

PL50-earmarks  
Title: X  
ISI

B SASC Majority: Levine  
SASC Minority: Morriss  
May 24, 2007 5:47 pm

*Transparency of earmarks for additional funding*

The committee notes that section 2304(k) of title 10, United States Code, states that it is the policy of Congress that any new contract for a program, project, or technology identified in legislation be entered into through merit-based selection procedures. Section 2374 of title 10, United States Code, establishes the same policy for the award of any new grant for research, development, test, or evaluation to a non-Federal entity. Under each statute, the presumption in favor of competitive, merit-based awards may only be overcome by a provision of law that specifically refers to section 2304 or section 2374, that specifically identifies the particular non-Federal Government entity involved, and that specifically states that award to the entity is required notwithstanding the policy favoring merit-based selection.

Although the statutory policy requiring the Department of Defense to use merit-based selection processes and the presumption in favor of competitive awards for new contracts and grants date from 1989 and 1994, respectively, these statutes have done little to stem the growing number of earmarked projects requested by Congress since their enactment. Moreover, these statutes do not address a common form of earmark, which is additional funding for existing procurement or research and development programs beyond what was requested in the President's Budget or included on the Unfunded Priorities Lists of the military services.

Therefore, the policy of this committee shall be one of disclosure of additional funding for projects and items that were not requested in the President's Budget, in supplemental requests for emergency funding, or on the Unfunded Priorities Lists of the military services that are included in the bill and conference report. Disclosure shall not be required for additional funding that is consistent with the criteria for additional funding for military construction projects in section 2856 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) or for additional funding directed to pay, bonuses, pensions, or other personnel or healthcare benefits for servicemembers or that have a direct benefit for servicemembers' families. Information on such additional funding shall be provided in the committee report on the bill and in the conference report, by electronic means easily accessible by the public, and shall include, if applicable: the budget account, a description of the project or item, the authorized amount, and the name of the requesting member for any funding included in the bill as reported by the committee, or agreed to by the conferees.

Such information shall be made available to the general public in an electronically searchable format at least 48 hours before consideration of the bill or conference report.

The information provided in this report does not include the intended location or intended recipient of such additional funding because the committee does not have a complete database of that information at this time. It is the committee's intent to collect such information from Members and to provide it with regard to items funded in the conference report on this Act and for future years' National Defense Authorization Acts.

By collecting and reporting information on the locations and recipients intended by requesting Members, the committee does not intend in any way to require that funding be directed to such locations or entities. The committee intends that the Department comply with all applicable competitive and merit-based procedures.