

Response to Wall Street Journal Article

From: Director
To: All-Staff
Date: 3/26/2007 4:42 PM
Subject: Response to Wall Street Journal Article

I am sharing with you a letter I sent today to the editor of the Wall Street Journal responding to its March 26th article, "Earmark Coverup" (attached.)

The article is replete with mischaracterizations of CRS work and policies. It also contains accusations and insinuations of pressures on CRS to change the way it researches and analyzes appropriations earmarks. Such attacks on our independence cannot go unanswered. The author's erroneous charges not only go to the heart of CRS as an independent and authoritative source of research and analysis for Congress but also impugn the reputation of the agency and its staff for objective analysis on the most difficult and controversial issues facing Congress and the Nation.

As I said in my annual address, CRS has recently been subjected to much scrutiny because we have not shied away from analysis of controversial issues. I have responded to Members who have expressed concerns about a product or a particular piece of analysis, defending the authoritative and objective analyses produced by our staff, and I will continue to do so. Nothing is more important to us as an institution and to staff who apply their expertise and judgment in service to Congress than to preserve the Service's reputation for expert, objective and independent research and analysis.



March 26, 2007

Letters to the Editor
The Wall Street Journal
200 Liberty Avenue
New York, NY 10231
***Sent via e-mail to wsj.ltrs@wsj.com

Dear Editor:

I write to take strong issue with several points made in John Fund's March 26 article, "Earmark Cover-Up." The Congressional Research Service (CRS) is an agency established to support Congress with objective, nonpartisan and confidential analysis, and serves all Members and committees on topics of interest to them. Our current policy on questions regarding earmarks is fully consistent with this mandate.

I recently issued an internal policy governing CRS research on earmarks. It makes clear that the reason CRS will no longer identify individual earmarks is due to the recent changes made in legislation that establishes legislative standards for earmark reporting. Contrary to the article's assertion, CRS has never considered itself the "scorekeeper" for earmarks. To insert CRS into such a role now would, in effect, put an agency of Congress in the position of superseding the judgment of Congress itself.

CRS continues to do research on distribution of funds and specification of funding for entities. We also continue to provide research and analysis on funding issues, procedures, and measures generally; legislative options for spending decisions; and legal issues involving congressional spending.

One particularly erroneous conclusion of the article is that CRS has in some way been pressured to modify its earmark practices. This is categorically false. We developed the policy after internal consultation with CRS appropriations analysts who recognize the methodological difficulties in proceeding as we had in the past.

Mr. Fund gratuitously alludes to issues related to public access to CRS work. The restriction on publication of CRS work was established long ago by Congress. CRS internal policies regarding distribution of its products ensure compliance with congressional directives. We leave to Members and committees the discretion to share CRS products how and when they wish.

Mr. Fund also challenges the "independence" of CRS without any factual underpinning or explanation. CRS does not shy away from addressing controversial issues. Our analysis has, at times, engendered complaints from Members, but I assure you that we do not bow to political pressure, and have never done so.

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The independence of CRS, its authoritative analysis, and the objective non-partisan standards that it follows are principles that I as Director, with the full support of the Librarian of Congress, have made every effort to protect. Mr. Fund is in error when he insinuates otherwise.

Sincerely,

Daniel P. Mulhollan
Director

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JOHN FUND ON THE TRAIL

Earmark Cover-Up

The Congressional Research Service is helping its masters hide wasteful spending.

Monday, March 26, 2007 12:01 a.m.

Nothing highlighted Congress's spending problem in last year's election more than earmarks, the special projects like Alaska's "Bridge to Nowhere" that members drop into last-minute conference reports leaving no opportunity to debate or amend them. Voters opted for change in Congress, but on earmarks it looks as if they'll only be getting more smoke and mirrors.

Democrats promised reform and instituted "a moratorium" on all earmarks until the system was cleaned up. Now the appropriations committees are privately accepting pork-barrel requests again. But curiously, the scorekeeper on earmarks, the Library of Congress's Congressional Research Service (CRS)--a publicly funded, nonpartisan federal agency--has suddenly announced it will no longer respond to requests from members of Congress on the size, number or background of earmarks. "They claim it'll be transparent, but they're taking away the very data that lets us know what's really happening," says Oklahoma Sen. Tom Coburn. "I'm convinced the appropriations committees are flexing their muscles with CRS."

Indeed, the shift in CRS policy represents a dramatic break with its 12-year practice of supplying members with earmark data. "CRS will no longer identify earmarks for individual programs, activities, entities, or individuals," stated a private Feb. 22 directive from CRS Director Daniel Mulhollan.

When Sen. Coburn and Sen. Jim DeMint of South Carolina submitted earmark inquiries recently, they were both turned down. Each then had heated conversations with Mr. Mulhollan. The director, who declined to be interviewed for this article, explained that because the appropriations committees and the White House's Office of Management and Budget (OMB) were now preparing their own lists of earmarks, CRS should no longer play a role in the process. He also noted that both the House and Senate are preparing their own definitions of earmarks. "It is not appropriate for us to continue our research," his directive states.

That is sophistry. The House rule making earmarks public, which was passed in January, doesn't apply to earmarks for fiscal year 2007, the year Mr. Coburn wanted his report on. There is no Senate rule, and a proposed statute defining earmarks hasn't become law. OMB's list of earmarks applies only to fiscal year 2005.

And in any case, CRS works for Congress, so it is bizarre for it to claim work being done by the executive branch as a reason to deny members information it was happy to collect and release in the past. When I asked a CRS official if the new policy stemmed from complaints by appropriations committee members, she refused to answer the question, citing "confidentiality"

concerns.

But other CRS staffers are happy to talk privately about the political pressure members often exert, despite Mr. Mulhollan's new directive that all employees inform management within 24 hours of any contacts with the media. "The director operates out of fear members will get upset," says Dennis Roth, a CRS labor economist who is president of a union representing 250 CRS workers. "The groundhog doesn't want to see his shadow, so he stays in the dark hole so he won't."

"There is real anxiety members will complain if CRS says something is an earmark when the new appropriations committees say it isn't," says another CRS staffer. He notes CRS "caught hell" last year with its report finding that more than 95% of all earmarks in fiscal year 2006 bills weren't written into law and thus not legally binding.

The concern now is that free-spending appropriations committees will use the new CRS gag rule to define earmarks downward. "We need CRS to continue its reliable reporting so we can save the taxpayers money," says Sen. DeMint. Earmarks aren't chump change. CRS calculated they amounted to \$64 billion in 2006, and in the past they've often been given out as "sweeteners" to convince members to vote for mega-ticket bills.

Staffers tell me Mr. Mulhollan understands all this but isn't willing to take the heat from Capitol Hill. "It's not CRS's job to be the watchdog of Congress," Sen. DeMint says the director told him. But CRS is merely being asked to continue providing objective data. If it can't do that, why do taxpayers shell out \$100 million a year to employ its 700 researchers?

Indeed, taxpayers can't even access its many fine reports, which are closely held. Despite bipartisan efforts by Sens. John McCain and Pat Leahy to make its research public, CRS implausibly argues that release of its reports will somehow compromise the confidentiality of its contacts with Congress. Mr. Mulhollan has just issued another new directive demanding "prior approval should now be required" before any CRS reports "are distributed to members of the public."

But there is a way to get CRS reports--for a large fee. At a conference earlier this month, I observed Gallery Watch, a legislative tracking service, passing out sample CRS reports as if they were candy bars and boasting that for \$4,000 a year anyone can get complete access to them. "How I get them is my trade secret . . . but I get them all," Walt Seager of Gallery Watch told the Washington Post.

CRS's independence appears to have declined since Gilbert Gude, a former member of Congress from Maryland, departed as director in 1985. Mr. Mulhollan was appointed by the librarian of Congress, James H. Billington, in early 1994, before the Republican takeover of Congress. So far Mr. Billington hasn't spoken out on Mr. Mulhollan's new earmark policy.

Today squeeze plays on CRS are not uncommon, and they have come from both parties. In the 1990s, GOP House Majority Leader Dick Armey was so angry with a CRS report questioning the workability of a flat tax that he temporarily zeroed out the agency's budget. Rep. Henry Waxman, as a member of a Democratic minority, demanded and got revisions to CRS reports on how prescription drug pricing rules in his bills would work. "Everyone expects Waxman and others to be even more insistent on getting what they want now [that he's in the majority]," says another CRS staffer.



Despite claims they would bring reform, Congress's new bosses are acting like the old bosses. Last Friday, Arizona Rep. Jeff Flake sought clarification from House Appropriations Chairman David Obey about an incorrect listing of a NASA earmark in the Iraq supplemental bill. Rep. Obey responded: "The fact is, that an earmark is something that is requested by an individual member.

This item was not requested by any individual member. It was put in the bill by me!" In other words, Mr. Obey believes his own earmarks are nothing of the kind.

Sen. Coburn plans to fight back. He says he will attach an amendment to every appropriations bill demanding CRS prepare a full report on the earmarks in it. "Let senators vote for secrecy and prove they don't want a transparent process or let them deliver what they promised," he says. "The choice will be theirs and the American people will be watching."

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