

Brownstein



Earmarks 101 for Jewish Community Organizations

Agenda

- Introductions
- Overview of Brownstein Team
- Definitions of Earmarks
- Earmarks State-of-Play
- The Value of Earmarks
- Who to Engage on Earmarks
- How to Engage on Earmarks
- Case Studies
- Q&A

The Brownstein Team

- Douglas Maguire, Policy Director
- Chairman Ed Royce, Policy Director
- Sen. Mark Begich, Strategic Consulting Advisor
- Brian Wild, Policy Director
- Zach Marshall, Policy Analyst

Congressional Calendar – Oct.-Dec. 2022

- House in Session Only
- Senate in Session Only
- House & Senate in Session
- Federal Holiday

October						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Definition of Earmarks:

House Definition

The term “congressional earmark” means 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.

Senate Definition

The term “congressionally directed spending item” means 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.

Earmarks State of Play

Pre-2011: Earmarks of the Past:

- Late 90s: Earmark usage jumps under Speaker Newt Gingrich (R-GA): \$7.8B in FY94 to \$13.2B in FY98
- FY08-10: average of 10,299 earmarks costing \$17.8B
- 2008: Congress **codified** formal definitions & established disclosure rules:
 - **House:**
 - Legislation must be accompanied by a list of earmarks, limited tax benefits, or limited tariff benefits, or a statement that the proposition includes no earmarks
 - Members also must follow certain requirements for submitting earmark requests and committees have separate disclosure responsibilities
 - **Senate:**
 - A vote on a motion is prohibited unless committee or majority leadership certified that a complete list of earmarks is publicly available
 - Like in the House, senators also must follow certain requirements for earmarking requests and committees have separate disclosure requirements
- 2011: GOP House Majority institutes earmark “**moratorium**”

Earmarks State of Play

2021: Bringing Earmarks Back...Back Again:

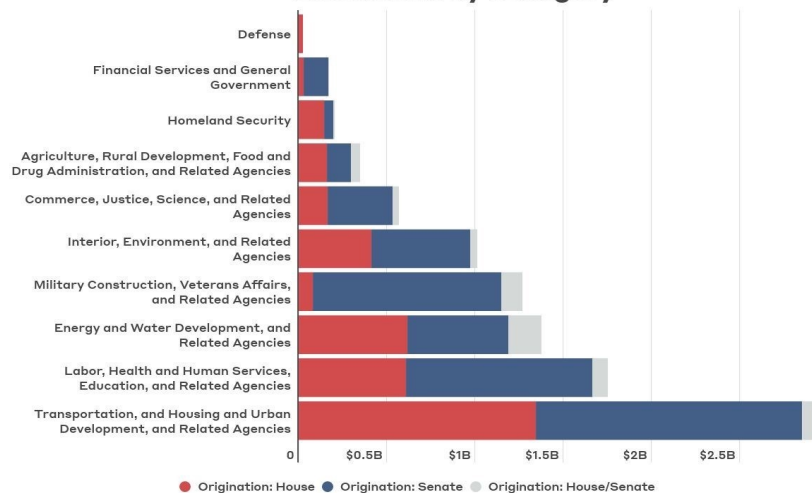
- 2011-2021 Workaround: discretionary DoT spending
- Restored by Congressional Democrats as “Community Project Funding”
 - House GOP voted to lift their ban; Senate GOP voted to keep their ban (not enforceable)
 - Key Senate GOPers requesting earmarks: Sens. Susan Collins (R-ME), Lindsey Graham (R-SC), Lisa Murkowski (R-AK), and Shelley Moore Capito (R-WV)

Congressionally Directed Spending, FY2022

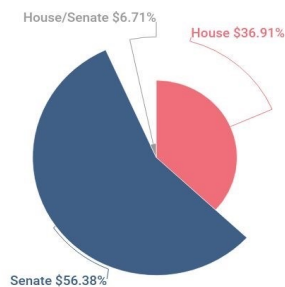
Click the three dots on the top right to view full screen.

Total Amount of Congressionally Directed Spending Allocated \$9,688,599,148	Total Number of CDS Projects Funded 4,975	Average CDS Amount \$1,947,457
---	---	--

Allocations by Category



Chamber of Origination



Earmarks State of Play

New Pork – (Mostly) Same as the Old Pork? Key New Rules:

- **Enhanced transparency;** requests must be posted online on each Member's website at the same time that they are submitted to the Appropriations Committee and Members must confirm that neither they nor any immediate family members have a financial conflict of interest; the Government Accountability Office will also audit a sample of yearly approved community projects
- **Prohibiting certain types of earmarks** such as requests for for-profit entities
- **Capping all earmark requests** to 1% of total discretionary spending and 10 requests per Member per fiscal year
- **Requiring additional certifications** including confirmations of community support for each submission
- **Republicans included additional provisions** such as not considering seniority or committee assignments for earmark requests when the committee decides on which requests it will accept and requiring written justification as to why the community project is an appropriate use of funds

Next Congress: Back to the Future?

- Senate is expected to keep earmarks – regardless of Dem or GOP majority
- However, a House GOP majority is likely to nix earmarks
- Results:
 - House members would need to lobby Senators to include earmarks
 - Earmarks wouldn't end, but rather entail an extra step

The Value of Earmarks

- ***Starting Small vs. Seeking the “Pot of Gold”***
 - Smaller earmarks → more attainable
 - Need \$1M? Ask for \$500,000
- ***Earmarks are NOT New Money → They’re New Projects***
 - Funding must come from already existing, authorized programs
- ***Earmarks are Like Grants***
 - You’re looking for funding that fits your need
 - The government is prioritizing funding for you over another applicant
 - Approach with a similar mindset vis-à-vis grants
 - Ex: if you need to build a new synagogue, you don’t apply for money to build the synagogue but rather apply for grants related to security, addressing antisemitism, etc.

What Goes Into an Earmark?

- **Official Project Name**
- **Project Purpose:** A short description of the project that will be made public in Congressional disclosures for both requested and funded earmarks.
- **Justification:** A longer, 250-word summary of the project including its intended purpose, history, goals and performance standards, the current status of the project, and justification for why the project is a worthwhile investment for taxpayers.
- **Project Budget:** Outline the total cost of the project and how funds will be spent, such as on salaries, programming, equipment, etc.
- **Project Financing:** Requests should provide a full accounting of the non-earmark funding dedicated to the project, including non-federal funding such as state, county, or municipal general funds, nonprofit funding, or financing mechanisms.
- **Timeline to Completion:** While completion of projects is not required within the fiscal year the earmark funds are requested, the Senate Appropriating Committee prioritizes funding projects that can be fully expended within one federal fiscal year (October 1 through September 30th) and allow the project to be completed during the fiscal year cycle.

Who to Engage?

- Congress: Your House and Senate Members and their staff
 - Focus on members' *personal office* staff (DC and in-district) – not Appropriations *committee* staff
 - *NOTE*: Only your own representatives can submit earmark requests for you
- Community members: Community support is critical
 - *NOTE*: The House Appropriations Committee requires requestors to submit evidence of community support for their project
 - City council resolutions
 - Op-eds
 - Letters to the editor
 - Letters of support from community stakeholders
- Peripheral Contacts
 - Consider contacts outside your immediate community
 - Ex: An Arizona-based individual/organization may identify an Ohio-based contact may have a close relationship with Senate Majority Leader Chuck Schumer (D-NY)

How to Engage?

- Convey the value of your request
 - Earmarks can be a *powerful opportunity* to drive real success in your district/state
- Recognize overlapping goals and interests that can be furthered by participating in earmarks process:
 - Advance priorities to improve quality of life in the district/state
 - Build or strengthen relationships
 - Raise awareness about local projects' impact
 - Be aware of eligible accounts
- Know your member:
 - Review their FY22 and FY23 earmark requests
 - Identify their legislative priorities
 - Build relationships with the member/office, as well as intermediaries
- The Bottom line: Taking the earmarks process as a chance to build or strengthen relationships with local Members of Congress, raise awareness in your community of your organization's work, and practice applications for federal funding can be valuable even if a specific request is unsuccessful.

Case Study: City of Denver

\$20,148,000 in earmarks for FY22

- \$3,000,000 – Urban Peak **Shelter Reconstruction** Project – Rep. DeGette and Sen. Hickenlooper
- \$2,000,000 – **Affordable Housing** Creation at Stay Inn Site – Rep. DeGette and Sen. Hickenlooper
- \$2,000,000 – Colorado Coalition **for the Homeless for facilities and equipment** – Rep. DeGette and Sen. Hickenlooper
- \$2,000,000 – La Clinica Tepeyac **for facilities and equipment** – Rep. DeGette, Sens. Bennet and Hickenlooper
- \$2,000,000 – Permanent **supportive housing** TGTHR CO – Sen. Bennet
- \$1,455,000 – Montbello FreshLo **community hub** – Sen. Hickenlooper
- \$1,450,000 – Affordable Apartment Construction – Rep. DeGette
- \$1,200,000 – Denver Health and Hospital Authority **for facilities and equipment** – Rep. DeGette, Sens. Bennet and Hickenlooper
- \$1,000,000 – Center for African American Health **for facilities and equipment** – Rep. DeGette
- \$987,000 – **Community Awareness Program** Improvement – Byrne Counterterrorism Education Learning Lab (CELL) – Sen. Hickenlooper
- \$776,000 – CareerWise Colorado **for career and technical education**, including youth apprenticeships and employer engagement – Sens. Bennet and Hickenlooper
- \$500,000 – Jewish Family Service of Colorado **for workforce development activities**, including technology and equipment – Rep. DeGette, Sens. Bennet and Hickenlooper
- \$450,000 – National Institute for Medical Assistant Advancement **for a training program**, including technology and equipment – Rep. Perlmutter, Sens. Bennet and Hickenlooper
- \$384,000 – City of Denver **Youth Crisis Response Team** Initiative – Sens. Bennet and Hickenlooper
- \$300,000 – Savio House **for facilities and equipment** – Rep. Perlmutter
- \$244,000 – Denver Police Department **Outreach Case Coordinator** – Sen. Hickenlooper
- \$20,000 – Mi Casa Resource Center **for a workforce development program** – Rep. DeGette
- \$160,000 – Servicios de La Raza to **expand mental and behavioral health care services** for incarcerated and at-risk individuals – Sen. Bennet
- \$122,000 – Denver Community Foot Patrol **Crime Prevention** Initiative – Sens. Bennet and Hickenlooper
- \$100,000 – Mile High United Way **for behavioral health services** for young adults experiencing homelessness – Rep. DeGette and Sen. Hickenlooper

“Non-earmark” Case Study: Simon Wiesenthal Center

- ***SWC’s Tools for Tolerance training program***
 - CJS bill language directed DOJ to award a grant to “organizations with well-established experience training law enforcement personnel and criminal justice professionals”
 - Narrowed language to ensure that SWC would be awarded the grant
 - Follow-up toward individual Senate offices to ensure they understood intent of the provision.
- **Bill Language in CJS FY21 Explanatory Statement:**
 - *\$2,000,000 is for grants to support tolerance, diversity, and anti-bias training programs offered by organizations with well-established experience training law enforcement personnel and criminal justice professionals. The COPS Office is directed to report, within 30 days of enactment of this Act, on how the direction for CPD grants is being followed as well as timelines for grant deadlines and distribution.*

Earmark Checklist

1. Remember: earmarks are like grants
2. You must establish contact with your Member of Congress/Senators
3. You must “know your member”
4. You must identify “champion” congressional members and staff – as well as community members
5. You must complete and return applications as soon as possible – and be aware of deadlines
6. You must convey the value of your request
7. You must follow up and maintain relationships with your Hill and community contacts
8. You must continue to build community support
9. You can touch base with JFNA and other JFNA members
10. You can follow up with Darcy for guidance

Earmark Timeline for FY24

1. When to Start Drafting: As soon as you are ready
2. When to Start Engaging Community Stakeholders: ASAP – ideally after you have internally framed your idea
3. When to Start Engaging Congress: ASAP after submitting your application
4. When to Submit: Prior to House/Senate-mandated deadlines (likely early April 2023)
5. Where to Submit: Electronically on members' congressional websites
6. Would Results be Revealed: After FY24 spending bills are finalized

Questions?

Brownstein Team Biographies

Douglas Maguire, Policy Director

Douglas Maguire has over 25 years experience working in the Middle East for the World Bank, USAID and Fortune 500 companies. His relationships with Congressional members and key staff, senior administration officials, and understanding of how federal agencies function combine to provide comprehensive solutions for sovereign clients, private equity firms, venture funds and companies across a range of industries. Known for his relentless energy and drive, Doug is the advocate clients want in their corner when the problems are complex.



An original member of the firm's international practice, Doug represents sovereign nations before the Congress and administration. He strategically positions dignitaries before senior officials in the White House, State Department and Congress: combining political communication and foreign policy prowess.

Though his advocacy is bipartisan, Doug is a familiar face to Democratic fundraisers and collaborates with the DCCC, DSCC and presidential campaigns. Beginning his career with the Multilateral Investment Guarantee Agency of the World Bank Group, Doug has worked in over 35 countries across Africa, Latin America and the Middle East.

Ed Royce, Policy Director

Ed Royce leverages his exceptional understanding of world trends and high-level relationships with global leaders to creatively solve problems, unlock value and expand market opportunities for clients domestically and internationally. He represented southern Californians in the U.S. House of Representatives for 26 years, chairing the House Foreign Affairs Committee from 2013-2019. Ed also served as a senior member of the House Financial Services Committee, where he led efforts to enact regulatory reforms impacting insurers, credit unions and housing finance.



As HFAC committee chair, Ed shepherded over 80 bills into law primarily focused on sanctions, trade, export controls and U.S. global investment. He was a dealmaker who worked with Democrats and Republicans of all views to advance good public policy. Ed led congressional delegations around the world and engaged directly with heads of state. He has an encyclopedic knowledge of the distinct culture, customs and traditions of sovereign nations, and deeply understands the multilateral, bilateral and internal pressures they face. Now, as chair of Brownstein's international practice, Ed represents clients before government officials and business leaders in South America, Africa, the Middle East and Asia.

Personally, Ed is active in promoting strong U.S. development and commercial engagement overseas. He serves on the National Advisory Council of the U.S. Global Leadership Coalition and on the Development Advisory Council of the Development Finance Corporation.

Senator Mark Begich, Strategic Consulting Advisor

Mark Begich brings a distinguished career in public service with decades of experience as an entrepreneur to provide strategic counsel that impacts business growth. Mark represented Alaska in the U.S. Senate from 2009 to 2015 after serving as mayor of Anchorage for six years. He was regarded by colleagues on Capitol Hill for his collegiality and solutions-oriented approach to governing. It is those qualities that built his vast bipartisan network, which spans from senior leaders in Congress to high-ranking officials in the Biden administration.



Now, Mark provides Brownstein clients with insight into what makes local, state and federal policymakers “tick,” and he develops messaging that tracks closely with policymakers’ thinking. Mark was a fierce advocate for the priorities of Alaskans during his time in office, and he knows how to balance competing interests in Washington, D.C. and in state capitals to build consensus on policy issues related to natural resources, energy, climate, trade, transportation, tourism, education, health care and housing. When clients find themselves at the center of unwanted attention, Mark devises strategies that neutralize crisis situations.

A business owner by age 14, Mark currently employs approximately 200 people from his ventures across the United States. His passion for entrepreneurship is evident to his clients; Mark enjoys learning about their technologies and brands so that he can best advise on how government can advance their growth.

Brian Wild, Policy Director

Brian Wild is a Republican advocate who served at the highest levels in Congress and the White House, including as a former senior advisor to now-Minority Leader of the House Kevin McCarthy (R-CA). During his time serving for House leadership under Speaker John Boehner (R-OH), Brian coordinated policy among all Republican offices, committee chairs and the private sector. Now, he identifies and secures champions for his clients across the Republican conference, from key members of the Freedom Caucus and the Problem Solvers Caucus to leadership offices in both the House and the Senate. He also builds consensus among third-party validators, including think tanks, advocacy groups, trade associations and corporations.



A self-described “staffer’s staffer,” Brian is known as a straight shooter who develops sensible solutions to business challenges. He is an invaluable ally to clients that wish to establish their reputation in Washington, D.C. and is a savvy funding strategist. Having worked closely with the Budget Committees during his time in Congress, Brian is deeply familiar with the legislative spending processes and connects the dots for clients, developing end-to-end strategies that deliver significant funding outcomes.

Prior to working with Speaker Boehner, Brian served in the White House as deputy assistant for legislative affairs to Vice President Dick Cheney. Earlier, Brian served as chief of staff to then-Rep. Pat Toomey (R-PA), worked with Sen. Hank Brown (R-CO) and spent five years at the U.S. Chamber of Commerce.

Zach Marshall, Policy Analyst

Zach Marshall works within the Government Relations Department to provide Brownstein's clients with insights related to foreign policy, national security, immigration and trade. He tracks and conducts in-depth research on legislative, executive and regulatory developments to analyze their impact on organizations spanning a wide range of industries as well as sovereign governments.

Before joining Brownstein, Zach served on the congressional affairs team at the Center for Strategic and International Studies, where he provided colleagues with insights on congressional developments and identified angles for their engagement on Capitol Hill. He also interned for the House Foreign Affairs Committee under Rep. Eliot Engel (D-NY) and has worked in field and fundraising roles on several local, state, and federal-level Democratic political campaigns.

