

# SURFACE TRANSPORTATION AUTHORIZATION EARMARKS

Surface transportation authorization bills, which are taken up by Congress every six years, contain substantial amounts of funding earmarked to specific transportation projects. These earmarks are subject to a number of requirements.

## **FEDERAL REQUIREMENTS**

Any project funded through federal highway funds, including earmarks, must comply with a number of federal laws and requirements. For example, the Davis-Bacon Act addresses labor and wage determinations on federally funded projects, while the National Environmental Policy Act (NEPA), Endangered Species Act, Clean Water Act, National Historic Preservation Act, and Section 4(f) of the Department of Transportation Act impose requirements for protecting the natural and human environment. These requirements can sometimes add to a project's cost and require additional time to complete.

## **EARMARK ADMINISTRATION**

All federal highway earmark funds flow through ODOT, and ODOT is responsible for administering earmark funds. While local governments that secure an earmark are responsible for delivering the project in accordance with federal requirements, ODOT is responsible for overseeing projects and guides local governments through the process of using federal funds to ensure that they develop and construct a sound project that meets all federal requirements. Local governments must sign a project agreement with ODOT before they can spend money on a project. Earmarks can be transferred to other federal agencies, which then assume responsibility for administering them. However, transferred projects must still follow federal highway requirements.

## **AVAILABILITY OF FUNDS**

In SAFETEA-LU, the last surface transportation authorization legislation, funding for projects earmarked in the High Priority Projects program came available over a five year period in 20 percent increments each year. All funds are available until expended on the project. Project sponsors must spend their own money up front and are then reimbursed by the federal government.

## **FUNDING LEVELS**

All earmarks are subject to congressional rescissions in annual appropriations bills as well as to the obligation limitation that is set for federal highway funds each fiscal year. For the first four years of SAFETEA-LU, the obligation limitation rate has ranged from 84.67 to 91.85 percent, so each year projects receive this percentage of their annual increment of funding; the average over the first four years of SAFETEA-LU is just 88.27 percent. For example, a \$5 million earmark would be allocated \$1 million in FY 2005, when the obligation rate was 84.67 percent, but only \$846,700 would be available that year after factoring in the obligation limitation.

## **MATCH REQUIREMENT**

In SAFETEA-LU, Oregon projects earmarked in the High Priority Projects and Transportation Improvements programs required a minimum of 10.27% of the total project cost to come from a state or local match. As a result, the project sponsor must supply an amount equal to approximately 11.45% of the amount available after factoring in the obligation limitation. On State projects, ODOT supplies the match; local project sponsors are responsible for providing matching funds on projects they request.