

Earmarks - No, Project Authorizations - Yes

The newly-elected Republican majority in the U.S. House of Representatives is considering a prohibition on "earmarks," the practice of designating funding for specific projects outside of normal Congressional processes. The Council on Federal Procurement of Architectural & Engineering Services (COFPAES) urges the leadership to act in a careful and responsible manner in developing and implementing this policy so that the infrastructure needs of the United States are not severely hampered.

Earmarks have become controversial as too many have been for marginal activities, do not contribute to national needs and goals, were not properly vetted or subject to transparency, and fail to meet Constitutional standards for federal government involvement.

COFPAES recommends that Congress carefully distinguish between earmarks and legitimate project authorizations. A failure to do so could result in Congress's inability to enact infrastructure legislation that is sorely needed to advance American commerce, job creation, and quality of life.

The need to rebuild America's infrastructure has been well documented. According to the Report Card for America's Infrastructure by the American Society of Civil Engineers, the condition of America's current infrastructure (airports, bridges, dams, drinking water, energy, hazardous waste, inland waterways, levees, public parks and recreation, rail, roads, schools, solid waste, transit, and wastewater) earns an overall grade of "D".

In his seminal work, *The Wealth of Nations*, Adam Smith wrote that in addition to defense of society and administration of justice, "the third and last duty of the sovereign or commonwealth is that of erecting and maintaining those public institutions and those public works, which, though they may be in the highest degree advantageous to a great society, are, however, of such a nature, that the profit could never repay the expense to any individual or small number of individuals, and, which it therefore cannot be expected that any individual or small number of individuals should erect or maintain." He went on to write, "the works and institutions of this kind are chiefly those for facilitating the commerce of society and those for promoting the instruction of the people".

Public investment in such institutions and works is not merely justifiable to fulfill government's Constitutional responsibility to "promote the general welfare," but necessary. Certainly, there are opportunities for greater private sector participation in the financing and delivery of infrastructure or public works, but a campaign against earmarks should not result in an abdication of Federal responsibilities generally, or Congressional prerogatives in particular.

Important infrastructure legislation, such as bills authorizing the funding for airports, highways, federal waterways and many others, must be passed in the 112th Congress. While these bills authorize spending levels for essential infrastructure that facilitate commerce, they do not commit the expenditure of any funds. Providing the necessary budget authority for infrastructure and all other government programs is the responsibility of the House and Senate Appropriations Committees in separate legislation. It is in the appropriations process that earmarking occurs for projects that may lack authorization.

The ability of American business, in every industry, to bring products and services to market is dependent on infrastructure projects authorized by Congress in such legislation. While the term "shovel ready" has been abused and overused -- only 17% of the funds from ARRA, the American Recovery and Reinvestment Act (commonly referred to as the "stimulus" bill),

went to infrastructure projects -- the fact remains that America still has significant infrastructure needs.

COFPAES recommends that Congress make a clear distinction between earmarked appropriations that lack proper Congressional authority and legitimate project authorizations that merely recommend necessary funding levels for essential programs and services. Rules and procedures should be established that assure integrity and transparency for the consideration of such legislation. This should include:

- The general public and all members of Congress and staff should have the ability to read and analyze any bill or amendment affecting project authorizations for at least 72 hours before any subcommittee, committee, conference, or floor vote;
- A process should be implemented in which each project is reviewed, based on transparent and objective standards and criteria, prior to being included in any bill or amendment, and that such analysis be publicly available;
- Each project should contribute to national systems and be part of meeting national needs and goals, not solely local interests;
- Each project should be specified in legislation itself, not committee reports, so that opportunity for full debate and amendments to strike projects is provided; and
- Each project that receives an appropriation must first be specifically authorized by law.

COFPAES believes these recommendations will enable Congress to ban controversial, low priority and unnecessary earmarks, while permitting the legitimate authorization of projects that help rebuild America's declining infrastructure.

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About COFPAES

COFPAES was formed in the 1960s to serve as the unified voice of the architectural, engineering (A/E) and related services profession on issues related to federal contracting. Member organizations are the American Congress on Surveying and Mapping (ACSM), American Institute of Architects (AIA), American Society of Civil Engineers (ASCE), Management Association for Private Photogrammetric Surveyors (MAPPS), and National Society of Professional Engineers (NSPE). Throughout its history, COFPAES has focused on ensuring quality and competence in the procurement of professional A/E (including surveying and mapping) services. COFPAES serves the American public by assisting Congress and federal agencies with policies to ensure that projects to satisfy the building, infrastructure, resource, defense, and security needs of the Nation are conducted in an efficient and quality manner.

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