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March 22, 2013

FY 13---Final Appropriations Numbers for FDA With Analysis

Both the Senate and House have passed the FY13 Full-Year Continuing Resolution bill and it has been sent to the President for signature. It is a complex document, with a number of additions and subtractions that affect FDA and render the calculation of final numbers confusing. **A full chart, incorporating all items described here, is on the following page.**

Favorable Treatment of FDA in FY 13 Adds Significant Positives

The final legislation includes a \$24 million increase in FDA budget authority (BA) (taxpayer) appropriations plus a \$50 million supplemental “no year” (can be spent at any time) appropriation. This represents about a 3% increase in FDA’s BA funding over FY 12.

In addition, the legislation allows FDA to spend the higher user fee levels in FDASIA (+\$18M for PDUFA and +\$40M for MDUFDA), assures full implementation of the new generic user fee program (+\$300M) and permits collection and expenditure of the new biosimilars user fees (+\$20M).

Impact of Rescissions on FY 13 BA Funding of FDA

To make sure spending was underneath the statutory caps set by the Budget Control Act (BCA), the legislation imposed a 2.513% “across the board” (ATB) rescission on agriculture programs; other areas suffered rescission of varying amounts. BA funding, but not user fees, are affected by the rescission.

Because appropriators decided to prioritize the FDA and add money (a net of \$74 million) before the rescission was applied, FDA did better in FY13 than under FY12 by about \$9 million.

While this number is relatively modest, it is important to point out that most agencies in the Agriculture spending bill received a net loss of funds from the prior year because of the Rescission. **On a relative scale, FDA also did much better than most other Federal agencies.**

Sequester Diminishes All Federal Spending on Discretionary Programs

The new funding legislation does not affect the sequestration required by the Budget Control Act of 2011. Thus, all of the FDA’s FY 13 appropriation, both BA appropriations and user fees, are reduced by 5%. The 5% applies to all non-defense discretionary programs, not just FDA.

Please see the chart below to understand the impact. If you have any questions, please do not hesitate to let us know.

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FY 13---Final Appropriations Numbers for FDA (cont.)

Budget authority (BA)	FY 12 Final	FY 13 Omnibus Appropriations Pending President's signature	Less 2.513% "Across-the-Board" Rescission	Less 5% Sequester (from table below) **
			Rescission and sequester cuts applied at the Center level and the Office of Commissioner	
FY 13—FDA Salaries and Expenses	\$ 2.497 billion	\$2.524 billion (+\$27 million)		
"No-year" Supplemental Appropriations	None	\$ 50 million (+\$50 million)		
Building & Facilities Repair	\$ 9 million	\$ 5.3 million (-\$3.7 million)		
All BA approps Total (no user fees)	\$ 2.506 billion	\$2.580 billion (+\$74 million compared to FY 12)	\$2.515 billion (+\$9 million compared to FY 12)	\$2.389 billion (-\$117 million compared to FY 12)
All User Fees	\$1.393 billion	\$1.730 billion *	\$1.730 billion (not impacted)	\$1.648 billion
TOTAL (BA approps and user fees)	\$3.899 billion	\$4.310 billion	\$4.245 billion	\$ 4.037 billion ***
			*** Net agency growth of \$138 million reflects BA funding being supplanted by user fee funds	

* The FY 13 Omnibus Appropriations allows FDA to:

- spend the higher user fee levels in FDASIA (+\$18M for PDUFA and +\$40M for MDUFDA),
- assures full implementation of the new generic user fee program (+\$300M), and
- permits collection and expenditure of the new biosimilars user fees (+\$20M).

** FY 13 Omnibus Appropriations does NOT have any effect on the Balanced Budget Act sequester. Thus, as with all non-defense discretionary programs, all FY 13 FDA numbers—including about \$1.6 billion in user fees—will be reduced by 5% on their FY 13 total (total: about a \$209 million reduction from appropriations and user fees). Flexibility will exist within each Center and the Commissioner's office as to where reductions are taken but there is no flexibility between and among Centers.

This table is based on materials released by the White House/OMB on March 1, 2013

Sequestration based on 3/2/13 Funding Levels	FY 13 CR (to 3/27/13)	Less sequester (transfer to table above)
Budget appropriations	\$2.521 billion	\$ 126 million
User fees (inc. tobacco & generics UF)	\$1.647 billion	\$ 82 million
Totals	\$4.168 billion	\$ 209 million (rounded)