

**The Fairness of Congressional Earmarking
in American Democracy:**

A Comparison of the Distribution of
FY 2008 Funding (via Congressional Direction) versus
FY 2007 Funding (via Federal Agency Grants)

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THE IMPACT OF CONGRESSIONAL EARMARKING

Earmarks, critics say, are a waste of American tax dollars. Critics contend that congressionally-directed spending projects, or earmarks, are merely ways for Members of Congress to bring funding back to their districts for special “pet projects,” which only benefit a select few. Critics also contend that only those interests represented by a few powerful lawmakers actually benefit from the congressional earmark process.

The largest beneficiaries of the congressional earmark process are public agencies; local governments, colleges and universities, hospitals, public transit providers, public water agencies, and other accountable local bodies working in the public interest. Congressional earmarks are provided in areas subject to program guidelines established by federal agencies. Further, earmarking does not increase the federal spending obligation, but instead directs funds appropriated from established federal programs to areas of need as established by elected members of Congress working with local elected officials.

Proponents of eliminating earmarks argue that the Executive Branch is better suited than Congress to distribute federal dollars. When you examine how funding was distributed when federal agencies controlled the allocation of all spending, however, you will see a distribution of federal funding that failed to recognize that communities all across America face serious challenges needing federal support, and that funding was concentrated to only a few entities. This paper examines federal spending when determined by Congress contrasted with the Administration’s method of directing spending, which resulted in federal dollars going into the hands of only a few.

What is an earmark? Is it the federal government writing a check to fix a broken and congested road or to support a public health program? Is it the federal government writing a check to a private contractor to provide the Army equipment for our troops on the ground? The answer, in all cases, is yes. An earmark is language in a federal bill or committee report that provides funds to a non-federal entity outside of the normal formula-driven or competitive grant process.

All communities have needs, regardless of their size, economic vitality, or political standing. To meet these needs, the federal government provides funding through many different avenues, including congressional earmarks. In most cases earmarks serve a public need, as they fund local or state projects devoted to local infrastructure improvements, needed economic development initiatives, public safety enhancements, or environmental cleanup projects; projects that serve a public good. This funding alleviates local tax burdens by providing additional funding for local priorities. Additionally, congressional earmarks are awarded to local governments represented by both senior and junior Members of Congress in both parties, and nearly all congressional districts nationwide benefit through this process.

The most democratic way to distribute these federal dollars is to spread funding across to numerous, meritorious local government projects rather than to concentrate resources to a select few.

During recent months, countless politicians, voters, and political strategists hit the airways and demanded that Congress do away with congressional earmarks. Turns out, last year, they did.

In FY 2007 (October 31, 2006 – September 30, 2007) congressional earmarks were essentially eliminated. Perhaps it would seem that excluding earmarks would reduce the size of the federal government. Logic would have it that if Congress zeroed out funding for congressional earmarks, then federal spending would be reduced by the corresponding amount. In reality, FY 2007 funding levels (without earmarks) were the same as in FY 2006 (with earmarks). For FY 2008, Congress took back the Constitutional power of the purse and distributed federal dollars more evenly across the nation. So, if there were no earmarks in FY07, how was the previously earmarked federal funding spent?

Instead of Congress directing how these funds were to be allocated, spending decisions were left to the individual agencies. To assess how local governments fared when Congress opted not to provide funding for congressional earmarks, examine how many and to whom the federal agencies awarded their grants. Generally speaking, federal agencies awarded substantially fewer grants when compared to when Congress earmarked these funds. A few local governments did better; the vast majority did not.

When Congress directed project spending, funding assistance was more equitably distributed. Both long serving Senators and newly elected Members of Congress were able to bring federal dollars back to their districts to serve a public need. When these decisions were left in the hands of Administration aides, only a few communities received federal assistance. Overall, funding that was formally disseminated to local governments across the nation ended up in the hands of a few, large municipalities.

The table below details three popular congressional earmark programs that were turned into competitive federal grant programs when earmarks were eliminated in FY2007. It shows that the Administration drastically reduced the number of federal grants for public agencies and opted to provide funding to only a few. Concentrating funding to a select few is not the most democratic, most equitable way to distribute funding to communities in need.

<u>Agency</u>	<u>Grant Program</u>	<u>FY06 Recipients</u>	<u>FY07 Recipients</u>	<u>FY08 Recipients</u>
DOJ	COPS Technology	423 grants in 49 states	37 grants in 26 states	560 grants in 42 states
DOT	Bus and Bus Facilities	442 grants in 47 states	7 grants in 5 states	313 grants in 43 states
DOT	TCSP	93 grants in 36 states	7 grants in 6 states	102 grants in 35 states

COPS Law Enforcement Technology Grant Program

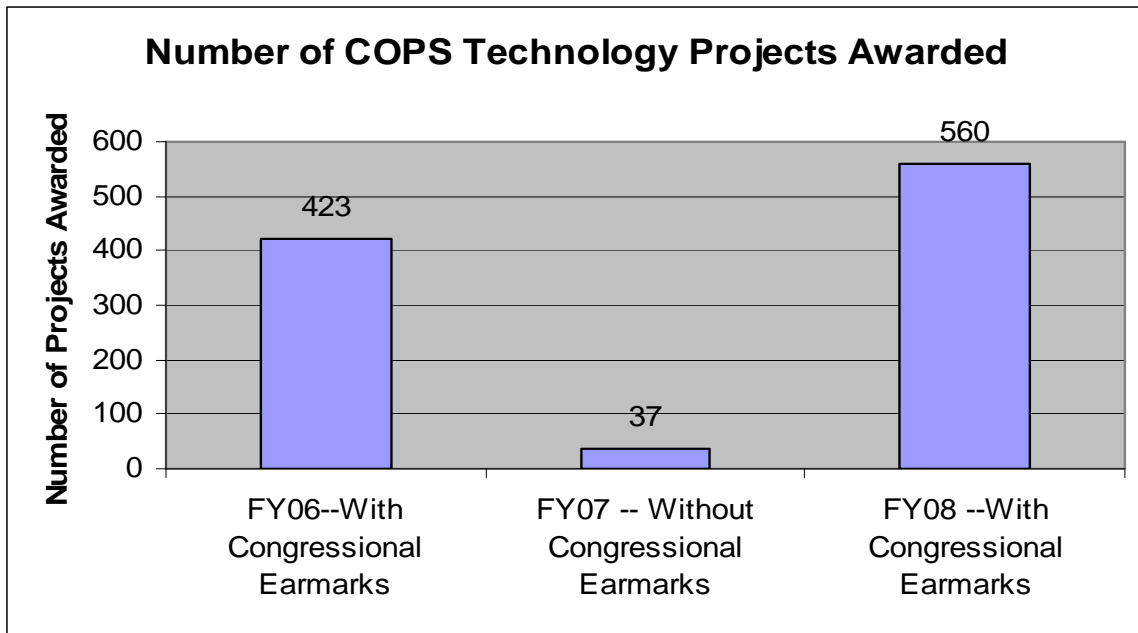
The Department of Justice’s Office of Community Oriented Policing Services (COPS) was established in 1994. The mission of the COPS office is to work with communities at the fundamental, local level to prevent crime. There are several federal funding sources available through the COPS office, one of which is the Law Enforcement Technology grant program.

The COPS Law Enforcement Technology program provides funding to local law enforcement agencies to purchase equipment that will improve their crime prevention capabilities. For example, communities use COPS Technology grants to purchase uniform equipment to enable multi-jurisdictional law enforcement agencies to communicate on the same frequency.

Public safety is a priority for every local government, nationwide. Local governments have the responsibility to make certain that their local police departments have the updated technology to

ensure the safety and security of local residents. Congress recognized that public safety is a concern to all communities, regardless of their size, by distributing FY 2008 Law Enforcement Technology grants to over 500 local law enforcement agencies nationwide. At least one local law enforcement agency in 42 out of 50 states received at least one COPS Technology grant in this year.

The methodology for awarding these grants, when left to the discretion of the Department of Justice alone, however, was not as equitable. In FY 2007, when earmarks were eliminated, the Department of Justice hosted a grant competition for this funding. To begin with, the Department pre-selected a list of law enforcement agencies who were even allowed to apply for funding. When the funding was allocated, the Department awarded only 37 grants to local law enforcement agencies in 25 states. Moreover, the police departments in the following states did not receive any COPS Law Enforcement Technology funding: Alabama, Arkansas, Colorado, Delaware, District of Columbia, Georgia, Hawaii, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New Hampshire, Pennsylvania, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wyoming.



In addition, the Administration's COPS award recipients did not correspond to crime rates. The Federal Bureau of Investigation's September 2007 crime statistics report are detailed in a report titled "City Crime Rankings: Crime in Metropolitan America." This report analyzed homicide, rape, robbery, aggravated assault, burglary, and auto theft rates for almost 400 U.S. cities. Of the 10 cities ranked as the most dangerous cities in the U.S., none received COPS Law Enforcement Technology grants. In addition, the top 10 most crime-ridden cities in America are located in eight different states, yet cities in only two of those states, California and Michigan, received a COPS Law Enforcement Technology grant.

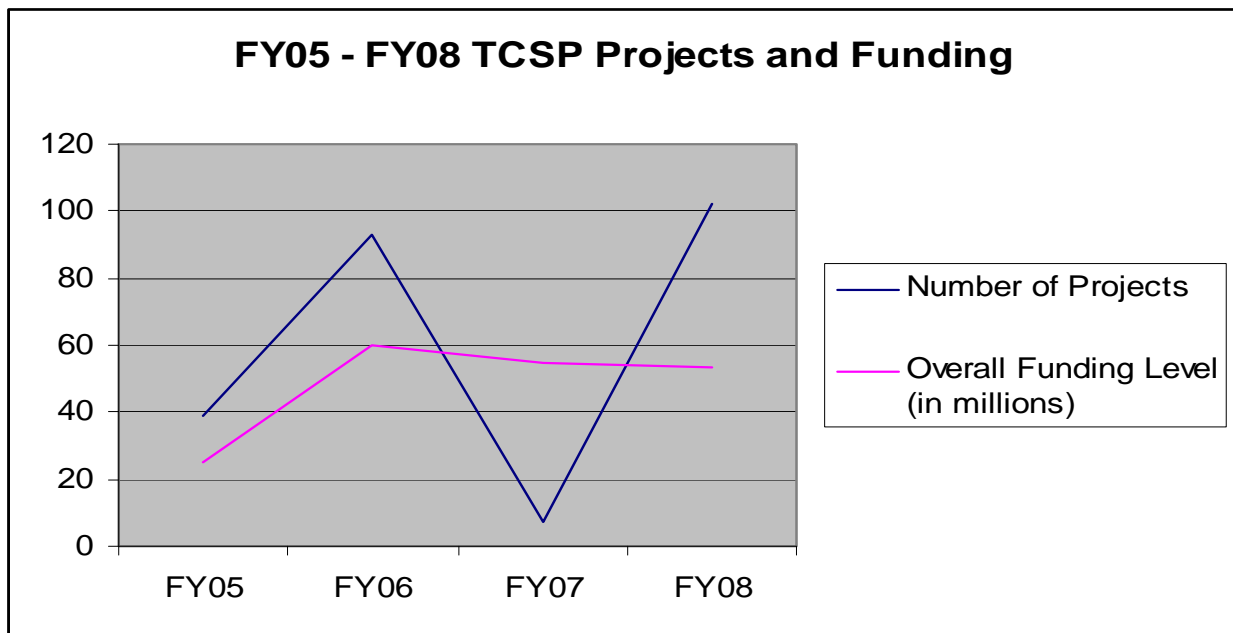
Law enforcement improvements and technology upgrades are a need nationwide and necessary to all localities, large or small. When federal funding is distributed fairly throughout the nation, it can leverage additional local and private sector resources. When the typical police department is shut out of the process, only the Justice Department's "top cops" receive any benefit.

Federal Highway Administration's Transportation Community & Systems Preservation

The Transportation, Community, and System Preservation Program (TCSP) provides Federal Highway Administration (FHWA) dollars to States, metropolitan planning organizations, local governments and tribal governments for a wide array of transportation improvement projects. The TCSP Program was established in 1999 by the Transportation Equity Act for the 21st Century (P.L. 105-178). Due to the popularity of the program, when Congress reauthorized TEA-21 in 2005, they also reauthorized funding for the TCSP program. Because of the flexibility of the use of TCSP dollars, local governments rely heavily on this funding for low cost transportation projects such as the construction of bicycle/pedestrian trails, streetscape improvements, and congestion mitigation.

Since the creation of the TCSP program, Congress has distributed funding to local governments through the congressional earmark process. In the peak of congressional TCSP projects in FY2002, Congress provided funding for over 200 projects in 47 states. In FY2008, Congress earmarked the program and funded 102 projects in 35 states.

When earmarks were eliminated in FY2007, the FHWA hosted a competitive grant program for TCSP funding. In the end, only seven (7) grants were awarded for projects in six (6) states. The chart below shows the overall funding levels of the TCSP program between FY05 – FY07 and the number of projects that were funded with these dollars.



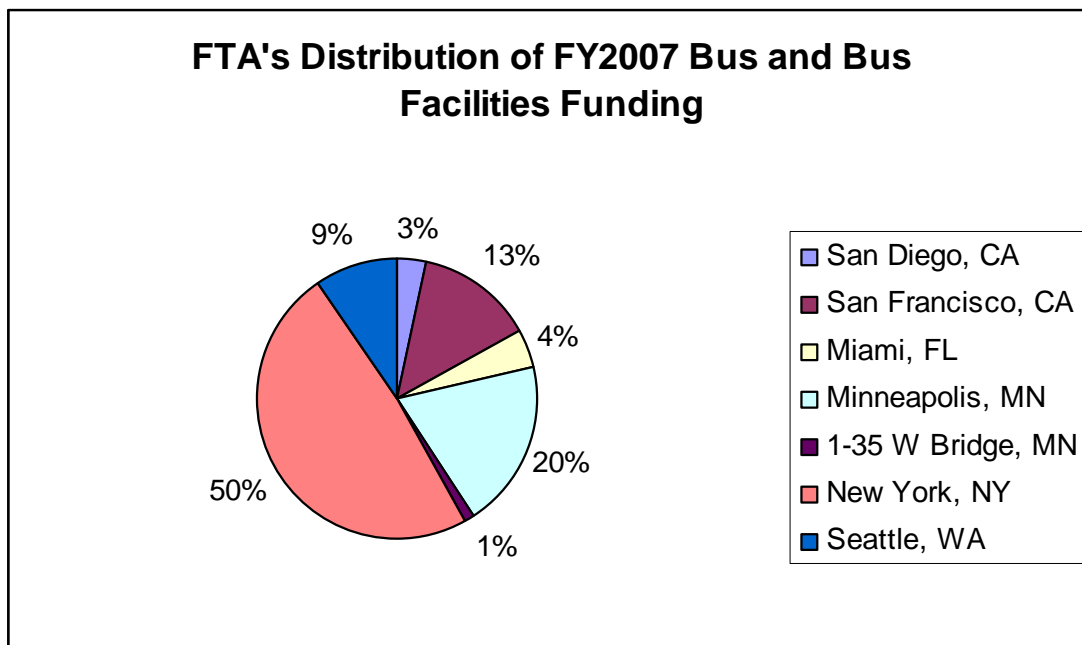
Communities across the nationwide are faced with increased traffic congestion and transportation needs. These local governments must address broken sidewalks, antiquated infrastructure, congested roads, and inadequate bicycle and pedestrian trails. More than seven communities in six states need federal transportation assistance.

Federal Transit Administration's Bus and Bus Facilities

The Federal Transit Bus and Bus Facilities program provides funding to public transit agencies to purchase new and replacement buses as well as bus-related equipment, and to make bus facility improvements. Congress typically earmarks all of the funding provided for this program.

This year, when funding decisions were made by Congress, 313 grants were awarded to transit providers in 43 states. In the absence of earmarks in FY2007, the FTA hosted a grant competition for this funding. When these allocation decisions were left in the hands of the FTA, the agency awarded only seven (7) grants in five (5) states.

Moreover, the FTA did not evenly distribute this funding. Half of the Bus and Bus Facilities grant program funding was awarded to New York City. The chart below compares the FTA's allocation of this funding.



The benefit of public transit is that it gets cars off our nation's roadways and Americans to work, thus reducing traffic congestion and air pollution. The Bus and Bus Facilities Grant program has been very beneficial, enabling local transit agencies across the country to improve transit service by giving them funds to help them expand their current fleets and install amenities at transit hubs, both of which help increase the number of individuals utilizing public transit.

According to the FTA, in the US, there are 556 public transit agencies serving urban areas (areas with over 50,000 people) and 1,215 organizations that provide public transportation to rural

areas. Our nation has over 1,771 public transit agencies, yet the FTA only awarded seven grants, half of which went to one city.

Moreover, FTA's awards did not correspond to those localities with the worst congestion. The Texas Transportation Institute surveys America's roadway congestion on an annual basis. Their most recent report found that the following cities are the top ten most congested areas of the country: Los Angeles, San Francisco-Oakland, Washington, DC, Atlanta, Dallas, Houston, Detroit, San Diego, San Jose, and Orlando. Only two of these cities, San Francisco and San Diego, were awarded an FTA Bus and Bus Facilities grant in FY07 when the Administration made decisions without congressional direction.

Conclusion

The fundamental conclusion that can be drawn from FY2007 spending, a non-earmark year, is that funding decisions were less democratic. Federal funding was more widely distributed across the nation to address critical local needs when spending decisions were left in the hands of Congress than compared to when those decisions were left to the Administration. When federal agencies distributed what were previously earmarked dollars, they drastically cut the number of grants awarded and allocated funding to only a few, select entities.

The founding fathers rightfully gave Congress the power of the purse in the United States Constitution. Indeed working with President George Washington, Congressman George Thatcher of Massachusetts created the first earmark in the 1st United States Congress—when Congress awarded \$1500 for the completion of the Portland Head lighthouse. They realized that the people in the best position to democratically represent local needs are those who were elected locally to do so. Most local governments do not have the clout to play the bureaucrat game in Washington and therefore need their elected representative to fight to bring federal dollars back to their congressional district. With Congress in charge of funding, there is a more level playing field in which more communities benefit.