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FY 2012 Spending Blows Through Cap, CBO Shows

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As House appropriators begin hearings on fiscal year (FY) 2013 spending,¹ a second look at last week's Congressional Budget Office report shows they already have exceeded their official Budget Control Act limits for the current year by a stunning \$156 billion. Although some of this overrun reflects justifiable support for U.S. troops overseas, the rest results from loopholes built into the spending caps along with other gimmicks. The figures prove how urgent it is for Congress to shut down these enablers of profligate spending.

A summary of total discretionary spending for FY 2012 shows the following:

- The official Budget Control Act cap: \$1.043 trillion.
- Overseas troop support: \$127 billion.
- “Disaster” and “program integrity” initiatives: \$11 billion.
- “Changes in mandatory programs” shell game: \$18 billion.

Total: \$1.199 trillion.

A detailed look at these expenditures follows.

Spending Caps and “Adjustments.” For the current fiscal year (2012), the caps in the Budget Control Act (BCA)—the product of last year's debt ceiling debate—supposedly limit “discretionary” (annually appropriated) budget authority to \$1.043

trillion. These discretionary accounts cover day-to-day, non-entitlement spending for activities such as national defense, homeland security, education, and veterans health care, all the way down to national parks. But according to last week's Congressional Budget Office (CBO) report, *The Budget and Economic Outlook*, the actual amount being spent is \$1.199 trillion—\$156 billion more than the cap.² This begs the question of how the BCA caps could be breached by so much.

Activities Overseas. The one defensible exception to the cap, about which Congress was forthright, allows an adjustment for U.S. activities in Iraq and Afghanistan, known as Overseas Contingency Operations (OCO), totaling \$127 billion. By their nature, these operations are temporary and funded year by year, with amounts determined by conditions in the theater. Although OCO activities are winding down, Congress must be prepared to provide additional funds swiftly if conditions change. It is still real spending and should be accounted for, but a spending cap exception for these activities is at least understandable.

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<http://report.heritage.org/wm3494>

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Unjustified Loopholes. The same cannot be said of other cap adjustments and gimmicks.

Two of the more egregious loopholes are for “disaster” funding and certain “program integrity” initiatives, which total about \$11 billion in the FY 2012 spending bills.

The roughly \$10.5 billion in disaster funds provided in the appropriations bills go toward relief from weather events that have already happened, such as Hurricane Irene and even Hurricane Katrina of six years ago. The legal definition for what qualifies as a disaster comes down to pretty much whatever the President says it is—and the current President has been extravagant about it.³ In any case, because these funds are for past events, they should be included in the budget, not given a special exemption.

Program integrity initiatives involve additional spending for agencies to attack waste, fraud, and abuse. But such activities ought to be standard procedure for all government agencies, and should not require free, off-budget spending.

The Mandatory Savings Gimmick. In addition to exploiting these built-in loopholes, the appropriators also employed the zoologically named gimmick known as CHiMPs, short for “changes in mandatory programs.” In this maneuver, appropriators make one-time reductions in entitlement programs—not normally in their jurisdiction—and apply the “savings” to their annual appropriations bills. This allows them to hide higher spending on the discretionary side. The most unabashed example is the Crime Victims Trust Fund, which collects fines and penalties from convicted federal criminals and is authorized to spend all its resources. Since 2000, appropriators have been capping payouts from the fund and claiming the unspent money as

“savings,” which they then use to offset discretionary spending above its limits.

This shell game allows appropriators to spend above their discretionary limits but hide the increase behind the mandatory savings, which are then restored to the mandatory accounts the following year. In their FY 2012 spending bills, appropriators employed \$18 billion worth of CHiMPs, allowing them to spend another \$18 billion above the BCA cap. The CHiMP savings are temporary, but the discretionary spending increase is permanent. Hence, both discretionary spending and total spending increase.

The use of CHiMPs should be halted, as recommended by Senator Jeff Sessions (R-AL), ranking member of the Budget Committee.⁴

More “Emergency” Spending Still Possible. One more loophole Congress has not yet exploited this year is the “emergency” designation. This allows Congress and the President to spend any additional amount during the year they deem necessary for sudden, unexpected events that may threaten life, property, or national security. Surely, Congress must be able to respond to such events. But when emergencies are coupled with all the other exceptions described above, the notion of spending “limits” becomes all but meaningless. Congress should tighten the definition of emergencies, strictly limit the use of this provision, and provide each year a reasonable set-aside fund within the spending cap to accommodate true emergencies, exceeding this amount only for extraordinary events.

The Need for Greater Transparency. When all the dodges employed so far are accounted for, actual discretionary spending in FY 2012 totals \$1.199 trillion. Under the BCA, the official spending cap for FY 2013 is \$1.047 trillion. Appropriators should

1. “Hearing Schedule,” House Appropriations Committee, February 6–10, 2012, at <http://appropriations.house.gov/UploadedFiles/HMTG-112-AP-Weekof20120206.pdf> (February 8, 2012).
2. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2012 to 2022*, January 2012, at <http://www.cbo.gov/doc.cfm?index=12699> (February 8, 2012). See Table 3-5, p. 74.
3. Matt A. Mayer, “Congress Should Limit the Presidential Abuse of FEMA,” Heritage Foundation *WebMemo* No. 3466, January 24, 2012, at <http://www.heritage.org/research/reports/2012/01/congress-should-limit-the-presidential-abuse-of-fema>.
4. “No More Gimmicks, Tricks, Or Empty Promises: America Deserves an Honest Budget,” Committee on the Budget, U.S. Senate, at <http://budget.senate.gov/repUBLICan/public/index.cfm/honest-budget-act> (February 8, 2012).

deliver cuts that reach that level without another round of gimmicks and loopholes. Congress should abandon these practices and provide greater transparency regarding its actual spending.

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