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## GENERAL MEMORANDUM 11-017

### Earmark Ban Approved by House and Senate; House Proposes FY 2011 Continuing Resolution Cuts

In this Memorandum we report on Congress's decision to ban congressional earmarks – funding directed by Congress to specific projects – and on the status of funding for the remaining portion of Fiscal Year (FY) 2011.

***Congressional Earmarks.*** The House and Senate have each agreed to a ban on earmarks for the 112<sup>th</sup> Congress (2011-2012). Senate Appropriations Chair Inouye, along with other Senators, had opposed a ban on appropriations earmarks. However, the combination of the House leadership decision to not bring any bill to the floor that has earmarks and the statement made by President Obama that he would not sign a bill that contained earmarks, has led Senator Inouye to agree to a two-year moratorium on earmarks. The House and Senate definitions of "congressional earmark" are the same:

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.

We note that the definition of congressional earmark does not include specific requests that are part of the President's proposed budget.

Due to the earmark ban, some, but not all, House and Senate offices have declined to ask that constituent organizations fill out funding request forms for FY 2012. In other cases House and Senate members are requesting that constituents fill out forms that are not as comprehensive as those used in past years or are simply asking for letters listing funding priorities. The purposes of the funding request forms and letters are to make Members aware of their constituent needs and to perhaps set the stage for funding via a federal agency or in the future via the appropriations process. Please check with your congressional delegation regarding their preferences on this matter.

***FY 2011 Continuing Resolution.*** Most federal programs are currently operating under a Continuing Resolution (CR) at their pro-rata FY 2010 funding level. The CR expires March 4, 2011. On February 3, House Budget Chairman Paul Ryan (R-WI), pursuant to authority granted to him in the House rules, set a funding cap for non-security discretionary

domestic spending for the remaining seven months of FY 2011 at the FY 2008 level. House Appropriations Chairman Hal Rogers (R-KY) then allocated *that* amount among the Appropriations subcommittees. Exempt from the FY 2011 funding reductions are defense, homeland security, veterans and military construction programs.

The amount allocated for the remaining portion of FY 2011 is \$58 billion below the amount proposed by president Obama for FY 2011 non-security programs and is \$44 billion less than the FY 2010 levels. Security spending would be increased by \$8 billion above FY 2010 levels. The allocation for the Interior, Environment and Related Agencies budget is eight percent below the FY 2010 enacted amount and nine percent below the President's request for FY 2011. Enactment of the House proposal, which concentrates funding reductions in the remaining months of the fiscal year, would present an enormous challenge for federal agencies and cause serious disruption for tribal and federal programs.

**Schedule.** The more conservative members of the House have advocated for a \$100 billion reduction (more than twice the amount recommended by Chairman Ryan) for the remaining FY 2011 portion of non-security discretionary domestic spending. It is expected that Chairman Rogers will release a CR bill next week that reflects the new subcommittee allocations, with a vote occurring the week of February 14 (the same time as the President sends his FY 2012 appropriations recommendations to Congress). Members will be able to offer floor amendments to the bill and we expect proposals that would, if approved, further reduce the subcommittee allocations. We attach a chart with the House Appropriations subcommittee allocations.

**Senate.** Senate action on the CR will occur after the House has acted. While we expect opposition from the Senate on the House CR proposal, the consequences of not reaching an agreement would be a government shutdown.

Several bills have been introduced in the Senate to address spending and deficit issues. Of note is legislation (S 245) by Senators Bob Corker (R-TN) and Claire McCaskill (D-MO) which would limit spending, both mandatory and discretionary, to a particular percentage of the Gross Domestic Product (GDP). Spending would be reduced from its current level of over 24 percent of GDP to 20.6 percent of GDP over a ten-year period. An emergency provision would allow spending limits to be overridden by two-thirds vote of the House and Senate.

Senator Paul Rand (R-KY) has introduced S 162, the Cut Federal Spending Act of 2011. The bill proposes to reduce the FY 2011 budget by \$500 billion, including eliminating all funding for the Bureau of Indian Affairs, the Department of Education (except for Pell Grants) and a reduction of \$650 million for the Indian Health Service. We do not expect the bill to receive serious consideration, but it illustrates the spectrum of proposals.

Please let us know if we may provide additional information or assistance regarding appropriations matters.

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Inquires may be directed to:

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**The following table outlines the spending limits and cuts announced by Chairman Rogers for each Appropriations Subcommittee for the CR:**

<b>Fiscal Year 2011 Allocation Table</b>									
Regular Discretionary only									
(Budget authority; in millions)									
<b>Fiscal Year 2011</b>									
	FY 2010	Presidents	Appropriations	Appropriations 302(b)s less:					
	Enacted	Request <sup>1</sup>	302(b)s	2010	Request	2010	Request	2010	Request
<b><u>Non-Defense/Non-Security</u></b>									
Agriculture, Rural Development, FDA.....	23,304	23,129	20,065	-3,239	-3,064	-14%	-13%		
Commerce, Justice, Science.....	64,315	60,539	54,115	-10,200	-6,424	-16%	-11%		
Energy and Water Development.....	33,465	35,344	29,984	-3,481	-5,360	-10%	-15%		
Financial Services and General Government...	24,186	25,253	21,151	-3,035	-4,102	-13%	-16%		
Interior, Environment.....	32,240	32,377	29,596	-2,644	-2,781	-8%	-9%		
Labor, Health and Human Services, Education	163,585	170,611	157,020	-6,565	-13,591	-4%	-8%		
Legislative Branch.....	4,656	5,134	4,562	-94	-572	-2%	-11%		
State, Foreign Operations.....	48,764	56,646	46,953	-1,811	-9,693	-4%	-17%		
Transportation, HUD.....	67,900	68,738	56,325	-11,575	-12,413	-17%	-18%		
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Domestic and International Spending, Subt	462,415	477,771	419,771	-42,644	-58,000	-9%	-12%		
<b><u>Defense, Security and Veterans Spending</u></b>									
Defense.....	508,122	530,941	517,714	9,592	-13,227	2%	-2%		
Homeland Security.....	42,534	43,636	42,517	-17	-1,119	0%	-3%		
Military Construction, Veterans Affairs.....	76,600	75,997	74,682	-1,918	-1,315	-3%	-2%		
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Security Spending, Subtotal.....	627,256	650,574	634,913	7,657	-15,661	1%	-2%		
<b>Total, Regular Discretionary.....</b>	<b>1,089,671</b>	<b>1,128,345</b>	<b>1,054,684</b>	<b>-34,987</b>	<b>-73,661</b>	<b>-3%</b>	<b>-7%</b>		

<sup>1</sup>The President's request for FY 2011 is adjusted to include baseline funding for Pell Grants. The Budget proposed this funding be shifted to mandatory spending.

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