



U.S. DEPARTMENT OF COMMERCE
Office of Inspector General



Office of the Secretary

***Review of Fiscal Year 2006
Congressional Earmarks***

FOR PUBLIC RELEASE

Final Audit Report No. DEN-19021/May 2008

Denver Regional Office of Audits





UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

May 30, 2008

MEMORANDUM FOR: Otto J. Wolff, Chief Financial Officer and
Assistant Secretary for Administration

A handwritten signature in black ink, appearing to read "Todd J. Zinser".

FROM: Todd J. Zinser
Inspector General

SUBJECT: Review of Fiscal Year 2006 Congressional Earmarks
Audit Report No. DEN-19021

We have attached the final report of our audit of fiscal year 2006 congressional earmarks within Department of Commerce programs, which we conducted in response to Senator Coburn's request. Specifically, Senator Coburn asked that we conduct an independent analysis of the cost, oversight, and impact of congressional earmarks on advancing the missions and goals of the Department. We discussed our audit approach for fiscal year 2006 earmarks with his staff.

We determined the total number and dollar amount of congressional earmarks within Commerce programs for fiscal year 2006, the oversight of earmarks in Commerce, and the effects of earmarks on Commerce's mission and goals.

We want to express our appreciation to the Commerce and bureau budget, grants and program officials we met with during the course of this work for their cooperation during this audit.

We are not making any recommendations in this report as the nature of this review was to conduct an independent analysis of the cost, oversight and impact of congressional earmarks for the most recent fiscal year. As a result, no audit action plan is required.

If I can answer any questions or you need further services, please contact me or Judith Gordon, acting assistant inspector general for audits, (202) 482-5643.

Attachment



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SUMMARY

In a letter dated August 23, 2006, Senator Tom Coburn-R, OK, then-Chairman of the Subcommittee on Federal Financial Management, Government Information, and International Security, requested the Office of Inspector General (OIG) of the Department of Commerce to conduct an analysis of the Department's congressional earmarks for FY 2006. Senator Coburn requested that we determine (1) the total number and cost, including the cost of the earmark itself and related costs such as staff time and administration, of congressional earmarks within the programs monitored by OIG; (2) what specific oversight is conducted on earmarks and how the oversight compares to that conducted on other expenditures such as grants and contracts, and (3) the overall impact of earmarks on advancing the primary mission and goals of the Department.

We considered a number of definitions for earmarks, as explained in our Objectives, Scope, and Methodology, Appendix II, page 9. The definition that most clearly identified congressional actions on the Department's budget came from the Commerce Budget Office, which identified three types of congressional budget actions it tracks: (1) funding added to programs in the President's budget; (2) funding for projects not in the President's budget; and (3) actions that limit the expenditure of funds in the President's budget. Based on this information, we identified 327 earmarks totaling \$798.8 million in FY 2006, or 9.6 percent of the total Commerce budget of \$8.3 billion in FY 2006. More than 90 percent of the number of earmarks in Commerce went to the National Oceanic and Atmospheric Administration (NOAA), which had 298 earmarks totaling \$594.5 million. Some \$638.6 million in FY 2006 earmarks (almost 80 percent) provided funding for projects not included in the President's budget. Out of that amount, \$459 million was for projects in NOAA (see page 1).

Our scope and objectives are further explained in Appendix II, including a discussion of issues surrounding the definition of earmarks. According to the Congressional Research Service memorandum dated March 6, 2006, there is no single definition of the term earmark, nor is there a standard earmarking practice across all appropriation bills. Consistent with the Commerce Budget Office definition, our audit did not include earmarks originating in the Executive Branch or include an analysis of those congressional earmarks for programs where the President's budget proposed funding below the congressionally authorized funding levels.

Commerce bureaus do not account for staff time and costs of administration for earmarks separately from other costs, and we could not determine those costs. Bureaus have a variety of practices for charging fees for grant administration for earmarks. NOAA line offices charge up to 5 percent of the earmark pursuant to the Department's budget reprogramming authority, which was capped at \$750,000 in FY 2006. NOAA officials stated that NOAA charged the fee only when it was necessary to compensate for the cost of grant oversight and administration; however, there is no separate accounting for the earmarked fees. ITA also charged for grant oversight and administration, usually between 1.5 to 3 percent of an earmark, totaling \$355,402 in FY 2006. NIST does not charge earmarks a fee for grant administration. Census, USPTO and the departmental management category do not have earmarked grants (see page 3).

The oversight of FY 2006 earmarked grants and contracts is the same as the oversight for non-earmarked grants and contracts (see page 3).

Commerce bureau officials we interviewed were in agreement that all of the FY 2006 earmarks were consistent with the Commerce mission and strategic goals. Our review of a nonstatistical sample of 32 earmarked grants from three Commerce bureaus (ITA, NIST and NOAA) found that all were consistent with the mission of the Department. For Commerce's strategic goals, the sampled ITA grants were consistent with the goal to provide information and tools to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers. The sampled NIST grants were consistent with the strategic goal to foster science and technological leadership by protecting intellectual property (IP), enhancing technical standards, and advancing measurement science. The sampled NOAA grants were consistent with the strategic goal to observe, protect, and manage the Earth's resources to promote environmental stewardship. As a result, based on our analysis all 32 grants were consistent with the mission and goals of Commerce (see page 5).

We did not make recommendations because the purpose of this review was to conduct an independent analysis of the cost, oversight, and impact of congressional earmarks for FY 2006, which was the most recent fiscal year with available information. However, we provided bureau officials with an opportunity to review the report and provide informal comments prior to its release. Bureau officials agreed with our report and we incorporated their suggestions into the report (see page 7).

FINDINGS

I. 327 Congressional Earmarks Total \$798.8 Million in FY 2006

In FY 2006, Commerce had a total of 327 earmarks totaling \$798.8 million. More than 90 percent of the number of earmarks in Commerce went to NOAA, which had 298 earmarks totaling \$594.5 million.

Some \$638.6 million in FY 2006 earmarks (almost 80 percent) provided funding for projects not included in the President's budget. Out of that amount, \$459 million was for projects in NOAA. NOAA officials told us that earmarks were commonly used for grants¹ to colleges and universities for research on the oceans and atmosphere. Within the National Institute of Standards and Technology (NIST), more than \$125 million of the \$139 million in funding was for construction grants for engineering or science projects at colleges, universities, and foundations.

Table 1. Analysis of Commerce Fiscal Year 2006 Earmarks

Bureau	Number of Earmarks	Funding Added to Programs in President's Budget (millions)	Funding for Projects not in President's Budget (millions)	Funding Limits for Programs in President's Budget (millions)	Total FY 2006 Earmarked Funding (millions)	Percent of FY 2006 Earmarked Funding by Bureau
NOAA	298	\$89.5	\$459.0	\$46.0	\$594.5	74.4
NIST	15	0.0	139.0	0.0	139.0	17.4
Departmental Management	4	0.0	40.6	0.0	40.6	5.1
ITA	6	0.0	0.0	20.0	20.0	2.5
USPTO	2	0.0	0.0	4.7	4.7	0.6
Census	2	0.0	0.0	0.0	0.0	0.0
Total	327	\$89.5	\$638.6	\$70.7	\$798.8	
Percent		11.2	79.9	8.9		100.0

Source: OIG Analysis of Department of Commerce Budget Office Data

Some earmarks added funding to amounts already requested by the President. In FY 2006, all such earmarks, totaling \$89.5 million, were in NOAA. NOAA officials provided an example of one such earmark, which was \$3 million for the OAR Marine Aquaculture Program. We were told that aquaculture was an administration priority and Congress had provided additional funds in recognition of the importance and magnitude of NOAA's aquaculture mission. These funds were provided to allow NOAA to expand its competitive aquaculture program.

¹ For purposes of this report, we refer to both grants and cooperative agreements as grants.

Finally, some Commerce earmarks provided no additional funding above the President’s request but placed limits on how funds within the President’s budget were to be spent. In FY 2006, such earmarks totaled \$70.7 million, or 8.9 percent of the total earmarked funding for Commerce. In ITA, \$20 million in earmarks were funded out of the amount requested by the President for that agency. Of the \$20 million, \$19 million was for grants to colleges, universities, and nongovernmental corporations for textile research, developing new technology, and improving international competitiveness. An additional \$1 million was for an export initiative to promote first-time exporters in rural areas using ITA’s own staff. In USPTO, two earmarks were required to be funded out of the amount requested for that agency. The two earmarks were for a \$3.7 million joint operating agreement with the National Inventors Hall of Fame Foundation, Inc. for the National Inventors Hall of Fame and Inventure Place and a \$1 million memorandum of understanding to the International Intellectual Property Institute. In 1973, USPTO co-founded the National Inventors Hall of Fame Foundation, which is a long standing earmark. Finally, the Census Bureau was required to fund two studies--one on prisoners’ permanent home of record before incarceration and a one-time report on 2005 domestic sock production--out of the amount requested by the President. The funding amounts available for each study, both of which were completed by Census staff, were not identified in either earmark and the cost was not tracked by Census.

Table 2. OIG Analysis of NOAA Fiscal Year 2006 Earmarks

NOAA Line Office	Number of Earmarks	Funding Added to Programs in President’s Budget (millions)	Funding for Projects not in President’s Budget (millions)	Funding Limits for Programs in President’s Budget (millions)	Total FY 2006 Earmarked Funding (millions)	Percent of FY 2006 Earmarked Funding by Line Office
National Ocean Service	115	\$20.8	\$205.7	\$0.0	\$226.5	38.1
National Marine Fisheries Service	84	15.5	93.9	38.2	147.6	24.8
Office of Marine and Aviation Operations	21	22.1	69.1	0.0	91.2	15.3
Oceanic and Atmospheric Research	47	8.3	59.7	7.3	75.3	12.7
National Environmental Satellite, Data and Information Service	15	22.6	16.8	0.0	39.4	6.6
National Weather Service	16	0.2	13.8	0.5	14.5	2.5
Total	298	\$89.5	\$459.0	\$46.0	\$594.5	
Percent		15.1	77.2	7.7		100.0

Source: OIG analysis of NOAA Budget Office data

While most of the earmarks in NOAA are for grants to support its science-based mission “to understand and predict changes in Earth’s environment and conserve and manage coastal and marine resources to meet our nation’s economic, social, and environmental needs,” NOAA officials noted that some earmarks fund mission-related work by NOAA’s own staff. NOAA’s mission supports one of Commerce’s three strategic goals (see page 4).

Commerce bureaus do not account for staff time and costs of administration for earmarks separately from other costs. Therefore, we could not determine those costs. Bureaus have a variety of practices for charging fees for grant administration for earmarks. NOAA line offices charge up to 5 percent of the earmark pursuant to the Department’s budget reprogramming authority, which was capped at \$750,000 in FY 2006. NOAA officials told us that NOAA charged the fee only when it was necessary to compensate for the cost of grant oversight and administration; however, there is no separate accounting for the earmarked fees. ITA also charged for grant oversight and administration, usually between 1.5 to 3 percent of an earmark, totaling \$355,402 in FY 2006. NIST does not charge earmarks a fee for grant administration. Census, USPTO and the departmental management category do not have earmarked grants.

II. Earmarked Projects Have the Same Oversight and Compliance Requirements as Other Projects

The oversight of FY 2006 earmarked grants and contracts is the same as oversight for non earmarked grants and contracts. More than 90 percent of the number and funding of FY 2006 earmarks are at NOAA, NIST and ITA. In our sample of 32 earmarked grants, 24 were to colleges, universities, educational foundations, and Indian tribes. The other 8 grants were to state and local governments and for-profit and nonprofit organizations. Unlike competitive discretionary programs,² earmarked grants are not submitted in response to a *Federal Register* announcement and bypass the competitive selection process of rating and ranking. Bureau officials stated with that exception, earmarked grants have to meet the usual Commerce requirements for non earmarked grants: an application is required, Commerce standard terms and conditions and OMB circulars apply, financial and performance reports, compliance with the *Code of Federal Regulations* and a line item budget are required, and some receive occasional agency oversight visits. We did not audit the effectiveness of the oversight process, but by having these requirements and requiring earmarked recipients to comply with them, bureau officials are positioned to monitor and oversee earmarked grants in the same manner as the non earmarked grants.

To test whether earmarked grants have these requirements, we conducted a nonstatistical sample of 32 ITA, NIST and NOAA earmarked grants from the 327 total earmarks and found all 32 earmarked grants required compliance with the following:

² U.S. Department of Commerce Office of Inspector General, September 2000, *Most Departmental Discretionary Funding Programs Are Competitive and Merit-Based, but Opportunities Exist to Further Improve the Awards Processes*, ATL-10835, Atlanta Regional Office.

- Department of Commerce *Financial Assistance Standard Terms and Conditions*, which includes financial and program reporting as well as property requirements and special award conditions
- OMB circulars, which outline the principles for determining applicable costs and audit requirements, including:
 - OMB Circular No. A-21, *Cost Principles for Educational Institutions*
 - OMB Circular No. A-87, *Cost Principles for State, Local and Indian Tribal Governments*
 - OMB Circular No. A-122, *Cost Principles for Non-Profit Organizations* and
 - OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*
- 15 CFR Part 14 (Code of Federal Regulations), *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations*, or 15 CFR Part 24, *Uniform Administrative Requirements for Grants and Agreements to State and Local Governments*

In addition, all 32 required a line item budget.

We also reviewed oversight of earmarks at departmental management, Census and USPTO. Neither departmental management nor Census required additional oversight since their earmarks did not transfer funds to outside organizations. The Census earmarks required a study conducted by Census staff and a report as part of Census usual operations. At USPTO, the joint operating agreement and the memorandum of understanding resulted in \$4.7 million transferred to two nongovernment organizations. USPTO officials said the earmarks were treated as contracts and followed the usual contract review oversight procedures including a four-person team consisting of an attorney, a budget analyst, a contract specialist, and a financial analyst.

III. Earmarked Projects are Consistent with Commerce Mission and Goals

We interviewed program and budget officials about the 327 earmarks and their relationship to the Commerce and bureau missions, strategic goals, and objectives. The Commerce mission and goals are very broad and provide a framework for nine bureaus with diverse missions in economic growth, science and technology, and environmental stewardship. The Commerce mission statement is:

*The Department of Commerce creates the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.*³

Commerce has three diverse strategic goals:

Goal 1: Provide the information and tools to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers.

³ U.S. Department of Commerce, *FY 2006 Performance & Accountability Report*, 2.

Goal 2: Foster science and technological leadership by protecting intellectual property (IP), enhancing technical standards, and advancing measurement science.

Goal 3: Observe, protect, and manage the Earth's resources to promote environmental stewardship.⁴

Commerce bureau officials we interviewed were in agreement that all of the FY 2006 earmarks were consistent with the Commerce mission and strategic goals. Our review of the nonstatistical sample of 32 earmarked grants found that all were consistent with the mission of the Department. With regard to Commerce's strategic goals, we found that ITA grants were consistent with the first strategic goal, the NIST grants were consistent with the second strategic goal, and the NOAA grants were consistent with the third strategic goal. As a result, based on our analysis all 32 grants were consistent with the mission and goals of Commerce.

Since more than 90 percent of the number of FY 2006 earmarks were in NOAA, we reviewed NOAA's mission and four major mission goals as described in its 5-year plan for FYs 2005-2009. The plan described the following four major mission goals:

- Ecosystems – Protect, restore, and manage use of coastal and ocean resources through ecosystem-based management
- Climate – Understand climate variability and change to enhance society's ability to plan and respond
- Weather and Water – Serve society's needs for weather and water information
- Commerce and Transportation – Support the nations' commerce with information for safe, efficient and environmentally sound transportation⁵

NOAA officials told us that when NOAA grants and contracts are awarded, the earmarked awards have been through the usual bureau review and/or the grants office or contract office review, including a legal review, to ensure they meet NOAA's major mission goals. They also told us that the process is the same for all awards, including earmarks.

To test the attention paid to the relationship between NOAA's earmarks and the agency's mission and goals, we reviewed a nonstatistical sample of 32 earmarked grants files⁶ from NOAA, NIST, and ITA. The sample included 13 earmarked grants from six NOAA line offices. We noted different documentation practices across the line offices in merit reviews of grants. The files we examined contained a written analysis indicating that the project had been reviewed in various categories by one or more people. Categories included the proposed project's technical and scientific merit and relevance to program goals.

The NIST earmarked grant files we reviewed also included technical reviews of earmarks before grant awards. The technical review included an assessment of the project's objectives, scope, and approach as well as a determination that the project's proposed budget and spending plan were reasonable. The technical reviews did not require citation of a specific Commerce or NIST

⁴ Ibid 10-11.

⁵ National Oceanic and Atmospheric Administration, January 2005. *Research in NOAA: Toward Understanding and Predicting Earth's Environment, A Five-Year Plan: Fiscal Years 2005 – 2009*, 7.

⁶ For a description of the nonstatistical sample, see Appendix II, 10.

strategic goal for the project. The NIST officials we interviewed believed that NIST earmarked grants were consistent with the agency's mission with one exception. They identified a FY 2006 earmark for an \$8 million downtown revitalization project as not being consistent with NIST's mission or goals. This earmark was included in the FY 2006 Appropriations Act.⁷ NIST officials cited the project as being more consistent with the mission and strategic goals of Commerce's Economic Development Administration.

At ITA, we reviewed grant documentation and interviewed officials. They stated that all earmarked projects were consistent with the agency's mission and goals. However, ITA officials noted that \$19 million for ITA grants reduced funding available to support ongoing ITA operations. They expressed the concern that each time a new grant is added from ITA's existing budget, the funding available for ITA staff and operations in support of other U.S. businesses is reduced.

⁷ Public Law 109-108 section 207

IV. Conclusion

In FY 2006, Commerce had a total of 327 earmarks totaling \$798.8 million. Commerce bureaus do not account for staff time and costs of administration for earmarks separately from other costs. Therefore, we could not determine the staff time or costs of administration for earmarks. Bureaus have a variety of practices for charging fees for grant administration for earmarks. NOAA line offices charged up to 5 percent of the earmark only when it was necessary to compensate for the cost of grant oversight and administration. ITA also charged for grant oversight and administration, usually between 1.5 to 3 percent of an earmark. NIST does not charge earmarks a fee for grant administration. Census, USPTO and the departmental management category do not have earmarked grants.

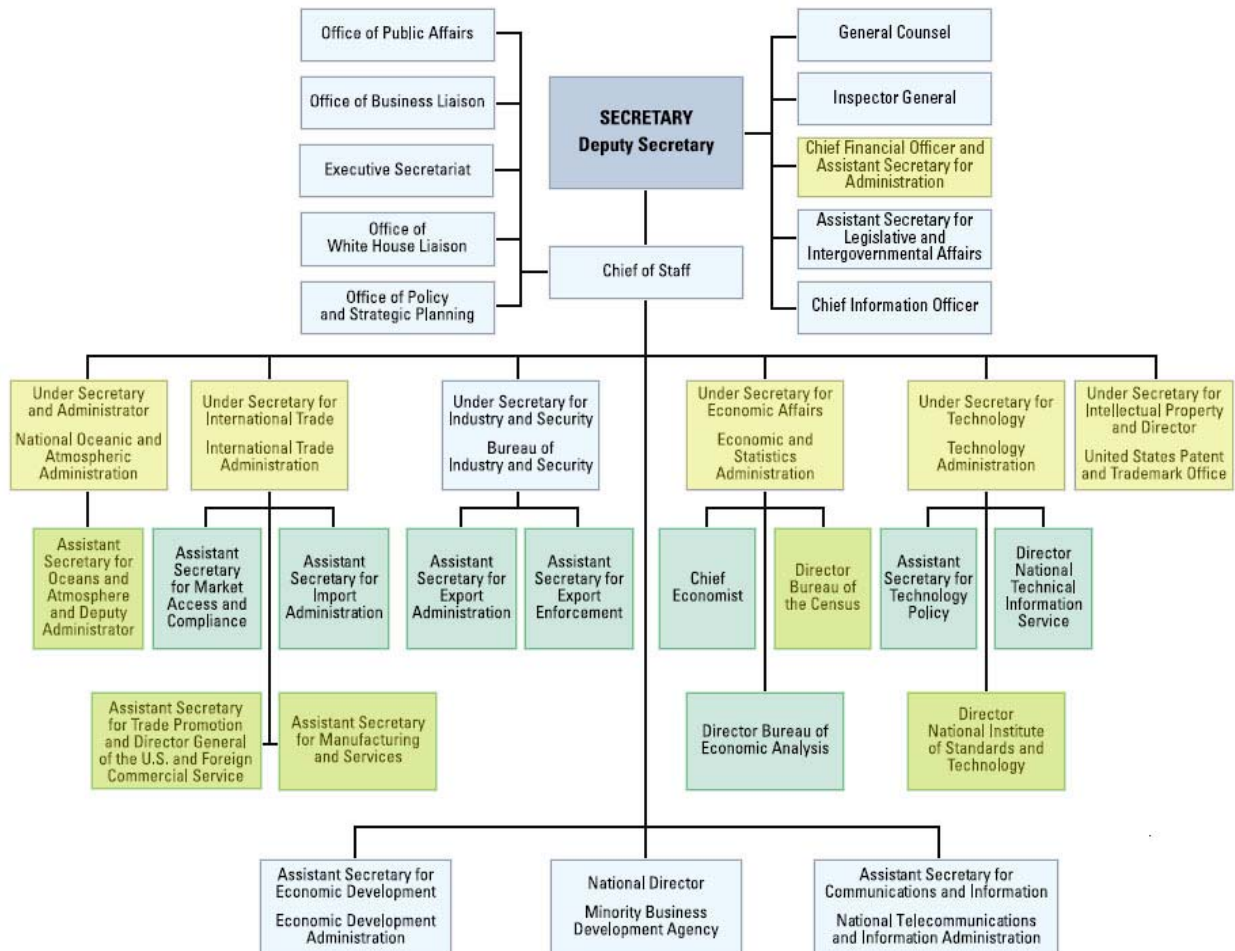
The oversight of FY 2006 earmarked grants and contracts is similar to oversight for non earmarked grants and contracts.

Commerce bureau officials we interviewed were in agreement that all of the FY 2006 earmarks were consistent with the Commerce mission and strategic goals. Our review of the nonstatistical sample of 32 earmarked grants found that all were consistent with the mission of the Department.

We did not make recommendations because the purpose of this review was to conduct an independent analysis of the cost, oversight, and impact of congressional earmarks for FY 2006, which was the most recent fiscal year with available information. However, we provided bureau officials with an opportunity to review the report and provide informal comments prior to its release. Bureau officials agreed with our report and we incorporated their suggestions into the report.

APPENDIX I

U.S. Department of Commerce Organization Chart*



Source: U.S. Department of Commerce, *FY 2006 Performance & Accountability Report*, 2

*Bureaus with earmarked funds in their FY 2006 budgets were highlighted in yellow by OIG.

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OBJECTIVES, SCOPE, AND METHODOLOGY

We audited Commerce's FY 2006 congressional earmarks, the most recent fiscal year for which we had available information. Based on the request we received, our objectives were to assess the total number and cost, oversight, and impact of congressional earmarks on the Commerce mission and goals. We did not audit individual earmarks, but reviewed the ways in which affected Commerce bureaus implemented FY 2006 congressional earmarks.

To determine how to structure our audit, we examined other reports on earmarked funds by offices of Inspector General at the Department of Transportation,⁸ the Environmental Protection Agency,⁹ and the National Aeronautics and Space Administration,¹⁰ as well as a report from the U.S. Government Accountability Office.¹¹

To determine a definition for earmarks and the number and cost of FY 2006 earmarks, we reviewed a number of sources including the *U.S. Department of Commerce FY 2006 Performance & Accountability Report (PAR)*,¹² which included the Commerce FY 2006 financial statements, and a Congressional Research Service memorandum of March 6, 2006, *Earmarks in FY 2006 Appropriations Acts*.¹³ Although we reviewed data on the number and dollar amount of earmarks in the *PAR*, we did not rely on the *PAR*'s definition of an earmark because the Department of Commerce *FY 2006 Performance & Accountability Report* uses a definition for earmarks from Statements of Federal Financial Accounting Standards 27, *Identifying and Reporting Earmarked Funds*. Earmarks are financed by specifically identified revenues, often supplemented by other financing sources, which remain available over time.¹⁴ The *PAR* used a Department budget of \$6.8 billion with \$1.6 billion identified as earmarks. The earmarks included \$1.487 billion for USPTO, \$63 million for two NOAA programs with \$34.6 million for the Coastal Zone Management Fund and \$28.5 million for the Damage Assessment and Restoration Revolving Fund, \$29 million for the National Technical Information Service, and \$45 million identified for all other earmarked funds.¹⁵

⁸ Department of Transportation Office of Inspector General, September 7, 2007, *Review of Congressional Earmarks within Department of Transportation Programs*, Report Number AV-2007-066, Washington, D.C.

⁹ Environmental Protection Agency Office of Inspector General, May 22, 2007, *Number of and Cost to Award and Manage EPA Earmark Grants, and the Grants' Impact on Agency's Mission*, Audit Report No. 2007-P-00024, Washington, D.C.

¹⁰ National Aeronautics and Space Administration Office of Inspector General, August 9, 2007, *Audit of NASA's Management and Funding of Fiscal Year 2006 Congressional Earmarks*, Report Number IG-07-028, Washington, D.C.

¹¹ U.S. Government Accountability Office, January 31, 2008, *CONGRESSIONAL DIRECTIVES: Selected Agencies' Processes for Responding to Funding Instructions*, Report Number GAO-08-209, Washington, D.C.

¹² U.S. Department of Commerce, November 15, 2006, *FY 2006 Performance & Accountability Report*, Washington, D.C.

¹³ Congressional Research Service memorandum, March 6, 2006, *Earmarks in FY 2006 Appropriations Acts*, Washington, D.C. CRS-1, CRS-31.

¹⁴ Department of Commerce, November 15, 2006, *FY 2006 Performance & Accountability Report*, Washington, D.C., 197.

¹⁵ *Ibid* 240.

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The March 6, 2006, Congressional Research Service memorandum states that there is no single definition of the term earmark, nor is there a standard earmarking practice across all appropriation bills.¹⁶ The memorandum did not distinguish between earmarks that originated in the Executive Branch or in Congress. The memorandum also did not address earmarks in other legislation, such as authorization, revenue, or supplemental appropriation bills. The memorandum cited 525 earmarks valued at \$5.5 billion for the Department of Commerce with 90 percent of the earmarks for NOAA.¹⁷ Since the memorandum did not distinguish between earmarks originating in the Executive Branch or in Congress, we did not rely on the memorandum's definition of an earmark to respond to Senator Coburn's request.

In addition, we examined data from the Commerce Office of Budget on the number and dollar amount of earmarks. The Commerce Budget Office definition of earmarks includes a variety of Congressional actions to increase spending for programs in the President's budget, add projects to the President's budget and designate spending within the President's budget. This definition includes funding passed through Commerce to a grantee or contractor as well as funding retained within Commerce, subject to specific Congressional guidance, such as \$34 million for the Commerce working capital fund. This definition does not include Executive Branch earmarks. We traced all earmarks for each Commerce bureau identified as having earmarks to FY 2006 congressional reports, including House, Senate, and conference reports, and the 2006 Appropriations Act.¹⁸ In addition, we consulted with the Commerce OIG Office of Counsel to determine if earmarks might have been included in authorization or other legislation in FY 2006. We identified 327 earmarks for FY 2006 from the Commerce Office of Budget data.

To determine Commerce and its bureaus' financial and programmatic oversight of earmarks and their impact on the Department's mission, strategic goals, and objectives, we interviewed officials in the Commerce Office of Budget and at bureaus that had identifiable earmarks. The bureaus with earmarks were Census, International Trade Administration, (ITA), National Institute of Standards and Technology (NIST), National Oceanic and Atmospheric Administration (NOAA), United States Patent and Trademark Office (USPTO), and the departmental management category. We have included an appendix showing the Commerce bureaus that received earmarks (see Appendix I).

¹⁶ Congressional Research Service memorandum, March 6, 2006, *Earmarks in FY 2006 Appropriations Acts*, Washington, D.C., CRS-1.

¹⁷ *Ibid.* CRS-31.

¹⁸ House Report 109-118, Senate Report 109-88, House Conference Report 109-272, and Public Law. 109-108, the Science, State, Justice, Commerce, and Related Agencies Appropriation Act of 2006.

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To determine earmarks' compliance with regulations and the internal controls over earmarks, we interviewed officials at NOAA, NIST, and ITA. In addition, we conducted a nonstatistical sample of 32 ITA, NIST, and NOAA earmarked grants representing 10 percent of the 327 earmarks totaling \$166 million or 20.8 percent of the \$798.8 million in total fiscal year 2006 earmarks for all Commerce bureaus. We selected ITA, NIST and NOAA earmarked grants for two reasons: (1) these three bureaus had more than 90 percent of the number and dollar value of earmarks for us to evaluate oversight of earmarks, and (2) these three bureaus each addressed one of three different Commerce strategic goals for us to assess the impact of earmarks. We also tested whether the nonstatistical sample of earmarked grants required compliance with Department of Commerce *Financial Assistance Standard Terms and Conditions*, line item budgets, OMB circulars, 15 CFR Part 14, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations* or 15 CFR Part 24, *Uniform Administrative Requirements for Grants and Agreements to State and Local Governments*. Because our sample was not statistical, we cannot extrapolate its results to all 327 earmarks. However, our sample does provide support for what bureau officials told us.

To the extent that we relied on computer-processed data supplied by the Commerce budget office and bureaus that received earmarked funds, we determined the validity and reliability of computer-processed data by direct tests of the data against supporting documentation. Based on our tests, we concluded that the computerized data was sufficiently reliable for use in meeting our objectives.

This audit was conducted under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated August 31, 2006. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our fieldwork from January to March 2008 at Department of Commerce headquarters in Washington, D.C. and at NOAA headquarters in Silver Spring, Maryland.

APPENDIX III

Prior Earmark Reports

During the last 2 years, Congressional Research Service (CRS), the Government Accountability Office (GAO), and the offices of Inspector General for the U. S. Department of Agriculture (USDA), the U.S. Department of Defense (DoD), the U.S. Environmental Protection Agency (EPA), the U. S. Department of Education (ED), National Aeronautics and Space Administration (NASA), and the U.S. Department of Transportation (DOT) issued reports discussing congressional earmarks.

- CRS** Memorandum, *Earmarks in FY2006 Appropriations Acts*, March 6, 2006.
- GAO** Report No. GAO-08-209, *CONGRESSIONAL DIRECTIVES: Selected Agencies' Processes for Responding to Funding Instructions*, January 31, 2008.
- USDA** Report No. 50601-15-Te, *Review of Fiscal Year 2005 Congressional Earmarks*, March 12, 2007.
- DoD** Report No. D-2008-073, *Report on the Cost, Oversight, and Impact of Congressional Earmarks*, March 31, 2008.
- EPA** Report No. 2007-P-00024, *Number of and Cost to Award and Manage EPA Earmark Grants, and the Grants' Impact on the Agency's Mission*, May 22, 2007.
- ED** Report No. ED-OIG/I13H0004, *Inspection of Active Congressional Earmarks in Fiscal Year 2005*, September 25, 2007.
- NASA** Report No. IG-07-028, *Audit of NASA's Management and Funding of Fiscal Year 2006 Congressional Earmarks*, August 9, 2007.
- DOT** Report No. AV-2007-066, *Review of Congressional Earmarks within Department of Transportation Programs*, September 7, 2007.