

Strengthening Representative Democracy by Reviving and Reforming Earmarks



Congressionally directed spending (“earmarks”) understandably has been the target of derision due to past abuses. At the same time, when done with transparency and accountability, earmarks reflect a core aspect of our democracy: the Constitution delegates power over spending to the legislative branch, which allows federal lawmakers to direct resources toward constituent priorities.

Congress should immediately reform and reclaim this important constitutional prerogative so that elected officials—who are directly accountable to voters and have firsthand understanding of the needs of their district—are making critical spending decisions, and to ensure public trust in the earmarking process.

The Benefits of Congressionally Directed Spending

- **Responsiveness to Local Needs:**

One of the pillars of American democracy is the obligation of members of Congress to vote in the national interest while being elected by local voters. Earmarks provide federal lawmakers the ability to demonstrate priorities at home and fight for their constituents’ interests. Since the earmark moratorium, they have had to petition, lobby, and pressure federal agencies to consider local concerns. The Constitution very intentionally gave Congress the authority to direct how money is expended from the U.S. Treasury. Of anyone in government, lawmakers are most familiar with the needs of the people they represent, and members of Congress should be permitted to fulfill their responsibilities to address important issues for their constituents.

- **Greater Accountability:**

Outright banning earmarks cedes decisions on spending to unelected officials in the Executive Branch. There is no guarantee their process for making those choices will be more efficient, transparent, or rigorous than proposals made by members of Congress and approved by the entire body. To the contrary, a revised system of congressional earmarks would create a more transparent, publicly accessible process in which lawmakers can be held accountable by the voters for poor decisions.

- **Fiscal Responsibility:**

Congressional earmarks do not increase federal spending. Agency budgeting is a zero-sum game. Moreover, at their peak in 2006, earmarks constituted just over one percent of all federal outlays. Since their elimination, the federal deficit has increased over \$5 trillion dollars.

- **Increased Governmental Functionality:**

Congressionally directed spending creates additional engagement and investment in the success of the legislative process, which in turn allows legislators to govern more effectively in a divided institution.

The Options for Earmark Reform

Ensure Transparency

Require Regular Order and Deliberation:

- Prohibit inclusion of earmarks in report language in lieu of being incorporated in the actual text of the bill.
- For earmarks not previously requested during the legislative process, ban their insertion into manager's amendments on the floor.
- Prohibit insertion of earmarks not previously requested into omnibus bills.

Make Information Easily Available:

Require that all earmarks are posted both on individual lawmaker websites and a relevant, publicly accessible subcommittee website at least 15 days prior to a markup—with an explanation of the project and a description of why the request is a valuable use of taxpayer funds. Additionally, require a list of all earmarks included in legislation after it is adopted at the committee, chamber, and final conference report stages be published on a publicly accessible website.

Increase Vetting

Expert Review:

Professional subcommittee staff should vet project requests, including soliciting comments from executive branch employees who implement the programs. Earmarks should not be attached to programs that make funding decisions based on expert peer review.

Require Authorization before Appropriation:

Allow earmarks only in instances where a program has been specifically authorized—which will provide an incentive for enacting authorization bills and ensure both authorizers and appropriators are engaged in the process. Limits could be placed on the number and cost of projects, state matching requirements could be specified where appropriate, and other requirements could be established.

Evaluate Spending:

Congress should instruct the GAO or other suitable entity to review and audit projects. A “claw-back” provision should be considered to protect taxpayers from any misuse of funds.

Set Limits

Prohibit For-Profit Earmarks:

Codify, in both the House and Senate, prohibitions on earmarks to for-profit companies and allow them only for federal, state, local, and tribal governments.

Set 1% Spending Limit:

Appropriations subcommittee bills should limit project funding to keep overall earmark spending below 1% of total federal spending.

Set Member Numerical Limit:

Limit the number of earmarks that any member can request.