

13 The Care and Feeding of the Livestock: An Agency View of Earmarks in the Budget

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This chapter discusses what it is like to deal with unrequested scientific budgetary earmarks, a controversial practice used by Congress with increasing frequency when making decisions on federal funding for science and technology. I will discuss scientific earmarks that are not for buildings funded primarily for academic institutions. I want to give an idea of what the true cost is to the agencies, and not just in money.

We can begin with a story. Once upon a time there was a university in a part of the country with swamps and alligators, “Alligator State U.” AlliU had a loyal alumnus who wished to make a gift to his alma mater. So he gave the university a run-down hunting lodge in a swamp. The university administrators pondered: “What shall we do with a lodge in a swamp, especially one that needs work?” They decided to get some money from the government and fix it up. They went to a friend in a high place (that is, a Member of Congress) and told their story. Later that year, Congress included a line item in the budget to provide funds to Alligator State for unnamed purposes. When the agency asked the university for a proposal, the first one requested money to renovate the hunting lodge—no science, just renovations. That was not acceptable, so the university was asked to try again. After several attempts at a proposal, and considerable investment of time by agency staff, there was

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an acceptable outcome. The grant could be now awarded with some assurance of quality.

The moral of the story is: when you are up to your ears in alligators, it is important to remember that your objective is to use the shack in the swamp.

Some agencies, such as the U.S. Department of Agriculture (USDA), have a long history of receiving and managing earmarks in their budgets. This does not mean that earmarks are somehow “good” in the case of USDA. In fact, I argue that the quality and quantity of USDA’s competitive research has suffered because earmarking has diverted time, attention, and resources that might otherwise have been invested in strengthening the USDA competitive grants program. Since the mid-1980s, other agencies have come down with cases of “earmark disease,” from mild to severe. In the past several years, the total for earmarks across the government has reached new highs, with over a billion dollars in the FY 2000 budget (an increase of 31 percent over 1999 and a whopping 300 percent increase since 1996). One could get trampled in the rush to the federal trough these days by otherwise rational academic institutions. But before I discuss earmarks at the Environmental Protection Agency (EPA), I need to outline a few things about EPA’s budget.

The EPA/ORD Budgets

EPA has embraced the Government Performance and Results Act (GPRA) and has made it the organizing principle behind its budget and programs. Thus, the Agency develops and implements its budget based on a set of strategic goals. Both dollars and people are allocated, planned, and tracked based on these goals and their associated objectives. The EPA budget, as well as the budget of the Office of Research and Development (ORD), has no goal for “earmarks.” All resources are committed to activities that advance the Agency’s mission.

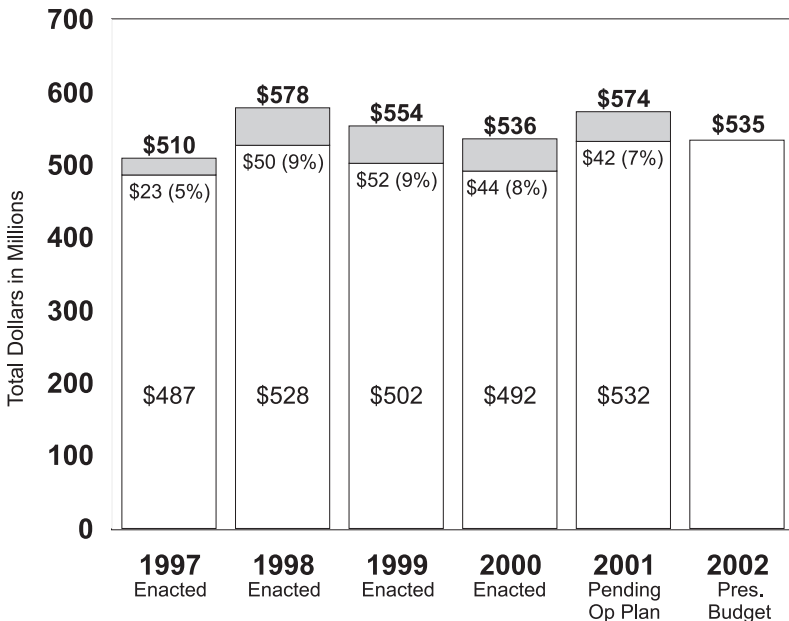
As a consequence of using this goal-based planning and budgeting system, when the Administration or Congress changes EPA’s budget either by reducing it or inserting unrequested earmarks, the Agency must modify or give up important activities that have been chosen specifically to achieve its goals. Moreover, earmarks have to be fit into the goal-based structure and often that is not easy. For example, ORD has no mission goal or objective in energy or in manufacturing research. These are, rightfully, mission goals for other agencies. Yet, ORD has several

earmarks in these areas. Fitting these into a goal-based budget and performance plan becomes problematic.

The history has generally been that most of the earmarking comes at the expense of the agencies. That is, they “eat” the earmarks. The figure below shows the funding history for ORD and the voraciousness of earmarks.

Earmarks ranged from four to nine percent of ORD’s budget over this time period. Because of this, many things did not get done in those years. The exception was FY 2001, when ORD and EPA as a whole received fewer earmarks than in previous years, and ORD received them in addition to the President’s request, not instead of requested activities. In my view, this was an aberration and resulted from the “surplus fever” that gripped Congress last fall. This fever caused Congress to be delu-

Figure 1
Recent Funding History (All Appropriations)
Earmarks as Percent of Total Budget



Source: EPA/ORD

sional that: a) there was a surplus; and b) they could spend it. Fortunately or unfortunately, depending on your viewpoint, Congress seems to be recovering from this fever. For the FY 2002 budget, I expect the usual practice of forcing the agencies to cut higher priority activities in favor of sows' ears, or other porcine body parts.

What Happens When ORD Receives an Unrequested "Gift"

Not all agencies follow the procedures discussed below. In fact, the rest of EPA does not follow these procedures. But, they have served ORD reasonably well.

First, the agency must determine who gets the money and for what. In most cases that is pretty clear. The appropriations bill language or report specifies the purpose and the recipient. However, this is not always the case. In one memorable instance, ORD received an earmark to a particular institution for a particular purpose, but when the institution was contacted, no one at the university professed any knowledge of the earmark and, in fact, denied any involvement. It took months of phone calls and detective work to discover that a dean was the principal investigator who had "worked the system" without the knowledge or approval of his upper management. It took almost two years to find this out and then get the grant awarded. Needless to say, this very well-known institution was embarrassed and I can only hope that the perpetrator is spending the rest of his career in some sort of academic exile.

Second, the agency must decide whether or not to subject the earmarks to scientific peer review. ORD has made the policy decision that all entities that receive earmarks will be subjected to basically the same procedures as those individuals and institutions participating in its competitive Science to Achieve Results (STAR) grants program. This means that earmark recipients must submit a proposal that is then subjected to external scientific merit review. Of course, in the earmarking cases the eventual outcome of the review process is not in doubt. Declining the proposal on scientific grounds is not possible. However, this review process does take time and that can annoy the prospective recipients and their congressional sponsors. ORD has, at times, received letters from impatient Members or Senators demanding that an award be made. Certain Members even asked the General Accounting Office (GAO) to investigate whether ORD was treating earmark recipients unfairly relative to competitive proposers. (GAO found no evidence of such mistreatment.)

It is worth noting that the rest of EPA does not generally subject Congressionally directed projects to merit-based external scientific peer review. I believe this is a serious mistake on EPA's part, or for any agency. In fact, every agency should provide some sort of merit review process for earmarks (of any type, not just scientific). Non-agency reviewers should conduct this process, if for no other reason than for the agency to be able to defend itself from the questions that will inevitably be raised about special treatment, lack of quality, or any number of other problems that can occur when there is only an internal review, no matter how rigorous. Merit review helps ensure that an objective standard of quality has been demanded and that scientific expectations have been articulated at the beginning of the earmark's life span.

This whole process is not without significant cost to an agency. Certainly this has been the case for ORD. The decision to subject earmarks to scientific merit review and the consequences of that decision (namely, remediating scientific deficiencies before the award is made and subsequent follow-up to assess contribution to mission goals), all take enormous amounts of staff resources. Working with recipients, cajoling, pleading—all take the time and energy of a very small staff. This time and energy is sorely needed to run the competitive scientific program. Proposals from earmark recipients often take up to six iterations before they are acceptable, each one taking the time and energy of agency staff to review. Earmarking forces difficult trade-offs in staff resources as much as it forces difficult trade-offs in fiscal resources.

Lessons Learned from ORD's Experience

First, no good deed goes unpunished. There once was an earmark for a small amount of money that persisted for a very long time. The recipient could do very little with this small amount and certainly was not contributing much in the way of environmental or public health progress. So, ORD, knowing that this earmark was here to stay, vowed to be a good steward of the taxpayers' money. The staff spent countless hours working with this recipient to improve the quality of the work and shape it to support one of the Agency's goals. The size of the earmark grew and grew until it had quadrupled—in large part because the recipient could now tell its congressional sponsors that it was really helping the Agency. No good deed goes unpunished.

Second, no bad deed goes unrewarded. Consider this example. A scientist ran a big laboratory funded by several agencies. It was consid-

ered a federal facility. He argued loudly and strongly that he should be freed from the endless bureaucracy of the federal system. He wanted to privatize the lab and compete for work on the merits. The agencies agreed. But the scientist saw that he could have his cake and eat it too. He was free of federal bureaucrats telling him what to do and he could still seek money the easy way through an earmark. In fact, this now “private” entity still receives directed funding from ORD and it gets bigger every year. EPA (ORD) used to be a minor federal supporter for this entity, but today it funds most of the lab. This organization does do good work. But the promise of full privatization and standing on one’s own two feet scientifically to compete seems very hollow now (like the old “bait and switch” tactic). One could argue that in this case the earmarked funds have actually conferred a strong, unfair competitive advantage on this entity relative to others who do equally good work but do not have the benefits of a pipeline straight to EPA’s appropriation. No bad deed goes unrewarded.

Lastly, everything’s relative, or, it pays to have family in high places. Once there was a project designated to a specific university. While this project might or might not have been chosen in a competitive selection, the project’s principal investigator seemed to be doing work of reasonable quality and the university appeared to be supportive and responsible. But, when the investigator moved to another institution, the earmark miraculously moved to that new institution with him. Did the original recipient university somehow mess up or act in bad faith? No. A powerful member of a powerful congressional committee is the investigator’s brother. Everything’s relative.

Conclusion

Institutions that seek earmarks and those that receive them without asking should take care. Agencies have long memories, and they do not appreciate their planning and budget processes being turned upside down to accommodate unrequested projects. This is increasingly true as the mandates of GPRAs take hold. Most agencies also subscribe to the old Sicilian proverb that “revenge is a dish best eaten cold.” So, be careful, earmark seekers, be careful what you wish for.

No one will ever convince me that earmarking is somehow encouraging equity in an otherwise inequitable system. No one will ever convince me that the scientific merit review system is somehow so warped

and unfair that institutions have no choice but to resort to acting like lobbyists. And no one will ever convince me that the nation is better off when the scientific competitive process is thwarted. The nation's scientific and technological enterprise does not gain in quality and effectiveness when earmarking is practiced with impunity. I have taken my lumps on the other side. I have been turned down in the competitive process for projects that I thought merited more favorable consideration. And I have been at a smaller institution that, in my opinion, did not always receive a fair shake in the peer review process. But these disappointments never led me to conclude that subverting the process for some short-term gain for my institution or my personal satisfaction was the way to behave.

I am not arguing nor would I ever argue that agencies are perfect, or that all the scientific decisions they make in their regular competitive processes are wise, or that every dollar is allocated and spent effectively for the good of the nation. That would be arrogant and self-righteous and it would be untrue. Earmarks are not evil; neither are the people or institutions that seek them. Perhaps they are not even the real problem, but rather a symptom of a larger issue, namely, how academic and other research institutions view the competitive scientific process and what the boundaries are, or should be, for "civilized" behavior in this regard. But the practice of seeking earmarks shows an arrogance on the part of the requesters—as if their research activities are somehow better or more deserving than those of institutions who do not engage in this practice.

In addition, earmarking has an even more pernicious effect: competitive laziness. Earmark recipients tend to get scientifically lazy. They get used to feeding at the federal trough and having that check show up every year—proposal or not—knowing that it is preordained that the money is coming. When the party is over, as occasionally happens, these individuals often have difficulty competing because they have not been forced to keep up scientifically. There is great merit in the competitive process simply to keep your work intellectually sharp, rigorous, and at the forefront.

I do not think you will find an agency in the federal government that says it loves earmarks. They are a burden to be borne and they are a drain on human resources as much as on budgetary ones. Agencies have varying levels of success in marshaling earmarks to make meaningful contributions to their missions. And the more successful ones are spending large amounts of fiscal and human capital to do it.

