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Fostering Fiscal Responsibility: International, Federal, and Local Government Perspectives

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The Administrative Costs of Congressional Earmarking: The Case of the Office of Naval Research

Discussions about congressional earmarking often focus on their direct costs in the federal government's appropriations bills. This article shows that this conventional view neglects the administrative costs of earmarking by examining the extensive transaction and opportunity costs that come with the political, budgetary, and programmatic management of these earmarked projects in Congress and in the Office of Naval Research. One policy conclusion from this study is that the executive branch should make these costs transparent, as they remain largely hidden from public discussion and the consideration of the federal budget.

Congressional earmarking of the federal budget remains a staple of American politics. Press reports of such infamous earmarks as the Alaskan "Bridge to Nowhere" and the resignation and imprisonment of Representative Randy Cunningham (R-CA) for bribes taken in exchange for earmarks in the defense appropriations bill influenced the 2006 congressional elections. Despite newly passed ethics and transparency legislation, earmarks continue to proliferate in the federal government's 12 appropriations bills. Congressional scholars explain that earmarks help members gain reelection, while some academics also approvingly report that members employ earmarks to "grease the wheels" of the legislative process. The costs of individual earmarks, scholars claim, are hidden from the public by spreading them among all taxpayers, thus contributing to federal deficit spending (Ellwood and Patashnik 1993; Evans 2004; Shepsle and Weingast 1981; Weingast, Shepsle, and Johnsen 1981). Press coverage of earmarking and a voluminous Congress-directed literature in political science, however, generally ignore the administrative costs and demands placed on executive branch agencies that are required to manage these congressionally mandated projects. When the costs of

earmarking are considered in these congressionally focused studies, they are viewed almost exclusively in terms of the direct budgetary cost of specific earmarks, not the externalities that must be absorbed by the agencies (Cain, Ferejohn, and Fiorina 1987; De Figueiredo and Silverman 2006; Ferejohn 1974; Law and Tonon 2006; Savage, 1991; Stein and Bickers 1997).

This study attempts to redress the inattention to these administrative costs by analyzing the effect of earmarking on one federal agency, the U.S. Navy's Office of Naval Research (ONR). What we find by examining the ONR is that earmarking does indeed place extensive political, budgetary, and programmatic demands on the agency, requiring it to absorb a number of opportunity, transaction, and direct costs, with little or no compensation from the navy or the Department of Defense (DOD), and certainly not from Congress.

Earmarking is an important political and budgetary issue. For fiscal year (FY) 2006, which perhaps stands as the pinnacle of the earmarking frenzy, members of the U.S. House of Representatives submitted more than 33,000 project requests to the House Appropriations Committee. Of these requests, approximately 10,000 were funded, for a total of \$29 billion. As shown in table 1, the defense appropriations bill included 2,822 earmarks costing an estimated

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\$14.9 billion, or 28 percent of all earmarked projects and 51 percent of all earmarked dollars. These figures represent a substantial increase in both the number and cost of these projects during the past decade. These numbers also reflect significant tension between the federal government's executive and legislative branches. Every president since Ronald Reagan has denounced earmarking because of its cost and because

Table 1 Estimated Defense and Total Earmarks (billions of dollars)

	Dollar Cost of Earmarks			Number of Earmarks		
	Defense	Total	% Defense	Defense	Total	% Defense
FY 2008	\$7.9	\$17.2	46%	2,108	11,610	18%
FY 2007	10.8	13.2	82	2,618	2,658	98
FY 2006	14.9	29.0	51	2,822	9,963	28
FY 2005	9.0	27.3	33	2,506	13,997	18
FY 2004	8.5	22.9	37	2,208	10,656	21
FY 2002	7.2	20.1	36	1,409	8,341	17
FY 2000	6.1	17.7	34	997	4,326	23
FY 1998	4.4	13.2	33	644	2,143	30
FY 1996	2.8	17.8	22	270	958	28
FY 1994	4.2	7.8	54	587	1,318	45

Sources: For Defense FY 1994–2006, “Earmarks in Appropriations Acts: FY 1994, FY 1996, FY 1998, FY 2000, FY 2002, FY 2004, FY 2005,” Congressional Research Service, January 26, 2006, CRS-12; for Defense FY 2006–2008 and all Totals, Citizens Against Government Waste, <http://www.cagw.org>.

Note: These figures are for the defense appropriations bill and do not include the military construction appropriations bill.

the practice undermines the ability of executive agencies to plan, coordinate, and execute their missions. According to the U.S. Office of Management and Budget (OMB), “Earmarks are funds provided by the Congress for projects or programs where the congressional direction (in bill or report language) circumvents the merit-based or competitive allocation process, or specifies the location or recipient, or otherwise curtails the ability of the Administration to control critical aspects of the funds allocation process” (Portman 2007). Members of Congress, meanwhile, assert that their Article I, Section 9 constitutional right to make appropriations includes the authority to earmark these appropriations. “The operation of the government—to enforce our laws, to serve our people, to protect our liberties—depends upon the Congress providing the funds necessary to do so,” Senator Robert C. Byrd, chair of the Senate Appropriations Committee, declared. “Congress, elected by the people of the individual states and Congressional Districts is in a much better position to know if there are specific needs for federal assistance in their states than unelected bureaucrats in Washington” (Byrd 2008).

Despite similar assertions of constitutional prerogative, in reaction to public outrage and the 2006 election, several laws were passed in 2006 and 2007 to reduce potential conflicts of interest in the awarding of earmarks and to increase the transparency of the earmarking process. The Federal Funding Accountability and Transparency Act of 2006 created a single database for all federal awards valued over \$25,000. The Honest Leadership and Open Government Act of 2007 included restrictions on gifts, set filing mandates on lobbyists, and imposed transparency and disclosure requirements on the congressional sponsors of earmarks. Moreover, in January 2007, the OMB ordered executive branch agencies to identify and

catalogue all earmarks and to provide “rapid analysis” of these earmarks in each bill as they move through the legislative process (Portman 2007). Finally, the chairs of the House and Senate Appropriations Committees allowed their subcommittee chairs to set limits on the number of earmark requests each member could submit for consideration for FY 2008. Representative John Murtha (D-PA), chair of the House Defense Appropriations Subcommittee, and Senator Daniel Inouye (D-HI), chair of the Senate Defense Appropriations Subcommittee, chose not to impose these limits. Neither this procedural rule nor the transparency legislation placed any restrictions on the total dollar value of member requests, or on the dollar value the subcommittees could allocate from their budgets for earmarks. Although the level of earmarking declined somewhat for FY 2008, it continues to consume discretionary appropriations at a time when such funding, especially for domestic programs, is nearly flat (Thompson and Nixon 2007). The FY 2008 defense appropriations report, for example, called for an estimated 2,108 earmarks costing \$7.9 billion, compared to the FY 2007 levels of approximately 2,618 projects costing \$10.8 billion. Regardless of the total dollar value of the appropriations involved or the dollar value of an individual earmark, each of these projects requires administrative attention and imposes a variety of costs on the Department of Defense.

The Costs of Earmarking

The cost of earmarking is typically associated with the funding level provided for a given project in an appropriations bill or report. Yet each ONR project brings with it an allied set of transaction and opportunity costs that occur during its political, budgetary, and programmatic management. The direct appropriations cost of the project is most often identified in a conference committee report. For example, included in the conference list of FY 2007 earmarks added to the navy’s Research, Development, Test, and Evaluation budget, with no other information, is \$3 million for a project titled “Thermal management systems for high density electronics” (U.S. House 2006, 276). The processing of that earmark throughout the appropriations process and by the DOD and the navy also imposes transaction costs that are not covered by the amount listed in the report. Transaction costs include the time, energy, and resources devoted to searching for and obtaining information, the costs of bargaining and coordinating agreements among actors, and the costs of monitoring and achieving contractual compliance between principal and agent. Opportunity costs reflect the trade-off in costs and the loss of potential gain by investing time, energy, and resources in one alternative as opposed to another, as when, for instance, government funds are allocated for one activity rather than another. The \$3 million appropriated for the thermal management earmark instead could

have been appropriated to fund the navy's identified priorities, including the ONR's seven core science and technology departments. These departments, such as Sea Warfare and Weapons and Naval Air Warfare and Weapons, conduct and fund the basic research and technology used to support the activities of the U.S. Navy and the Marine Corps. In the absence of offsetting resources, these externally imposed transaction and opportunity costs will be absorbed by the agencies that are forced to bear them (Apgar and Brown 1987; Mishan 1975).

Moreover, when Congress adds earmarks to the ONR's portfolio, these projects are funded from within the total navy budget, its "top line," not added to it. For FY 2008, for example, the DOD budget proposal called for \$463.1 billion in budget authority that reflected the priorities developed through its multiyear Planning, Programming, Budget, and Execution System (PPBES), which creates the budget proposal that the president submits to Congress (Candrea and Jones 2005; Jones and McCaffery 2005; McCaffery and Jones 2004). The figure approved by Congress was \$459.6 billion, \$3.548 billion less than the proposal. Within that top-line figure, the two appropriations subcommittees included an estimated 2,108 earmarks costing \$7.9 billion. This \$7.9 billion was paid for by reducing other DOD accounts, rather than by adding that figure to the total budget request. The PPBES budgetary process does not provide funding for earmarks.

The navy's ONR budget, for example, is planned around defined programmatic research requirements when it is sent to Congress as part of the presidential budget request. One budgetary consequence for the ONR is that it receives no additional personnel or funding from Congress to augment its staff of 310, and it is prevented by Congress from imposing indirect costs on these earmarks to collect administrative fees.

For FY 2007, the ONR was staffed to administer its \$1.7 billion core budget and programs, with no new staff or administrative funding to manage the additional \$535 million in congressional earmarks. Describing this added burden, a senior ONR officer noted, "We cannot budget to perform congressional work, congressional earmarks. We can only budget our internal services to match what is in our presidential budget submission. So when congressional work comes in, it's loaded on top of what everyone else in this building has to do: whether it's our comptrollers who process the financial part, our program people, or

our contract shop. We do not budget to do that work." When the management responsibility for an earmark is assigned to the ONR, these projects are funded at the expense of other navy programs and budgets, while the ONR is required to shift personnel and administrative resources away from its regular duties to manage these potentially politically sensitive projects.

This research is based on formal interviews conducted with the Office of Management and Budget's National Security Division staff, Armed Services and Defense Appropriations Subcommittee staff responsible for the ONR, and DOD/navy personnel throughout the chain of command relevant to the ONR. These DOD personnel include staff at the level of the Office of the Secretary of Defense (OSD) Comptroller's Office, the U.S. Navy's Office of Financial Management and Budget (FMB), ONR Comptroller's Office, ONR's science and technology program directors, and relevant congressional relations officers at the OSD Comptroller's Office, the FMB, and ONR. Unless otherwise noted, the facts provided in this study are derived from these interviews. I have refrained from identifying those whom I interviewed. These individuals are civil servants who work in very sensitive positions, and given the high visibility and divisiveness of earmarking in American politics, their candor and generosity may best be thanked by avoiding linking their identities with their comments.

Earmarking the Office of Naval Research

This study explores the administrative burden of earmarking in the Office of Naval Research. There are several reasons for examining this agency. First, although earmarks are widely distributed throughout the federal agency budgets, the DOD deserves special attention because of the high level of earmarking that takes place in defense appropriations. The reason Congress has targeted the DOD's budget is simple: That is where the money is. For FY 2007, for example, in the division of budget authority among the appropriations subcommittees, known as the 302b allocation, 44 percent of all discretionary appropriations were allocated to the House and Senate Defense Appropriations

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Subcommittees to spend. By comparison, the Labor, Health and Human Services, and Education Subcommittees received the next largest allocation, about 16 percent of discretionary appropriations. As the data in table 1 indicate, although there are annual variations, the amount of earmarked dollars in the defense appropriations bill as a percentage of all earmarked dollars is growing and regularly exceeds one-third of all earmarked dollars in the

federal budget. (Note: That figure reached 82 percent in FY 2007 because almost all non-DOD and military construction related earmarks were excluded from the final continuing resolution for that year.)

Turning to the ONR, this agency is responsible for coordinating, conducting, and executing the U.S. Navy's and the Marine Corps's science and technology programs, working with government laboratories, industry, and universities, in part through the administration of research contracts and grants. Prior to the creation of the National Science Foundation, the ONR was the first federal agency to fund a broad range of university-based research, and it continues as a major sponsor of university, as well as corporate, research (Sapolsky 1990). The ONR also functions as a cognizant agency charged with negotiating indirect cost rates with university researchers. The ONR's budget for FY 2007 was \$2.235 billion. Approximately a quarter of this figure, \$535 million, funded more than 250 congressionally earmarked projects. Though some of these earmarks were as large as \$20 million to \$30 million, the great majority of projects were less than \$10 million in size, with many in the range of \$1 million to \$5 million.

Second, an important subset of all earmarking consists of projects funded from various agency science and technology accounts. For FY 2008, for example, an estimated \$3.5 billion of the \$7.9 billion in DOD earmarks consisted of projects funded in its various Research, Development, Test, and Evaluation accounts (AAAS 2008). There are reasons why members target the DOD's science and technology agencies, such as the ONR. The real financial return for contractors is not the science and technology earmark itself. The large financial returns for contractors, according to a senior ONR contract officer, stems from the ability of contractors to break into the navy's acquisition and procurement process. "The money," the officer observed, "is not in getting these plus-ups: the money is in acquisitions." Although the ONR does not maintain records on the number of earmarks that become large-scale systems, ONR officials say that earmarking gives contractors an early entry into the procurement process.

In the traditionally understood product life cycle, weapons and other expensive systems begin first as basic science and research projects, then evolve into more applied technology projects, and then go into production. The early science and technology stages are points in the creation of systems when many of their initial design specifications are determined. Being involved in setting these specifications offers the contractor an advantage when bidding on a DOD procurement contract for building the actual system. Contractors also appreciate the flexibility granted in the "best effort" provisions commonly found in

science and technology agreements. Standard DOD contracts normally set extensively defined compliance and performance standards for contractors. The nature of scientific research and technological developments, however, is less predictable and definable, and more likely to result in unfavorable outcomes. Thus, for science and technology contracts, acceptable performance is measured by a contractor's "best effort."

In addition to private contractors, the DOD's science and technology agencies are heavily earmarked to benefit universities and colleges seeking to boost their own research standings and capabilities, regardless of the violation of the peer-review process (Chubin and Hackett 1990; Savage 1999). In FY 2003, 31 percent of all academic earmarks were funded in the defense appropriations bill (Savage 2007). Members also earmark science and technology budgets in the hope of stimulating their state and local economies, as well as assisting their constituents and campaign donors.

Studying the ONR, therefore, provides a valuable insight into the process and management of congressional earmarking within the highly earmarked targeted DOD budget, and then within the very earmark-attractive science and technology budget. As will be seen, these earmarks impose a variety of political, budgetary, and programmatic management costs on the ONR that undermine its administration of core programs.

Earmarking the ONR Budget: The Earmarking Process

An ONR earmark comes to life with its approval by the House and Senate Defense Appropriations Subcommittees. The earmarking process of the ONR or any agency's budget consists of seven basic steps. First, constituents, lobbyists, and interested parties seeking earmarks submit their requests to their members in mid- to late February. There is no formal limit on the number of requests that can be sent to a member, although some members may establish their own restrictions on the number of requests a particular constituent can submit. Second, these constituent requests, which often number in the hundreds, particularly for large-state senators, then must be processed and evaluated by the member's staff, and ultimately approved by the member.

Third, members then must submit their requests to the relevant committee. In the case of defense earmarks, members must submit requests to both the Armed Services Committee and the Defense Appropriations Subcommittee in their respective chamber. Though defense earmarks are funded by the appropriations subcommittee, requests must also be sent to the authorizers, as well as the to appropriators in deference to the authorizations committee. Each committee and subcommittee employs its own unique form.

The House defense appropriations form, for example, consists of a single page that asks for the project name, a paragraph-length project description, an even briefer statement on the project's "Benefit to DOD," proposed bill and report language, dollar amount requested, and the DOD programs and budgetary accounts that would be earmarked. In the Senate, the Armed Services Committee and the Defense Appropriations Subcommittee still accept senatorial letters, in addition to the request forms.

Fourth, subcommittee staff process, organize, and provide some initial prioritization of the forms for the subcommittee chair's review. Fifth, the chair determines the dollar value and number of earmarks that will be funded, and the specific projects that will be supported, which are identified in the subcommittee's report. Sixth, differences between the House and Senate are resolved in a conference committee, where many new earmarks are added to the total number in a process that members and lobbyists call "air dropping." Seventh, the final list of earmarks appears in the conference report. Committee reports reflect congressional intent and are technically advisory in nature, whereas the actual appropriations bill is signed by the president and constitutes appropriations law. Nonetheless, agencies understand that they need to comply with these reports or face budgetary retaliation by the appropriators. Appropriators, if pressed, may also simply include their earmarks in the bills themselves, rather than rely on the reports.

The earmarking process thus creates transaction and opportunity costs for all participants, but especially for the appropriations subcommittee staff. Interviews with staff reveal that they spend significant time processing and evaluating earmark requests. The defense appropriations bill is divided into eight titles, including Title I, Military Personnel; Title II, Operation and Maintenance; Title III, Procurement; and Title IV, Research, Development, Test, and Evaluation. When a senior Senate defense appropriations staffer, one of the seven professional staff on the subcommittee, was asked which title proved to be the most burdensome, the staffer replied,

The R&D accounts are probably the most time consuming. Difficult, technical information. Technical data. Very large account. May not be the largest account in terms of dollar amount, but it is the amount of detail, the number of funding lines, the number of efforts being funded by that account. It is also the account for which we receive the most number of requests. So it is the most time consuming, compiling and evaluating all those member requests.

Requests are submitted to the subcommittee in late February or March, with their processing taking

place primarily in March and April. According to the staffer, "I'd say that over that two-month period, we spend about 50 percent of our time evaluating requests." In addition to these critical months, the subcommittees must also monitor projects throughout the fiscal year as needed to satisfy demanding members and contractors receiving projects. One interpretation of this use of staff time might be that this activity constitutes the regular political duties of staff as assigned by their members. Yet a distinction should be made between professional appropriations committee staff and the members' personal staff, whose responsibilities are indeed more political and are often focused on constituency service than the more policy- and oversight-directed professional staff. Thus, at a time when the nation is engaged in a global war on terror, much of the time, energy, and resources of the appropriations subcommittees responsible for the oversight and funding of that war, as well as for other defense policy issues, are spent processing and monitoring earmarks.

The ONR's Political Management of Earmarks

The DOD operates government relations units at virtually all of its major command levels and units, many of which are involved in the political management of congressional earmarks, which are commonly called "plus ups" within the DOD. The Office of the Secretary of Defense operates an Office of Legislative Affairs (OLA). The Office of the Chief of Naval Operations runs its own OLA. The Undersecretary of Defense Comptroller's Office operates an OLA to represent the Defense Department's budgetary interests. The U.S. Navy's Office of Financial Management and Budget (FMB) runs its own Appropriations Matters Office (FMBE) solely to represent navy budgetary issues. Finally, the ONR also operates its own OLA to represent its interests. When the ONR budget is earmarked by Congress, each of these respective government relations units, in varying degrees, must devote staff time and effort to discover, monitor, and report on these projects.

A discovery process is necessary because the DOD, as with other executive branch agencies, is rarely informed about what earmarks Congress approves until after the House-Senate defense appropriations conference report is completed. Even after the report is released, the recipients, full title, and the purposes of the project are often unknown to the DOD. The project's title, moreover, may reveal nothing about the actual substance of the earmark. This information is obviously necessary if the various projects are to be directed to the proper command, service, and unit for their management. Working with appropriations subcommittee staff, the report must be carefully reviewed by FMBE staff to discover the existence, recipient, cost, and purpose of each earmark. The staff provide

information on whether the earmark originated in the House or Senate and which member of Congress requested the project, as well as the name, contact information, nature of the project, and its cost. The OLAs at every level will work closely with the congressional staff throughout the life of the earmark. So, in the case of a likely ONR earmark, working with the congressional staff, the comptroller's OLA coordinates with the FMBE and the ONR's OLA to determine the nature of the project and whether it should be assigned to the ONR.

The product of this discovery and identification process is the development of an "information paper," also referred to as a "white paper," which is the form that follows the project throughout its life in the DOD. The form is a three-page, 18-point questionnaire that requires the OLA, in cooperation with the FMB and ONR Comptroller, to gather from the Defense Appropriations Subcommittee staff and the contractor the extensive budgetary and project information needed to process the earmark within the DOD. The first question asks, "Provide a description of what this item and the proposed plus-up is or does." Reflecting that it is the responsibility of all OLA/FMBEs to defend the president's budget proposal before Congress, and that the project was not included in the DOD's internal budgetary planning process or the president's budget, the response to the first question must include this statement: "The navy had not requested additional funding for this proposed add. Were additional resources to become available, the Department would recommend funding higher priority items from the CNO/CMC [chief of naval operations/commandant of the Marine Corps] Unfunded Requirements Lists."

These OLA/FMBEs are also responsible for monitoring, with the help of their respective command budget and program officers, the progress of these projects and reporting to Congress on their status. The political sensitivity associated with these projects must not be underestimated. They represent the wishes of influential constituents who have gained the favor of their members, to the extent that members have used political capital to obtain federal funding for their benefit. The members, therefore, respond, often angrily, to complaints by these earmark-receiving constituents who, for whatever reason, are dissatisfied with the ONR. As one ONR OLA senior staffer noted, because contractors receive their funding from sponsoring members, "the people who get the earmark don't think they work for the

executive branch, but for the legislative branch." Consequently, the OLA/FMBEs spend time monitoring these earmarks, especially those that present potential political problems, and report on their status to their sponsoring members of Congress and to the House and Senate Defense Appropriations Subcommittees. The OLA/FMBEs, therefore, must carefully monitor a project's progress, and they must always be prepared for a congressional inquiry about a project's status.

Finally, the 2007 OMB requirement that all executive agencies "identify and catalogue" all applicable earmarks and "provide rapid analysis of the earmark in each bill as they move through the legislative process," in addition to the requirements of the Federal Funding Accountability and Transparency Act of 2006, only adds to the various OLA/FMBEs' monitoring burdens (Portman 2007). On a positive workload note, complying with the OMB directive should converge with the OLA/FMBEs' ongoing tasks of identifying projects and completing white papers.

The ONR's Budgetary Management of Earmarks

Earmarking imposes a variety of budgetary management and budget execution burdens on the navy and the ONR. First, earmarking poses a funding release problem for all levels of the DOD, but particularly for the local commands directly managing a project. Financial control over earmarked dollars flows from the OMB to the OSD Comptroller, to the navy's FMB, to the ONR Comptroller, for eventual payment to the contractors. Before the dollars flow, the DOD must engage in an internal funding release procedure before a funding release request is submitted to the OMB. To accomplish this, the OLA/FMBEs must determine whether an earmark is a continuing project or a new one and convey that information to the ONR Comptroller. If the project is continuing, the OMB's release of funds is automatic. If the project is new, the ONR Comptroller must complete a Congressional Add Release process that includes a questionnaire that must be completed to activate the FMB's release recommendation. So, before the initial release of funds that will finance a project, each of these budget offices must know which command and budget office will next take responsibility for these dollars. The discovery process carried out by the OLA/FMBEs, therefore, serves an additional purpose. The information gathered for the white papers to identify and track each earmark is developed by the OLA/FMBEs with the help of the various comptrollers and budget offices. Yet the

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longer it takes to discover the identity and content of a project in order to assign it to the correct command, the longer the delay in initiating the release of funds, thus adversely affecting the ability of the ONR and its comptroller to obligate these dollars and to manage outlays within the proper spend-out rates appropriate for the fiscal year.

The outlay spend-out rate is a critical issue for the comptrollers and their contract managers. Obligation and outlay spend-out rates are used by the DOD as a measure for determining the proper administration of a program, in terms of budget execution and productivity, through the Fiscal Efficiency Index. If the rate of spending takes place in an orderly fashion, consistent with federal appropriations law and the targets set by the DOD and the navy, then a unit is viewed by superiors as likely to be efficient and effective in the administration of its programs. High rates signal that a command may exceed its budget authority for the fiscal year in violation of appropriations deficiency law. Low rates signal that a command is underutilizing its resources, which suggests that its funding should be directed elsewhere for the next fiscal year. Said one ONR administrator, "If I fall behind in that, if the agency falls behind and doesn't meet the benchmarks that are set for us by navy financial people, then they take money away from ONR. . . . we could lose part of our core budget." According to another senior ONR program officer, the U.S. Navy Comptroller requires that there be no "out-year tails" for earmarks, so everything that an earmark is intended to do must be accomplished with the money available in a single fiscal year.

This single-year spend-out rate for earmarks places unusual burdens on budget offices managing earmarks because any delay in gaining funding release authority through the chain of command delays initiating the project, thus delaying the actual outlay of funds and distorting the normal spend-out rate. Spend-out rates may also be distorted by delays in locating contractors or by delays in executing contracts and entering into obligations with contractors who are unfamiliar with navy procedures because they have bypassed the regular contract application process through earmarking. Whereas 98 percent of regular ONR appropriations are obligated in a timely manner, only 78 percent of earmarks are timely. Meanwhile, contractors may complain to their sponsoring member about delays in the release of funds, which is reflected in the spend-out rate. All of these delays and distortions in the spend-out rate reflect poorly on comptrollers and contractors and may adversely affect their careers. To compensate, the ONR comptrollers and contract officers are under great pressure to obligate and spend their earmark dollars as quickly as possible. According to the FMBE, Congress once included language in a defense appropriations

bill threatening to fire comptrollers if they did not promptly release earmarked funds.

An additional budgetary burden of earmarking in the form of direct and opportunity costs is that in order to protect itself politically, the ONR may find it necessary to draw down on core funds to support incomplete or flawed earmarked projects. Those projects that are ill conceived, impractical, or simply inconsistent with navy plans and programs may require special attention and budgetary support to make them of some value to the navy. Moreover, a failed project may cause a contractor to blame the navy and the ONR rather than accept responsibility for the project's outcome. Contractors complain to influential sponsoring members who invested political capital and energy in obtaining those earmarks and who, in turn, may be embarrassed by these project results, with blame again directed at the ONR. To avert this problem and to salvage what it can from these projects, the ONR may divert funds from core program and allocate additional staff time to work with the contractor to save the project. For example, Senator Ted Stevens (R-AK), who chaired the Senate Defense Appropriations Subcommittee, earmarked the ONR budget to fund the "E (Expeditionary) Craft," which was really an earmark to build an Alaskan icebreaker ferry having nothing to do with military expeditionary activities. "That was building a craft," observed an ONR officer. "ONR does not usually build crafts. It does take away from our basic core effort." Program officers were redirected from their regular duties to work with the contractor to make this a project that could actually serve navy interests, at the cost of an additional \$10 million in core dollars from FY 2004 through FY 2008, on top of the \$53 million in earmarked dollars. Another example of such a project requiring core funding beyond the earmarked appropriation is the navy's "X (Experimental) Craft," also known as Sea Fighter (FSF-1). Championed by Representatives Duncan Hunter (R-CA), who chaired the House Armed Services Committee, Randy Cunningham (R-CA), and Darrell Issa (R-CA), the X Craft is a 1,000 ton catamaran designed to operate in shallow waters. "Sea Fighter was another plus-up. We had to take core money to add to it to fix Sea Fighter, to do it correctly." From FY 2001 through FY 2008, the ONR diverted \$53 million in core funds for Sea Fighter, on top of \$73 million in earmarked dollars, for a total cost of \$129 million. The E and X crafts are unique cases in terms of the amounts of diverted funding. The ONR normally diverts core dollars to only about three or four projects, at substantially lower levels of funding. Yet in order to find the core funds for this purpose, program managers delay the execution of their regular projects, diverting sufficient dollars during the life of these projects to support the plus-ups. This practice promotes programmatic inefficiencies and opportunity costs.

The ONR's Programmatic Management of Earmarks

Once an earmark has been assigned to the ONR by the FMB, it is then, depending on the type of project, assigned to one of the ONR's seven science and technology departments, such as Ocean Battlespace Sensing or Warfighter Performance. The earmark is then assigned by the department's program head to a program officer, who then typically faces two challenges in managing the earmark. First, the program officer must educate the earmark beneficiary, who is now a navy contractor, about how to prepare and use DOD/navy contracts, proposals, and other paperwork to alleviate, among other concerns, the problem of distorted spend-out rates. This is a common event for new earmark recipients. As one program officer explained, "Many of these people have not worked for the government before. Many of them have to be taught. The contractor has to be taught to write the proposal and the reports. We have to teach them to do the paperwork. Many of these people go to Congress because their proposals failed in the regular review process. . . . How to work with Government 101, is the first thing you do [with contractors], and it can last for months." Not all such contractors are pleased to engage the DOD's paperwork and bureaucracy. Contractors do complain, and some of these complaints reach the sponsoring member. The program officer must avoid the complaints, if possible, because eventually accountability and or blame will rest with the officer. As a result, the program head must take care in assigning projects to program officers. Said one program head, "[Earmarks] often require the best of my people because they are the ones who are the most sensitive, the most patient, the most technically savvy to deal with the issues, and have the most experience. The best contract negotiators, the best program officers, are the ones who spend most of the time with these earmarks, at the expense of the work they should be doing."

Second, to make the best of the situation, program heads and officers try to integrate the contractors and their earmarks into the ONR's research agenda.

Where the activities of the ONR's science and technology departments reflect the navy's effort to create a coherent research program to support the service's war-fighting missions, earmarked projects are imposed on the navy, often with little thought or regard for how they complement the

ONR's activities. To derive some research benefit from these projects, program officers work with contractors to guide them into improving the quality of their projects and bringing their projects into some degree of compliance with the ONR's programmatic direction.

"We get more problems with the congressionals [earmarks], just by nature," reported a senior ONR administrator. "Someone convinced their congressman, senator, they can do something. Not necessarily always the case. What they want to do might not fit. What we have to do is mold them into giving us something this is useful Frankly, I get very few phone calls about our regular business dealings with the ONR programs. Most of the phone calls I get are about our congressionals." This "molding" of the earmarks into something useful for the ONR requires the officers to divert scarce time and resources, including travel time and expenses visiting contractors, from their regular projects to the earmarked ones. These efforts often test the diplomatic skills of program officers as they attempt to encourage contractors to change what may be significant aspects of their projects.

Finally, as part of their ongoing management responsibilities, when projects are hopelessly incompatible with navy priorities and are otherwise unworthy of continuing, ONR program officers are responsible for developing "reprogramming requests" that will ultimately be submitted by the ONR's OLA and the FMBE to the House and Senate Defense Appropriations Subcommittees for approval. The purpose of these requests is to de-fund these earmarks and return their dollars to the navy for reprogramming for more useful purposes. Not surprisingly, contractors and sponsoring members may be counted on to oppose these requests, and they are rarely approved. Nonetheless, the navy and the ONR continue to invest administrative time and resources in submitting these reprogramming requests because this is the process available to the DOD to appeal congressional appropriations decisions.

Summary and Conclusion

This study expands our understanding of how congressional earmarking influences elements of the federal appropriations process, how earmarks are managed by the executive branch, and how earmarking influences the ability of federal agencies to manage

their programmatic portfolios and execute national policies. As this research indicates, Congress-directed academic research and public discussions about congressional earmarking fail to take into account the administrative burden of managing these projects. The "hidden costs" of earmarks that are absorbed by the taxpayers

to "grease the wheels" of the congressional legislative process are indeed greater than what congressional scholars suggest (Ellwood and Patashnik 1993; Evans 2004; Shepsle and Weingast 1981; Weingast, Shepsle, and Johnson 1981).

... Congress-directed academic research and public discussions about congressional earmarking fail to take into account the administrative burden of managing these projects.

The costs of earmarking exceed the direct financial cost of the projects themselves, as earmarking creates externalities in the form of transactions and opportunity costs throughout the legislative and administrative process. For example, although the activities of congressional staff, even professional staff, may be viewed as part of the regular political process, congressional appropriations staff do spend significant time reviewing member requests, participating in their allocation, monitoring these projects as needed to help constituents, and working with the ONR to identify these projects. Transactions cost include the time, energy, and resources devoted to searching for and obtaining information, the costs of bargaining and coordinating agreements among actors, and the costs of monitoring and achieving contractual compliance between principal and agent. In the case of the ONR, transaction costs are imposed to coordinate the political, budgetary, and programmatic management of earmarks between members, committees, constituents, ONR, and other elements of the navy and the DOD. Opportunity costs reflect the costs and loss of potential gain by investing time, energy, and resources in one alternative as opposed to another. In the case of the ONR, opportunity costs are imposed as congressional and ONR staffs focus their attention on earmarks rather than policy making, oversight, and other legislative and administrative tasks. Regular core budgets are diverted in some cases to supplement the funding of earmarks. Earmarking alters personnel assignments, distorts budgetary spend-out rates, redirects internal resources, and diverts ONR from most efficiently executing and implementing its science and technology missions. In all these ways, extensive transaction and opportunity costs are imposed throughout the ONR's political, budgetary, and programmatic management of earmarks.

One policy conclusion from this study is that the executive branch should make these costs transparent, as they remain largely hidden from public discussion and the consideration of the federal budget. At the risk of alienating powerful appropriators, the executive branch could begin estimating and making public exactly what these costs are as part of the regular budgetary process. Only in this way will Congress and the public come to know the full cost effect of these projects and their effect on the DOD's "top line." As in the case with most contracts and grants that distinguish between direct and indirect costs, the OMB and the DOD could develop appropriate transaction and opportunity cost measures and cost pools that reflect, for example, the staff time and salaries, facility space, and travel costs devoted to manage each earmark, and the use of core funds to support failing earmarks. Where appropriations reports only identify direct costs, the OMB and the DOD could identify the true transaction cost of each project. Making such estimates, as an ONR comptroller pointed out,

would require tracking the "level of effort" expended in terms of the amount of staff time employed and various costs incurred for managing these projects. Based on the responses from ONR managers, the costs for managing some earmarks may exceed those for regular projects. "[The cost is] huge," reported a senior ONR officer. "I look at 253 plus-ups, and they are pet projects for somebody, that take comparable time for the documents, I take contract time to negotiate them, plus I have to have program managers manage the contract . . . Tons of hours. [One contractor] did not even give us a proposal. We spent two years getting the proposal. We just don't keep track, but it's a huge burden." Trying to make off-the-cuff estimates of these added costs by, say, adding a quarter of the ONR personnel costs to the total dollar value of earmarks managed by the ONR would be very crude and likely misleading. From a programmatic viewpoint and from the perspective of opportunity costs, the DOD could do more to identify the trade-offs involved and to specify how the ONR could better employ these funds for the benefit of the navy. Even if these indirect costs are not included in the appropriations figures by members who would prefer to underplay the price of their earmarks, they may very well be employed by the media to highlight their effect on government spending.

This study also raises the question of how extensive such costs are throughout the federal government. In other words, how generalizable and representative are these findings about the ONR? It is highly unlikely that the ONR is alone in this regard. Insider accounts report that earmarking influences the administration of the Environmental Protection Agency in a similar fashion (Noonan 2002). The Department of Education's Fund for the Improvement of Higher Education program consists of \$20 million in core grants and \$100 million in earmarks. "For us it's a huge deal," observed a senior education officer, "because I have staffing for a \$20 million program, and so you are increasing the portfolio five times with a \$100 million in earmarks. I essentially double the load for my program officers. And, of course, earmarks don't come with more salary and expense money." As in the case of the ONR, the agency received no additional staffing or funding to administer its assigned earmarks. The same is true for the Department of Transportation, where several of its major research program budgets are more than half earmarked (Brach and Wachs 2004). Returning to the DOD, the OSD Comptroller's Office reports that "there are earmarks in virtually every appropriated DOD account." Thus, earmarking occurs in agencies and programs throughout the federal bureaucracy. Conducting similar case studies in other federal agencies would enable public administration scholars to better understand how earmarking affects them in the performance of their core missions. What difference do variations in organizational structure,

personnel arrangements, internal budgetary procedures, and relations with members and congressional committees make in this context? Clearly, earmarking is more than an issue for the press and congressional scholars; it should also be the careful study of students of public administration and public policy.

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