

Return of Congressional Earmarks: New Opportunities for Federal Project Funding

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Leaders in both parties of the U.S. House of Representatives have taken steps to allow members to request limited “earmarks” on spending bills nearly 10 years after Congress banned these discretionary spending provisions that direct funds to specific recipients. The Senate is expected to reach its own deal to restore earmarks soon. Before the ban, earmarking was a long-used but controversial practice because critics charged that they constituted wasteful pork-barrel spending that was shielded from public view, vulnerable to corruption and abuse.

House Appropriations Committee Chair Rosa DeLauro, D-Conn., announced new earmark rules to try to make members more accountable and the process more transparent. She argues that earmarks, now called Community Project Requests (CPR), will allow Congress to decide where to send federal funds rather than the current practice of allowing federal agencies or state governments to decide where federal money will ultimately flow. Under the new CPR rules, members of Congress must publicly disclose the CPR request, including a written justification, a certification that the member has no financial stake in the project, and other declarations regarding conflicts of interest.

Specifically, the plan released by Chair DeLauro and approved by House Republicans would limit CPRs to 1% of discretionary funding, which would equate to roughly \$14 billion if discretionary spending levels are maintained. The House Democrats’ plan also includes a ban on receipt by private entities. The House Appropriations Committee will accept applications for CPRs between March 29 and mid-April.

Under the plan, members will be limited to 10 CPRs that will be ranked by the member’s choice. Additionally, all CPRs must be projects that can be completed within fiscal year 2022 (October 1, 2021 – September 30, 2022). Members will submit requests online to the House Appropriations Committee website, and all CPRs must be publicly posted to the member’s official congressional website. Along with each request, House members must submit evidence of local community support for the CPR, which could include letters from community leaders. At the time of submission, members must also submit a financial disclosure form that certifies that the member and his or her immediate family members do not have a financial interest in the CPR. FAQs released by the House Appropriations Committee ask members to be mindful of other ethical concerns such as whether the CPR will benefit lobbyists and donors. The House plan also reserves oversight of CPRs selected for funding to the Government Accountability Office, which will conduct an annual audit on a sample of CPRs and issue a report to Congress.

In addition to approving earmarks for appropriations legislation, House Transportation and Infrastructure Committee Chairman Rep. Peter DeFazio, D-Ore., and Chair of the Subcommittee on Highways and Transit Eleanor Holmes Norton, D-D.C., announced that the committee will provide opportunities for members of Congress to submit earmark requests for highway and transit project designations.

The committee will require all member submissions to include the following information for each project requested:

- documentation of whether the project is on the state, tribal, or territorial transportation improvement program and on the metropolitan transportation improvement program, if applicable
- sources of funding for the full share of the cost of the project beyond the amount requested
- letter(s) of support from the state department of transportation, or local government, transit agency, or other nonfederal sponsor
- a description of the process that has been or will be followed to provide an opportunity for public comment on the project
- project phase (e.g., planning, final design, construction)
- National Environmental Policy Act (NEPA) category of action (e.g., Categorical Exclusion, Environmental Assessment, Environmental Impact Statement)
- status of environmental review
- whether the project has received federal funding previously and, if so, the source and amount
- certification that the member, his or her spouse, and other immediate family members do not have a financial interest in the project

The Transportation and Infrastructure Committee will hold a Member Day hearing April 14 to receive testimony from members of Congress about their policy priorities.

Ultimately, the return of earmarks may provide an incentive for members of both parties to support the next major funding deal — or an infrastructure spending deal — as lawmakers could take credit for securing federal dollars for their districts. Spending requests will come quickly, and decisions regarding CPRs will likely be made later this year.

CONTACTS

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