USDA

United States Department of Agriculture

JAN - 6 2014

Office of the Secretary
Washington, D.C. 20250

The Honorable Phil Roe
U.S. House of Representatives
407 Cannon House Office Building
Washington, D.C. 20515-4201

Dear Congressman Roe:

Thank you for your letter dated of November 21, 2013. I am responding on behalf of Director Burwell and myself regarding the sequestration of payments under the Tobacco Transition Payment Program (TTPP). I apologize for the delayed response.

As indicated in the, "OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2014," the Office of Management and Budget (OMB) determined that sequestration applies to these payments. The following information explains this determination.

The term "sequestration" is defined by the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) as "the cancellation of budgetary resources provided by discretionary appropriations or direct spending law." Section 255 of BBEDCA exempts certain program and activities from sequestration. Therefore, a program or activity is sequestered if: (1) its funding is a budgetary resource; and (2) its budgetary resources are not exempt from sequestration pursuant to section 255.

The TTPP was established by Subtitle B of Title VI of the American Jobs Creation Act of 2004 (the 2004 Act), which ended the tobacco marketing quota and price support loan programs. Section 622(e) of the 2004 Act requires the Secretary of Agriculture to make annual contract payments to each eligible tobacco quota holder for each of the fiscal years 2005 to 2014. Section 623(d) of the 2004 Act requires the Secretary of Agriculture to make contract payments to each eligible producer of tobacco for each of the fiscal years 2005 to 2014. Under section 3 of the Congressional Budget and Impoundment Control Act of 1974, these payments made by the Secretary constitute budget authority (a type of budgetary resource). Under BBEDCA, all budgetary resources are sequestrable unless exempt by the statute. No provision of BBEDCA exempts the TTPP from sequestration.

While funding for the TTPP is sequestrable, OMB, in coordination with the Department of Agriculture, has determined that pursuant to section 256(k)(6) of BBEDCA and the underlying authority for the program, funds for this program that were sequestered in fiscal year (FY) 2013 are available in FY 2014 without further congressional action for FY 2014 payments. Similarly, funds sequestered in FY 2014 will become available at the beginning of FY 2015 to complete the final payment.

We hope this information is helpful. Please let us know if you have any further questions.

Sincerely,

Thomas J. Vilsack
Secretary