



FREQUENTLY ASKED QUESTIONS: CONGRESSIONAL EARMARKS BY CONGRESSMAN J. RANDY FORBES VIRGINIA'S FOURTH CONGRESSIONAL DISTRICT

Few of us can hear the word “earmark” without automatically conjuring up an image of the \$320 million “bridge to nowhere” - the attempted waste of federal transportation dollars on a project to connect Ketchikan, Alaska (population 8,000) with Gravina Island (population 80). So strong has the connection between the words ‘earmark’, ‘pork’ and ‘waste’ become that many write off the federal appropriations process altogether as another example of a very broken federal government system.

But what is an earmark really? Are all earmarks “pork”? What is the appropriate role of elected Members of Congress in determining which earmarks are funded? How are these decisions made and how transparent is that decision-making process? These are subjective questions and depending on who you ask - and more importantly in which context you ask that questions - you will receive very different responses.

For instance, should your federal tax dollars pay to clean a lake in Wisconsin? ... or the Chesapeake Bay? Should the federal government preserve Indian relics in New Mexico ... or African American heritage in Suffolk, Virginia? Context has everything to do with whether an individual considers an “earmark” a waste of federal resources or a valuable economic investment in their community. Ask for instance an individual in Chesapeake, Virginia who sits in hours of traffic a day on their commute to work whether the federal government should invest in a new bridge on Route 17 to alleviate serious traffic congestion. Ask a family in Franklin, Virginia whose lives and livelihood have been repeatedly destroyed by unexpected and unexplained flooding in the Chowan River Basin if the federal government ought to investigate the sources and causes of the flooding. Ask a resident of Petersburg if the federal governments should invest in gang prevention in their local community. Likely you will receive a ‘yes’ to each.

That’s not to say, however, that there are many projects that truly do not measure up to the standards that all Americans ought to be demanding from their federal tax dollars. Indeed, earmarks have become a very visible and tangible example of the failures of our federal government to control spending and to make responsible funding decisions.

But that is all the more reason that earmarks should be transparent. Members of Congress and their constituents should have the right to evaluate earmarks, to debate them, and to demand accountability for how their tax dollars are spent. We won’t all agree on the best formula to determine how the federal government should spend its money, but we should all have a voice in that process and access to information to educate ourselves. Please use this “Frequently Asked Questions” document to help you learn more about this process. I hope you find this useful and I hope, you too, will weigh in with your thoughts on earmarks and congressional appropriations. With kind personal regards, I am

Yours truly,

A handwritten signature in blue ink that reads "J. Randy Forbes".

J. Randy Forbes
Member of Congress



THE FEDERAL FUNDING PROCESS

How does Congress exercise the power of the purse?

A primary avenue for exercising Congress' power of the purse is the authorization and appropriation of federal spending to carry out government activities. While the power over appropriations is granted to Congress by the U.S. Constitution, the authorization-appropriation process is derived from House and Senate rules. The formal process consists of two sequential steps: (1) enactment of an authorization measure that may create or continue an agency or program as well as authorize the subsequent enactment of appropriations; and (2) enactment of appropriations to provide funds for the authorized agency or program.

The authorizing and appropriating duties in this two-step process are carried out by a division of labor within the committee system. Legislative committees, such as the House Committee on Armed Services and the House Judiciary Committee upon which Congressman Forbes sits, are responsible for authorizing legislation related to the agencies and programs under their jurisdiction. The Appropriations Committees of the House and Senate have jurisdiction over appropriations measures, and they fund these agencies and programs through 13 annual appropriations bills.



What is an earmark and where can I find them?

There is not a single specific definition of the term earmark accepted by all practitioners and observers of the appropriations process, nor is there a standard earmark practice across all 13 appropriations bills. According to the Congressional Quarterly's American Congressional Dictionary, under the broadest definition "virtually every appropriation is earmarked."

In practice, however, earmarks are generally defined more narrowly, often reflecting procedures established over time that may differ from one appropriation bill to another. For one bill, an earmark may refer to a certain level of specificity within an account. For other bills, an earmark may refer to funds set aside within an account for individual projects, locations, or institutions. Regarding the latter use of the term, some of these earmarks are included in the text of appropriations measures, floor amendments, and conference reports to such measures. If enacted, these earmarks are legally binding.

Most of these earmarks, however, are included in the Senate and House Appropriations Committees' reports explaining a measure as reported. These earmarks are also frequently included in the managers' joint explanatory statement (or managers' statement) that accompanies the conference report. Committee reports and managers' statements do not have statutory force; departments and agencies are not legally bound by their declarations. These documents do, however, explain congressional intent and frequently have effect because departments and agencies must justify their budget requests annually to the Appropriations Committees.

What is the process for funding an earmark?

The 13 subcommittees of the Appropriations Committees of the House and Senate are each responsible for one of the regular appropriations acts. The regular appropriations acts provide budget authority for the next fiscal year, beginning October 1. As a part of this process, the House Appropriations Committee asks all Members of the House to submit, for consideration by the Committee, the requests they feel may be important for their district, state, and the United States. Only a small fraction of project requests the Appropriations Committee receives from Members will be funded. Typically, the year-long process follows this general outline:

1 - In early February localities in Virginia's Fourth District submit their appropriations requests to Congressman Forbes' office. Typically Congressman Forbes' office receives over 100 requests for federal funding through the earmarks.

2 - Around mid-March, Congressman Forbes' staff completes their analysis of whether these requests meet guidelines established by the Appropriations Committee, as well as the likelihood of obtaining funding, and submit the prioritized requests to the Appropriations Committee.

3 - Throughout the year the 13 Appropriations Subcommittees review these requests and include a very small percentage of these earmarks in their appropriations measure. These measures are then considered by the House, Senate, a Conference Committee of both legislative bodies, and are enacted into law by the President.

If Members of Congress did not earmark bills, how would decisions regarding who received federal funding be made?

If a bill is not earmarked or there are not instructions to the federal agencies as to how to spend the money allocated to a program or agency, then it is at the discretion of government bureaucrats at the agency or department to decide how the money will be spent. After funding has been appropriated and enacted into law, elected Members of Congress have no authority over how funds are used within the Administration.

PRIORITIZING PROJECTS FOR VIRGINIA'S 4TH DISTRICT

How does Congressman Forbes know which are the important projects that need funding in his district?

He doesn't necessarily. Congressman Forbes relies on the elected officials in local governments of Virginia's Fourth Congressional District to collectively determine which projects are important enough to local residents that they merit federal funding. These localities are responsible for submitting a proposal – approved by a majority of their elected officials – to Congressman Forbes' office which details the parameters of the project request, why that project request is important, and how that project request fits the requirements for federal funding. In addition, Congressman Forbes does consider some requests from private organizations that impact a group of cities or counties such as a regional children's hospital or a regional community group. In these cases, the regional organizations are required to demonstrate the support of the localities whose interests they are representing. Congressman Forbes and his staff take dozens of meetings and review hundreds of pages of background material to learn more about the projects and to help prioritize them within the context of the 18 localities that Congressman Forbes represents.

What are the most common types of earmark requests that Congressman Forbes receives?

The largest number of requests comes from counties, cities, and other public agencies seeking funds for roads, flood control, and other public infrastructure projects. Local governments also frequently seek funding for community services, historical preservation projects, and economic revitalization programs.

Are there earmark requests that Congressman Forbes does not consider or submit to the Appropriations Committee?

Yes. Our office initially evaluates earmark requests using the following general questions. If the answer to any of these questions is 'no', the funding request will not be submitted.

1. Does this project meet the requirements of the federal program or account from which it is seeking funding?
2. Is there significant local consensus that this project will benefit the locality or region, as demonstrated by its submission by the local governing authority such as a Board of Supervisors or a City Council?
3. Will the House Appropriations Committee view this project as an appropriate use of federal resources?
4. Does this project provide significant economic value to a locality or region?
5. Does this project enhance the quality of life of a significant number of residents of the city, county, or region?



For example, say a city or county submits a request to help fund the construction of a local school. While this project may have significant local consensus and provide great economic and quality of life benefits to the region, Congressman Forbes cannot submit this request to the Appropriations Committee because there is no federal program that assists localities with the construction of schools.

Do the Appropriations Subcommittees limit the number of earmark requests that Congressman Forbes may make of them?

Depending on the fiscal year, some Subcommittees limit Members to only 3-5 requested projects. Others allow unlimited submissions. Oftentimes, Congressman Forbes must make difficult decisions between valuable projects that benefit different sizes of constituencies in his district. For instance, Congressman Forbes may receive a request for a transportation project that benefits only a small fraction of his constituents. This project will have to be evaluated and prioritized in the context of other transportation projects that may alleviate traffic congestion for a significantly larger group of constituents or may make way for increased military or economic development in another region of Virginia's Fourth Congressional district. Likewise, Congressman Forbes may receive a request for a flood control project that while it only impacts a small number of constituents, the flood damage is significant and substantial enough that the project bears more merit than a water infrastructure project that impacts a much larger number of constituents.

Can localities in Virginia's Fourth District submit funding for any project they deem important?

No. Localities must choose projects that fit the requirements of currently authorized federal programs. Projects that are submitted to Congressman Forbes' office that do not meet these requirements or do not provide enough information to determine their eligibility are not considered and are not submitted for funding to the Appropriations Committee.

Do all cities and counties in Virginia's Fourth District submit funding requests to Congressman Forbes?

No. All counties and cities in Virginia's Fourth District are invited to submit appropriations requests to Congressman Forbes, but typically only about half of the 18 localities represented by Congressman Forbes choose to submit appropriations requests, either because of the strenuous preparation that such requests require or because their local projects do not meet requirements for federal funding.



Virginia's Fourth Congressional district is home to a significant number of defense contractors that supply the federal government with valuable products and services that aid in the nation's defense. How does Congressman Forbes handle requests that originate directly from these companies?

Congressman Forbes will not submit requests from defense contractors for funding for military projects. Instead, he looks to military installations in Virginia's Fourth District to identify the needs of their command and seeks funding for those needs expressly listed on the installation's 'unfunded' list. An 'unfunded' list details projects that our military commanders see as necessary to performing the functions they have been assigned and comes directly from military commanders rather than from contractors who naturally have a financial interest in the success of their funding request.

What are the current House Rules on the disclosure of earmarks?

The House Rules adopted at the beginning of the 100th Congress include a new provision regarding earmarks that requires Members who request earmarks provide a written statement to the chairman and ranking member of the committee of jurisdiction of the bill that contains the following information:

- the name of the Member;
- the name and address of the intended recipient or if there is no intended recipient, the location of the activity;
- the purpose of the earmark;
- a certification that both the Member and the Member's spouse have no financial interest in the earmark.

Where can I find a list of the projects that Congressman Forbes has submitted to the Appropriations Committee on behalf of Fourth District localities?

Although Members are not required to disclose this information, and most Members choose not to share this information with the public, Congressman Forbes voluntarily discloses the projects that he has requested the Appropriations committee consider for funding. Each of these projects, their intended recipient, their requestor, their purpose, and the amount of funding requested is listed on Congressman Forbes' public website available at: <http://randyforbes.house.gov>.

FOR MORE INFORMATION...

For more information on projects in Virginia's Fourth Congressional District that I have supported or for additional information on Congressional processes and procedures, please visit my website <http://randyforbes.house.gov>. I would appreciate hearing your thoughts on these issues as well. Please take a moment to [Email](#) me via my website, or call my Washington, D.C. office at (202) 225-6365.

