the information was in there but not necessarily clear to a casual observer unfamiliar with this account):

1. Why was this decision made?

[This is a question for USDA]

2. Is it correct that it was FY2012 money?

As OMB set forth in the Sequestration Transparency Act report issued last year , the funds in question are made available for payment in 2013 and are therefore subject to sequestratio n.

3. Is this an isolated case, or have other agencies also held back, or clawed back funds?
    a. He specifically asked about HUD grants.

All agencies are actively working to implement the significant reductions required in the middle of the fiscal year by sequestration ~~cope with the reduced funding levels required by sequestration~~. Particular strategies vary by agency depending on their specific programs and account structures. In all cases though, agencies are working to implement sequestration in ways that p rotect their mission to serve the public, to the greatest extent possible."

From: Vorhaus, Dave
Sent: Thursday, April 18, 2013 2:34 PM
To: Santillo, Jessica; Lucas, Adrienne C.; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

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Thanks!

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To: Lucas, Adrienne C.; Vorhaus, Dave; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
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Subject: RE: Secure Rural Schools - AP writing

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From: Lucas, Adrienne C.
Sent: Thursday, April 18, 2013 1:37 PM
To: Vorhaus, Dave; Santillo, Jessica; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Berger, Sam
Cc: Cahill, Kathleen
Subject: RE: Secure Rural Schools - AP writing

Kathleen provided the following information on why the funding is 2013 -- Even though the payment is for 2012, the funds are not made available until 2013 and are scored as such. These are not unobligated balances, they are newly available funds. As they are provided in 2013, they are subject to sequestration.

We are okay using the previous cleared statement.

From: Vorhaus, Dave
Sent: Thursday, April 18, 2013 12:48 PM
To: Santillo, Jessica; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven; Irwin, Janet; Lucas, Adrienne C.; Berger, Sam
Subject: RE: Secure Rural Schools - AP writing

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"All agencies are actively working to cope with the reduced funding levels required by sequestration. Particular strategies vary by agency depending on their specific programs and account structures. In all cases though, agencies are working to implement sequestration in ways that protect their mission to serve the public, to the greatest extent possible."

Again, defer to others for their thoughts though.

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Sent: Thursday, April 18, 2013 12:42 PM

To: Vorhaus, Dave; Lew, Shoshana; Ericsson, Sally C.; Sarri, Kristen; Anchin, Scott J.; Posner, Steven
Subject: Secure Rural Schools - AP writing

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He has already been in touch with the Forest Service, and I will alert the USDA, who I think should take the lead here. Please advise on any messaging or framing points.

Jessica Santillo
OMB Press Secretary
Direct: 202-395-1061

From: Irwin, Janet
Sent: Friday, August 02, 2013 6:21 PM
To: Sarri, Kristen; Neill, Allie; Berger, Sam; Hitter, Thomas E.; Ericsson, Sally C.; Lew, Shoshana
Cc: Lucas, Adrienne; Cahill, Kathleen
Subject: RE: SECURE RURAL SCHOOLS- Bills to States

+ Adrienne and Kathleen

This generally looks ok to me but I can not verify the exact details.

I would just add that this whole ludicrous process that the sequester has forced the Forest Service and states to undergo has probably taken more funds in total, or will have when it is all over, than the amount of funds sequestered in the first place and is another illustration of why using across -the-board approaches like the sequester needs to be fixed.

From: Sarri, Kristen
Sent: Friday, August 02, 2013 6:09 PM
To: Neill, Allie; Berger, Sam; Hitter, Thomas E.; Irwin, Janet; Ericsson, Sally C.; Lew, Shoshana
Subject: RE: SECURE RURAL SCHOOLS- Bills to States
Importance: High

We need to get an explanation of the issue to Deese. Is this close?

On Monday, the Forest Service will send letter and bills (if applicable) notifying states of the agency's approach to meeting sequestration obligations for payments made through the Secure Rural Schools and Community Self-Determination Act of 2000. This action follows letters sent on March 16.

To comply with the March 1st sequestration order, the Forest Service must take reductions in Title II funding for Resource Advisory Committee ("RAC") -recommended projects on the National Forests. Because the Forest Service allocated these funds prior to the March 1st order, they must now collect funds from states. States were given the option of either: returning the sequestered amounts from Title II funding for Resource Advisory Committee-recommended projects on the National Forests in their State, where applicable; or being billed for the sequestered amounts from Title I and Title III funds. States were asked to advise the Forest Service by April 19, 2013 of how they preferred to comply. Some States advised the Forest Service by th e deadline how they wished to comply. Those requests will be honored. 17 states lack Title II funding or have insufficient Title II funding and will receive a bill for the amount owed, due in 30 days. The total amount billed across these states will be $582,169.08. The bills outline the agency's appeals process and intent to collect by administrative offset. In total, 41 states and Puerto Rico will receive a letter and/or bill. **It's important to get these letters out this week to ensure the Forest Serv ice has enough time to collect funds or use administrative offset to fulfill the mandated sequestration by the end of the fiscal year. It will also allow states the right to appeal within 30 calendar days.**

The majority of states have enough Title II (T 2) money, which have not been distributed, to cover the required sequester amount. These states will receive the letter that says we've withheld amounts from your T2

payments to cover the mandated amounts from sequester. These states include: **Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Mexico, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming.** There are four states that do not have sufficient T2 funds. These states will receive a letter that states the entire amount of T2 money was withheld due to the mandated sequester reductions. This was not enough to cover payments already received, thus USDA is providing th e attached bill to cover sequestration. **These states include: Missouri, Pennsylvania, Tennessee, Virginia.** There are 12 states and PR that received T1 and T3 payments and do not receive any T2 funds. These states will receive a bill to cover the mandated sequester amount. **They include: Alabama, Georgia, Illinois, Indiana, Maine, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Ohio, Puerto Rico, Vermont.** Finally there are a handful of states that have other SRS funds with will receive a letter tailored to their situation. **This includes states like Minnesota and Washington.**

From: Deese, Brian C.
Sent: Sunday, August 04, 2013 7:05 PM
To: Sarri, Kristen
Cc: Neill, Allie; Irwin, Janet; Ericsson, Sally C.; Lew, Shoshana
Subject: Re: SECURE RURAL SCHOOLS- Bills to States

Thanks team. This is what I need.

From: Sarri, Kristen
Sent: Sunday, August 04, 2013 05:56 PM
To: Deese, Brian C.
Cc: Neill, Allie; Irwin, Janet; Ericsson, Sally C.; Lew, Shoshana
Subject: FW: SECURE RURAL SCHOOLS - Bills to States

Sorry this took a bit longer than expected.

On Monday, the Forest Service will send letter and bills (if applicable) notifying states of the agency's approach to meeting sequestration obligations for payments made through the Secure Rural Schools and Community Self-Determination Act of 2000. This action follows letters sent on March 16.

To comply with the March 1st sequestration order, the Forest Service must take reductions in Title II funding for Resource Advisory Committee ("RAC") -recommended projects on the National Forests. Because the Forest Service allocated these funds prior to the March 1st order, they must now collect funds from states. States were given the option of either: returning the sequestered amounts from Title II funding for Resou rce Advisory Committee-recommended projects on the National Forests in their State, where applicable; or being billed for the sequestered amounts from Title I and Title III funds. States were asked to advise the Forest Service by April 19, 2013 of how they preferred to comply. Some States advised the Forest Service by the deadline how they wished to comply. Those requests will be honored. 17 states lack Title II funding or have insufficient Title II funding and will receive a bill for the amount owed, d ue in 30 days. The total amount billed across these states will be $582,169.08. The bills outline the agency's appeals process and intent to collect by administrative offset. In total, 41 states and Puerto Rico will receive a letter and/or bill. **It's important to get these letters out this week to ensure the Forest Service has enough time to collect funds or use administrative offset to fulfill the mandated sequestration by the end of the fiscal year. It will also allow states the right to appeal within 30 calendar days.**

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From:	Cahill, Kathleen
Sent:	Friday, August 23, 2013 9:54 AM
To:	Astles, Ari Isaacman; Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin
Cc:	FN-OMB-Communications Office
Subject:	RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

Thanks. I was hoping that if we could verify that Alaska was not the only state with a changed amount that the last answer could be rewritten to indicate that.

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
Fax 202-395-4941

From: Astles, Ari Isaacman
Sent: Friday, August 23, 2013 9:51 AM
To: Cahill, Kathleen; Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin
Cc: FN-OMB-Communications Office
Subject: RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

Hi Kathleen – I still haven't heard back on the Alaska front, but I plan to send your edits below back in 10 minutes. I will circle back when I hear about Alaska amt.

From: Cahill, Kathleen
Sent: Friday, August 23, 2013 8:15 AM
To: Astles, Ari Isaacman; Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin
Cc: FN-OMB-Communications Office
Subject: RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

I would make a couple of edits for clarity.

Question for USDA – was Alaska the only one that has an increased amount?

Kathleen Cahill
Program Examiner
Office of Management and Budget
Voice 202-395-6826
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From: Astles, Ari Isaacman
Sent: Thursday, August 22, 2013 6:56 PM
To: Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin; Cahill, Kathleen
Cc: FN-OMB-Communications Office
Subject: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act
Importance: High

USDA was contacted by the AP regarding sequester / forest service, in particular with regard to 22 states this week got collection letters, in which the Forest Service is taking back Title II funds under the Secure Rural Schools act due to sequestration.

Below is USDA's proposed on-the-record quote and background answers to their questions.

Please advise of any edits/concerns by 9:30am tomorrow, and let me know if you need more time for review. (and apologies for the quick turnaround!)

Thanks,
Ari

On the record:

When sequestration went into effect on March 1, the Forest Service was requi red by law to withhold the funds to meet the 5.1% requirements of sequestration. The Administration continues to urge Congress to act to replace the damaging cuts imposed by the sequester with a balanced approach that reduces the deficit while protecting c ritical priorities.

Background:

Why was this a necessary move, from USDA's perspective?
The Forest Service took this action to meet the requirements of the Budget Control Act of 2011, which requires that funds will be sequestered at the budget account level. The Forest Service issued payments to the states, as normal, in December and early January. When sequestration went into effect on March 1, the FS had no choice except to withhold undisbursed SRS funds or request repayment to meet the 5.1% requirements of sequestration.

Is this money going to be used to help with agency wildfire -fighting costs this season?
~~At this point, t~~ The SRS funds will not be used for firefighting. The funds being withheld must be returned to Treasury. The remaining SRS funds ~~They~~ are not included in the fire transfer plan.

Alaska's letter asks for an amount HIGHER than what was originally requested by USDA in March. Why the discrepancy there?
The higher amount was needed to fully meet the sequestration amount the Forest Service was responsible for, to return to Treasury.

From: Astles, Ari Isaacman
Sent: Friday, August 23, 2013 10:20 AM
To: Cahill, Kathleen; Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin
Cc: FN-OMB-Communications Office
Subject: RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

Got it, thanks Kathleen. I will relay OMB feedback as below in 10 minutes:

On the record:

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Sequestration calculations were finalized after the March letters were issued. This resulted in additional reductions for many states. The higher amount was ne eded to fully meet the sequestration amount the Forest Service was responsible for, to return to Treasury.

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Sent: Friday, August 23, 2013 10:08 AM
To: Astles, Ari Isaacman; Lucas, Adrienne; Irwin, Janet; Ericsson, Sally C.; Levine, Eli; Deese, Brian C.; Brown, Jamal; Deese, Brian C.; Menter, Jessica; Neill, Allie; Sarri, Kristen; Hornung, Daniel; O'Connor, Devin
Cc: FN-OMB-Communications Office
Subject: RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

I received verification that all states that receive Title II payments had an increase from the original letter as they final sequestration calculation was apx $1M higher than originally estimated. I would recommend editing the final answer.

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Voice 202-395-6826
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Cc: FN-OMB-Communications Office
Subject: RE: AP Inquiry re: Forest Service / Wildfires / Secure Rural Schools Act

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From: Adam Hermann
Sent: Thursday, July 18, 2013 8:29 AM
To: Lori Monfort; Azine Farzami
Subject: RE: Letters to the states – SRS

I'm not clear what he is asking us to do vs. FS. Several weeks ago Todd and OBPA seemed like they didn't want to touch the FY 13 receipts as that undercuts our argument that it is BA for the following year. I'm going to try to make edits to the other letter now, but then am going to need to switch to Farm bill mode shortly.

From: Lori Monfort
Sent: Thursday, July 18, 2013 10:24 AM
To: Adam Hermann; Azine Farzami
Subject: FW: Letters to the States – SRS

As I interpret the FS spreadsheets, one shows that there are sufficient NF receipts collected this FYY ("FY13 25% Funds Available for Offset") available for offset. A policy call needs to be made about whether to use those funds for offset. Doing so would confine the effects of sequestration to the payments to states program.

The other spreadsheets show the open G&A in each state. I have not reviewed those spreadsheets to determine whether there are sufficient G&A funds available for offset in each state. I'm also not certain which of the amounts shown on the spreadsheets are available for offset. I assume that only unobligated funds are available. If so, then for example, MO has no G&A funds available for offset. (I think).

Stating the obvious, it would be helpful to discuss the spreadsheets with FS.

From: Todd Batta
Sent: Thursday July 18, 2013 9:47 AM
To: Adam Hermann; Patrick Holmes; Benjamin Young; Meryl Harrell; Mike Young; Ann Wright; David Howard; Azine Farzami; Lori Monfort
CC: Jennifer Yezak; Charles Lippstreu; Courtney Rowe
Subject: RE: Letters to the states – SRS

Adam, You're right, Attachment A already was updated with the non-centralized administrative offset language. After reviewing the attachment this am, I do have a couple of questions. The FS did not send over a list of payments that were going out to states. It looks as if there should be enough to offset

payments without having to look elsewhere in the Department. That was the preferred and agreed upon approach. We need to verify that there are sufficient FS funds.

Thanks.

From: Lori Monfort
Sent: Thursday, July 18, 2013 9:20 AM
To: Adam Hermann
Subject: RE: Letters to the states – SRS

Perfect

From: Adam Hermann
Sent: Thursday, July 18, 2013 11:18 AM
To: Lori Monfort
Subject: RE: Letters to the states – SRS

Lori, thoughts. Anything to add? I was going to cc Fred on this one.

Todd, thanks.

If your questions on Attachment A are for us, please let me know so I can patch in Azine.

Regarding the FS offsets, Thelma sent around two attachments on Friday night, which we understood to reflect two different options FS was considering – (1) a spreadsheet showing grants and agreements payments; and (2) a spreadsheet showing the use of FY13 receipts as an offset. Regarding the use of FY13 receipts, I thought OBPA had nixed that idea several weeks ago as it could be seen as undercutting the position that the receipts collected last FY constitute BA for the current FY. Regarding G&A payments, we defer to the FS to determine whether there are sufficient unobligated amounts for each state to offset. If there are insufficient G&A funds to offset, and you are not using FY13 receipts, then for those States, Attachment A will need to retain the reference to other USDA payments since the offsets will be taking place outside the FS from other USDA payments.

From: Todd Batta
Sent: Thursday July 18, 2013 9:47 AM
To: Adam Hermann; Patrick Holmes; Benjamin Young; Meryl Harrell; Mike Young; Ann Wright; David Howard; Azine Farzami; Lori Monfort
CC: Jennifer Yezak; Charles Lippstreau; Courtney Rowe
Subject: RE: Letters to the states – SRS

Adam,

You're right, attachment A already was updated with the non-centralized administrative offset language. After reviewing the attachment this am, I do have a couple of questions. The FS did send over a list of payments that were going out to states. It looks as if there should be enough to offset payments without

having to look elsewhere in the Department. That was the preferred and agreed upon approach. We need to verify that there are sufficient FS funds.

Thanks.

From: Adam Hermann
Sent: Thursday July 18, 2013 9:11AM
To: Todd Batta; Patrick Holmes; Benjamin Young; Meryl Harrell; Mike Young; Ann Wright; David Howard; Azine Farzami; Lori Monfort
CC: Jennifer Yezak; Charles Lippstreau; Courtney Rowe
Subject: RE: Letters to the States – SRS

Looping in Azine Farzami and Lori Monfort.

Todd – we will review and get back to you. I believe attachment A already reflects the edits we sent to FS earlier this week stripping the references to Treasury offsets, but we'll take a look.

From: Todd Batta
Sent: Wednesday July 17, 2013 8:03 PM
To: Patrick Holmes; Benjamin Young; Adam Hermann; Meryl Harrell; Mike Young; Ann Wright; David Howard
CC: Jennifer Yezak; Charles Lippstreau; Courtney Rowe
Subject: Letters to the states – SRS

Team,

Attached are clean version of letter for the SRS letters to states. I redrafted three version of the letters. However, we need to be cognizant about states that did respond to us. These are all drafted as not hearing back from the states. OCG please take a careful look to make sure that I didn't say something that isn't legally correct. OCR can you review for tone? Patrick and Meryl, please have FS review as well. Please provide any final comments on FRIDAY!!!! I will provide these for initial review to OMB that that time.

I have not looked at the due process portion that is also attached. However, I notice a lot of discussion on Treasury offsets. The plan is to use administrative IN THE Forest Service. Adam and Benny can you help articulate the appeal process for this in a crisp concise manor?

Thanks.