

Paul D. Coburn
S.L.C.

AMENDMENT NO.

Calendar No.

Purpose: To prohibit funding for no-bid earmarks.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

H. R. 2638

AMENDMENT No. 2442

Maki	By	<u>Coburn</u>	d Se-
			2008,
	To:	<u></u>	
		<u>HR 2638</u>	
Ref:		<u>4</u>	and
		Page(s)	

GPO: 2006 30-772 (Mac)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COBURN, **FOR HIMSELF AND MR. DEMINT**

Viz:

- 1 At the appropriate place, insert the following:
- 2 SEC. . (a)(1)(A) None of the funds appropriated
- 3 or otherwise made available by this Act may be used to
- 4 make any payment in connection with a contract awarded
- 5 through a congressional initiative unless the contract is
- 6 awarded using competitive procedures in accordance with
- 7 the requirements of section 303 of the Federal Property
- 8 and Administrative Services Act of 1949 (41 U.S.C. 253),
- 9 section 2304 of title 10, United States Code, and the Fed-
- 10 eral Acquisition Regulation.

1 (B) Except as provided in paragraph (3), none of the
2 funds appropriated or otherwise made available by this
3 Act may be used to make any payment in connection with
4 a contract awarded through a congressional initiative un-
5 less more than one bid is received for such contract.

6 (2) Notwithstanding any other provision of this Act,
7 none of the funds appropriated or otherwise made avail-
8 able by this Act may be awarded by grant or cooperative
9 agreement through a congressional initiative unless the
10 process used to award such grant or cooperative agree-
11 ment uses competitive procedures to select the grantee or
12 award recipient. Except as provided in paragraph (3), no
13 such grant may be awarded unless applications for such
14 grant or cooperative agreement are received from two or
15 more applicants that are not from the same organization
16 and do not share any financial, fiduciary, or other organi-
17 zational relationship.

18 (3)(A) If the Secretary of Homeland Security does
19 not receive more than one bid for a contract under para-
20 graph (1)(B) or does not receive more than one applica-
21 tion from unaffiliated applicants for a grant or cooperative
22 agreement under paragraph (2), the Secretary may waive
23 such bid or application requirement if the Secretary deter-
24 mines that the contract, grant, or cooperative agreement

1 is essential to the mission of the Department of Homeland
2 Security.

3 (b)(1) Not later than December 31, 2008, the Sec-
4 retary of Homeland Security shall submit to Congress a
5 report on congressional initiatives for which amounts were
6 appropriated during fiscal year 2008.

7 (2) The report submitted under paragraph (1) shall
8 include with respect to each contract and grant awarded
9 through a congressional initiative—

10 (A) the name of the recipient of the funds
11 awarded through such contract or grant;

12 (B) the reason or reasons such recipient was se-
13 lected for such contract or grant; and

14 (C) the number of entities that competed for
15 such contract or grant.

16 (3) The report submitted under paragraph (1) shall
17 be made publicly available through the Internet website
18 of the Department of Homeland Security.

19 (c) In this section:

20 (1) The term “congressional initiative” means a
21 provision of law or a directive contained within a
22 committee report or joint statement of managers of
23 an appropriations Act that specifies—

24 (A) the identity of a person or entity se-
25 lected to carry out a project, including a de-

1 fense system, for which funds are appropriated
2 or otherwise made available by that provision of
3 law or directive and that was not requested by
4 the President in a budget submitted to Con-
5 gress; and

6 (B) the amount of the funds appropriated
7 or otherwise made available for such project.

8 (2) The term “executive agency” has the mean-
9 ing given such term in section 4 of the Office of
10 Federal Procurement Policy Act (41 U.S.C. 403).