

Stop Secrecy in Spending

Oppose Section 193 of the FY08 Transportation Appropriations Bill Conference Report

A provision recently inserted in secret in the Transportation spending bill would envelope key budget documents from a broad swath of the federal government in secrecy, until the eleventh hour in the budget process when it will be difficult for oversight committees, individual members of Congress, the media and the public to scrutinize and challenge spending decisions, in particular, earmarks for pork barrel projects. Section 193 in the Conference Report for HR 3074, the FY 2008 Transportation, Housing and Urban Development, and Related Agencies Appropriations bill, will prohibit any agency funded by the legislation from providing Congress, except for the House and Senate Appropriations Committees, with budget justification materials for any future fiscal year. This provision did not appear in the original House or Senate language, but was added during closed door conference committee meetings.

Potential Impact of Sec. 193

Sec. 193 would inhibit congressional and public oversight, preventing critical review of how taxpayer dollars are spent, notably on so-called congressionally-inserted earmarks, which are not requested by agencies, and have been at the center of several congressional scandals.

In 2005, Congress passed a FY 2006 transportation appropriations bill that prohibited agencies from providing Congress (except House and Senate Appropriations Committees) with FY 2007 budget justifications prior to May 31, 2006. While that provision did prevent the FY2007 budget information, due to the Continuing Resolution for FY 2007 federal budgets, the prohibition was not continued and did not prevent the disclosure of FY2008 budget information.

The FY 2008 spending bill currently before Congress reinstates the provision passed in 2005, but goes farther, and makes it applicable to “any fiscal year,” in a bid to make the secrecy permanent. Excerpted from the conference version of HR 3074:

SEC. 193. Notwithstanding any other provision of law, none of the funds provided in or limited by this Act may be obligated or expended to provide a budget justification for any fiscal year concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code, to any congressional committee other than the House and Senate Committees on Appropriations prior to May 31 following the date of such annual budget submission.

Withholding agency budget justifications from the transportation authorizing committees, the budget committees, other interested oversight committees, and, as a consequence, the

public, would severely disrupt the congressional budget and oversight processes, as well as prevent public scrutiny. According to the Congressional Budget Act of 1974 (2 USC 631), committees are tasked with providing views and estimates on the budget not later than 6 weeks after the President submits the federal budget in early February. The Act further requires Congress to complete action on the annual budget resolution by April 15th.

In sum, setting a May 31 date for release of budget justifications to committees other than appropriations committees would circumvent congressional review and oversight during the period of time when congress is tasked with providing such oversight. This provision is particularly troublesome considering that the Transportation-HUD Appropriations bill provides more than \$108 billion in funds for the Department of Transportation, the Department of Housing and Urban Development, and multiple independent agencies. Furthermore, Sec. 193 could impact oversight of transportation bill earmarks, which have grown to over 4,000 per year.