

Has Lettermarking Replaced Earmarking?

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1 What are earmarks?

The formal rules of the US House and the US Senate define congressional earmarks slightly differently, but they share a common understanding of earmarks as “congressionally directed spending, tax benefit, or tariff benefit be considered an earmark if it would benefit a specific entity or state, locality, or congressional district other than through a statutory or administrative formula or competitive award process” ([Megan Lynch for the Congressional Research Service](#)).

House Definition of an earmark: “Congressional earmark- a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or congressional district, other than through a statutory or administrative formula driven or competitive award process. Limited tax benefit- (1) any revenue-losing provision that (A) provides a federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986, and (B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or (2) any federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986. Limited tariff benefit- a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.” (House Rules XXI, clause 9)

Senate Definition of an earmark: “Congressionally directed spending item- a provision or report language included primarily at the request of a Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or congressional district, other than through a statutory or administrative formula driven or competitive award process. Limited tax benefit- any revenue provision that (A) provides a federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986, and (B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision. Limited tariff benefit- a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.” (Senate Rules XLIV, paragraph 5.)

2 The Earmark Moratorium

After years of politicians, particularly fiscally conservative Republicans, railing against “Bridges to Nowhere,” “pork-barrel spending” and government waste, the new Republican majority in 2011 at the beginning of the 112th Congress “began observing what has been referred to as an earmark moratorium or earmark ban”(Lynch, 2018, pg. 1.). It is worth noting that this so called earmark moratorium isn’t a law or even part of House or Senate rules. Rather, as Lynch describes, “it has been established by party rules and committee protocols and is enforced by chamber and committee leadership through their agenda-setting power,” (Lynch, 2018, pg. 1.).

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3 How can we detect “earmarks” in the moratorium period

Chris Berry et al computer earmark detection method: <https://www.kdd.org/kdd2016/papers/files/adf1227-wulczynA.pdf>

Could we extract things from changes to CRs?

4 What is Lettermarking?

5 Previous Research

Neilheisel and Brady (2017) examine lettermarking activity to the Department of Labor. They looked at the content of the letters and the DOL stimulus spending in the legislator’s congressional district. They found that for most legislators lettermarking didn’t have an impact, but conditional on ideology can have an impact.

In “The Evolution of Distributive Benefits: The Rise of Lettermarking in the United States Congress” Mills and Kalaf-Hughes (2015) define and explore the history of lettermarking and examine lettermarking in the context of the Federal Aviation Administration. They define letter-marking as when legislators “explicitly ask (in writing) the head of an administrative agency to retain or allocate distributive benefits in their district,” (Mills and Kalaf-Hughes, 2015, pg. 37).


They describe letter-marking as a four-part process:

1. Legislators announce to their constituents a call for programmatic requests/language requests.¹
2. Constituents submit requests for funding (program/language) to legislator.
3. Legislator writes to appropriation cardinals to have requests inserted into bill or report language
4. Once programmatic request is enacted as part of appropriations bill, legislator writes to agency head asking (demanding) the agency retain/allocate the benefits to their districts.

Figure 1 is a screenshot I took of the example provided in the form of a link to Congresswoman Shiela Jackson Lee’s website by Mills and Kalaf-Hughes (2015).

¹As Mills and Kalaf-Hughes (2015) describe programmatic requests propose total funding amounts for programs but do not allow for the identification of specific projects to be funded while language requests “do not direct funding to a particular entity but encourages, urges, or directs some type of action by an agency.”

Figure 1: 2014 Lettermarking Request Form for Congresswoman Sheila Jackson Lee. Example provided by Mills and Kalaf-Hughes (2015).



Appropriations Requests FY 2014

Welcome to Congresswoman Sheila Jackson Lee Congressional directed spending form.

Fiscal Year 2013

Dear Friends:

I am pleased to announce that I am now accepting Fiscal Year 2014 appropriations requests for priorities in the 18th Congressional District of Houston, Texas. I can only accept programmatic and language requests. **The United States Congress has agreed to continue the current moratorium on earmarks as defined by clause 9(e) of Rule XXI of the Rules of the House.**

For 2014, the programmatic requests for which I am supporting are principally for National programs that provide the funding supported by the President of the United States for by non-profit organizations and institutions located in the communities I represent in Congress. These programmatic requests would provide valuable benefits in the local area, with a focus on economic development and job creation, transportation, health care, community and social services, environmental remediation, and education.


As a reminder, the House Rules define an earmark as: a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

What is a program or language request?

- **Program Request:** a request to fund a specific Federal program at a specified level—Example: Provide \$2,000,000,000 for the National Cancer Institute.
- **Language Request:** a request to include specific bill or report language that does not direct funding to a particular entity but encourages, urges, or directs some type of action by an agency. Example: Committee encourages the Department of Education to study the impact of the availability of student loans on increases in enrollment rates.

The deadline for completed appropriations submissions is **close of business on Thursday, April 4th**. An electronic form must be received for each programmatic and language request.

Word document:

- Download the Word document form:  [2014_form.doc](#). Please read all instructions carefully before completing the form.
- Fill out form completely and properly: Save it as 2014_form_YOUR-NAME.doc.
- Attach form to an e-mail to FY2014ProgramRequest@mail.house.gov.

Rest assured that I will continuously work with my colleagues in Congress and the President's Administration to direct investments to the 18th Congressional District of Houston, Texas. I welcome your questions and comments regarding the appropriations and budgeting process in Congress. My staff is here to assist you as you move through this process. If you have any questions, you should feel free to contact Shashrina Thomas in my Washington, DC, office. You can reach her either by phone (202-225-3816) or email (shashrina.thomas@mail.house.gov).

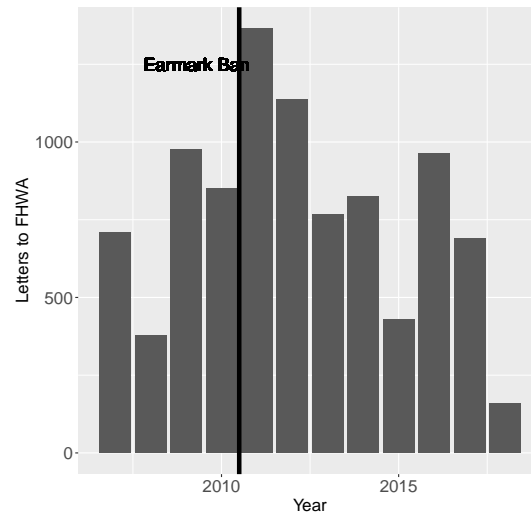
- [Appropriations Form \(doc\)](#)
- [Defense Appropriations Form \(doc\)](#)

6 Agencies with High Levels of Earmarks

6.1 Federal High Way Administration

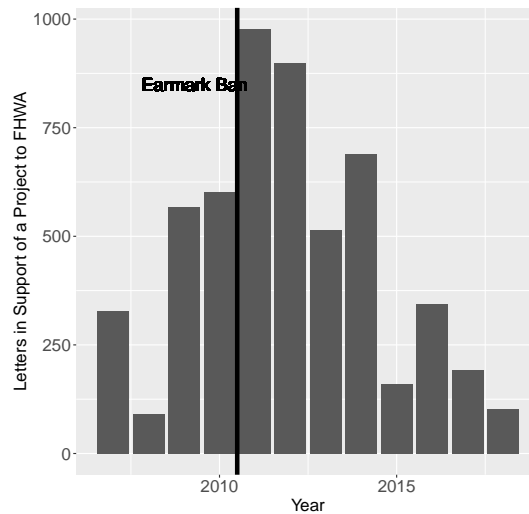
The Federal High Way Administration has historically had high level of earmark activity. Figure below shows letters to the agency before and after the earmark ban. Interestingly we see a big jump in letters to the agency before and after the earmark ban, though the jump seems to fade and return to the baseline after a couple of years.

Figure 2: Federal Highway Administration Contacts Pre & Post Earmark Ban



Looking beyond just the overall number of letters to the agency, we can look at the content of the letters to the agency. Figure 3 shows the pre/post earmark ban for letters that use the language “support”, “allocate”, and “endorse” which are the phrases frequently used when legislators want to encourage the agency to fund a project (a.k.a. letter-mark).

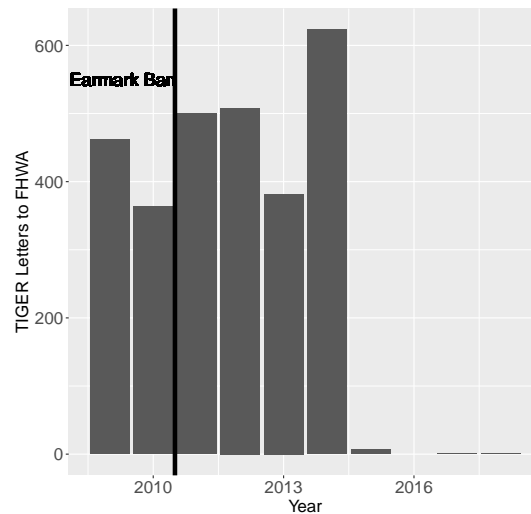
Figure 3: Letters in “Support of a Project” to Federal Highway Administration



One caveat we may want to consider as we look at this pre/post earmark activity for the Federal High Way Administration is that the timing of the earmark ban (March 2010) is in close proximity to the enactment of the TIGER program (in February 2009).

Figure 4 below shows letters that reference the “TIGER” program. Letters from legislators referencing the TIGER program are typically endorsing/supporting an application from a local government or transportation related entity within the legislator’s district. TIGER is a discretionary grant program (Transportation Investment Generating Economic Recovery Program) from 2009-2015. The first law was signed by President Obama in February 2009. These were the so-called shovel ready projects designed to help with the economic recovery. Applicants that are eligible to receive funding for surface transportation projects include state and local governments, transit agencies, port authorities, metropoitan planning organizations and multi-state or multijurisdictional applicants. The qualifications language (from wikipedia): “Qualified projects should result in “desirable, long-term” outcomes for the United States, a state within or a regional or metroplitan area.

Figure 4: “TIGER” Discretionary Grant Program Letters to Federal Highway Administration



References

- Lynch, Megan S. 2018. “Lifting the Earmark Moratorium: Frequently Asked Questions.” *Congressional Research Service Report* R45429.
- Mills, Russell W. and Nicole Kalaf-Hughes. 2015. “The Evolution of Distributive Benefits: The Rise of Letter-Marking in the United States Congress.” *The Journal of Economics and Politics* 22(1):35–58.