

Table of Contents

1. Defense Travel System (DTS) – #4373
2. DOD Travel Payments Improper Payment Measure – #4372
3. Follow up Amendment
4. DOD Earmarks Cost and Grading Amendment – #4370
5. Limitation on DoD Contract Performance Bonuses – #4371

1. Amendment # 4373 – No Federal funds for the future development and operation of the Defense Travel System

Background

The Defense Travel System (DTS) is an end-to-end electronic travel system intended to integrate all travel functions, from authorization through ticket purchase to accounting for the Department of Defense. The system was initiated in 1998 and it was supposed to be fully deployed by 2002. DTS is currently in the final phase of a six-year contract that expires September 30, 2006. In its entire history, the system has never met a deadline, never stayed within cost estimates, and never performed adequately.

To date, DTS has cost the taxpayers \$474 million – more than \$200 million more than it was originally projected to cost. It is still not fully deployed. It is grossly underutilized. And tests have repeatedly shown that it does not consistently find the lowest applicable airfare – so even where it is deployed and used, it does not really achieve the savings proposed.

This amendment prohibits continued funding of DTS and instead requires DOD to shift to a fixed price per transaction e-travel system used by government agencies in the civilian sector, as set up under General Services Administration (GSA) contracts.

Quotes of Senators from last year's debate

- Senator Allen stated during the debate last year that “as a practical matter we would like to have another year or so to see (DTS) fully implemented.”
- Senator Coleman stated during the debate, “... if we cannot get the right answers we should pull the plug, but now is not the time to pull the plug. We do oversight for a reason. We are in the process of oversight. Let us get answers to the questions, but clearly then we want to have the right kind of system...Let us finish our investigative work. Let us get the answers, and then we can bring this issue up at another time.” (There hasn't been another Permanent Subcommittee on Investigations hearing held on this subject and the work of the committee has been focused elsewhere).

- Senator Levin, during the same debate, also expressed the need to allow DTS another year and avoid what he termed “going back to ground zero.”

DTS Language in Committee Report on Defense Authorization bill

(P.301 of the Senate Armed Services Committee Report on FY2007 National Defense Authorization Act)

Defense Travel System

Over the last 10 years, the Government Accountability Office (GAO) and the Department of Defense Inspector General's office have documented serious problems with existing Defense travel systems. The Department responded to these concerns by working to develop a new travel system, known as the Defense Travel System (DTS), which would process all Defense travel requests.

The committee is aware that DTS has experienced serious problems. **More than seven years after the initial DTS contract was awarded, the system still is not fully functional.**

Nonetheless, the committee continues to support investment in the travel reengineering effort. **In this regard, the committee is encouraged by the fundamental restructuring of the DTS contract, which took place in 2004.** The Department has indicated that this restructuring should address many of the problems identified by GAO and the Department Inspector General.

Moreover, the committee remains convinced that the Department's travel problems must be addressed on a comprehensive basis. As a GAO witness explained at a hearing before the Homeland Security and Governmental Affairs Committee last year:

One of DOD's long-standing problems has been the lack of integrated systems. To address this issue and minimize the manual entry of data, interfaces between existing systems must be developed to provide the exchange of data that is critical for day-to-day operations. For example, DTS needs to know before permitting the authorization of travel that sufficient funds are available to pay for the travel--information that comes from a non-DTS system--and once the travel has been authorized, another system needs to know this information so that it can record an obligation and provide management and other systems with information on the funds that remain available.

At the present time, DTS remains the only integrated approach to these issues available to the Department.

However, DTS will not be able to maximize savings unless it is utilized on a more extensive basis throughout the Department. It is not helpful for the Department to develop a comprehensive and money-saving solution to its travel problems if this system is not used by Defense officials at sites where it has been deployed.

Accordingly, the committee directs the Department to provide a semi-annual report on DTS to the congressional defense committees for the next 2 years, beginning in 2007. Each report should address: (1) the number of defense installations at which DTS has been deployed; (2) the extent of usage of DTS at such sites; (3) steps taken or to be taken by the Department to increase such usage; (4) the savings resulting from such deployment and usage; and (5) any continuing problems in the implementation and usage of DTS.

Background

The Defense Travel System (DTS) is an end-to-end electronic travel system intended to integrate all travel functions, from authorization through ticket purchase to accounting for the Department of Defense. The system was initiated in 1998 and it was supposed to be fully deployed by 2002. DTS is currently in the final phase of a six-year contract that expires September 30, 2006. In its entire history, the system has never met a deadline, never stayed within cost estimates, and never performed adequately.

To date, DTS has cost the taxpayers \$474 million – more than \$200 million more than it was originally projected to cost. It is still not fully deployed. It is grossly underutilized. And tests have repeatedly shown that it does not consistently find the lowest applicable airfare – so even where it is deployed and used, it does not really achieve the savings proposed.

This amendment prohibits continued funding of DTS and instead shifting to the fixed price per transaction e-travel systems used by government agencies in the civilian sector, as set up under General Services Administration (GSA) contracts.

Northrop Grumman's e-travel system has been in use at the Department of Transportation for six months. Northrop also has GSA e-travel contracts with the Environmental Protection Agency, Department of Energy, and the Department of Health and Human Services and it is likely that it will reach early full deployment in each of these.

Quotes of Senators from last year's debate

- Senator Allen stated during the debate last year that “as a practical matter we would like to have another year or so to see (DTS) fully implemented.”
- Senator Coleman stated during the debate, “... if we cannot get the right answers we should pull the plug, but now is not the time to pull the plug. We do oversight for a reason. We are in the process of oversight. Let us get answers to the questions, but clearly then we want to have the right kind of system...Let us finish our investigative work. Let us get the answers, and then we can bring this issue up at another time.” (There hasn't been another Permanent Subcommittee on Investigations hearing held on this subject and the work of the committee has been focused elsewhere).
- Senator Levin, during the same debate, also expressed the need to allow DTS another year and avoid what he termed “going back to ground zero.”

DTS Language in Committee Report on Defense Authorization bill

(P.301 of the Senate Armed Services Committee Report on FY2007 National Defense Authorization Act)

Defense Travel System

Over the last 10 years, the Government Accountability Office (GAO) and the Department of Defense Inspector General's office have documented serious problems with existing Defense travel systems. The Department responded to these concerns by working to develop a new travel system, known as the Defense Travel System (DTS), which would process all Defense travel requests.

The committee is aware that DTS has experienced serious problems. **More than seven years after the initial DTS contract was awarded, the system still is not fully functional.**

Nonetheless, the committee continues to support investment in the travel reengineering effort. **In this regard, the committee is encouraged by the fundamental restructuring of the DTS contract, which took place in 2004.** The Department has indicated that this restructuring should address many of the problems identified by GAO and the Department Inspector General.

Moreover, the committee remains convinced that the Department's travel problems must be addressed on a comprehensive basis. As a GAO witness explained at a hearing before the Homeland Security and Governmental Affairs Committee last year:

One of DOD's long-standing problems has been the lack of integrated systems. To address this issue and minimize the manual entry of data, interfaces between existing systems must be developed to provide the exchange of data that is critical for day-to-day operations. For example, DTS needs to know before permitting the authorization of travel that sufficient funds are available to pay for the travel--information that comes from a non-DTS system--and once the travel has been authorized, another system needs to know this information so that it can record an obligation and provide management and other systems with information on the funds that remain available.

At the present time, DTS remains the only integrated approach to these issues available to the Department.

However, DTS will not be able to maximize savings unless it is utilized on a more extensive basis throughout the Department. It is not helpful for the Department to develop a comprehensive and money-saving solution to its travel problems if this system is not used by Defense officials at sites where it has been deployed.

Accordingly, the committee directs the Department to provide a semi-annual report on DTS to the congressional defense committees for the next 2 years, beginning in 2007. Each report should address: (1) the number of defense installations at which DTS has been deployed; (2) the extent of usage of DTS at such sites; (3) steps taken or to be taken by the Department to increase such usage; (4) the savings resulting from such deployment and usage; and (5) any continuing problems in the implementation and usage of DTS.

Rebuttal of Report Language

- The report language aims to address flaws in DTS by requiring a semi-annual report to the Congressional defense committees for the next 2 years. However, these reports do not address the systemic flaws within DTS that has caused it not to work.
- The report language correctly notes that, “more than seven years after the initial DTS contract was awarded, the system still is not fully functional.”
- The semi-annual reports requirement that commanding officers be charged with encouraging the utilization of DTS is positive and could very well work. At Ellsworth Air Force Base, due to commanding

officer interest, the utilization rate is 80%. However, by standing order all military personnel must use DTS and being encouraged to use a system that does not work will not solve the problem.

- If this system is ever to produce savings for taxpayers, the way to calculate it would be (number of transactions) x (savings per transactions). There is a theoretical dollar amount of savings per transaction that has been calculated for DTS (\$31.78) that assumes that everything works perfectly, which it does not.
- The problem remains that the number of transactions is still far too low to make any claims about savings even remotely plausible.
- DTS doesn't find the lowest fare consistently and all its transactions have to be hand-checked by a travel agent.
- Then, of course, this comparison is with the "legacy" systems by which two-thirds of all DOD travel is still booked – namely, pick up a phone and call a travel agent.
- The report language also states that the committee is encouraged by the restructuring of the DTS contract which took place in 2004. This actually occurred in 2002 and involved a no-bid, sole source contract awarded in violation of the original agreement.

Rebuttal of DTS Claims

- **DTS claims it is already saving the Government money (\$13 million this year) and will save much more when it is finally being used consistently.**

The DTS director has been unable to answer the simple question posed to him during a meeting with Mike Schwartz "what did you subtract from what in order to get the \$13 million". The only way they could possibly have calculated this would be to take the estimated per-ticket savings of a fully-automated processing by DTS versus hand processing, estimated at \$34 per-ticket, and then multiplying that by the 1.8 million or so transactions processed by DTS. That is an estimated theoretical savings, not a real number at

all. It ignores such actual factors as the failure of DTS to display the lowest applicable airfare, the necessity to hand-check every DTS transaction; and the fact that the utilization rate of DTS is still so slow that most DOD travel is done the most expensive way, by a phone call to a travel agent. The right comparison would be DTS versus any of the civilian e-travel systems, and on that comparison DTS fails miserably.

- **DTS claims that there actually will be competitive bidding for the DTS contract renewal.**

This might be true. The no-bid, sole-source contract extension was just for one year, and it is probably true that an RFP is being prepared within DOD and that potential vendors are preparing to bid. The point is that regardless of fair and competitive bidding, this contract should not be extended. The one-year, no-bid extension was intended simply to prolong the life of this turkey beyond the current contract. Also it is safe to suspect that the fair and competitive bidding will be rigged or will disappear entirely by this time next year. There is nothing in the history of DTS to suggest that a promise should be believed, especially in view of the non-transparent way the current contract was produced.

- **DTS is planning to integrate new technology that is more accurate than anything now on the market in finding flights and fares.**

Good. This new technology is not yet perfected, and not yet on the market, but in a competitive environment, we get technological improvements and those improvements might solve some of the problems of inefficiency in DTS. However, this new technology is being developed independently and will be available to the civilian e-travel vendors, so the Defense Department will be able to take advantage of this advance even after DTS is retired and replaced by an e-travel system that works.

DTS is far behind schedule

- Now, at the end of the contract period, DTS is installed in about 2300 locations out of a total of 11,000. The DTS Project Management

Office (PMO) has targeted its deployment efforts at the major DOD locations that account for the great majority of travel – but even that is not now scheduled for completion until September 2007 – more than five years behind schedule.

- According to testimony given by Thomas F. Gimble, Acting Inspector General Department of Defense, before the Senate Permanent Subcommittee on Investigations on September 29, 2005, “The Defense Travel System was at ‘high risk’ for not being an effective solution to streamlining the DOD travel management process. Furthermore, DTS experienced significant testing and deployment problems.”
- By comparison, according to a March 6, 2006 GSA internal review of its own in-house Program Management Office for e-travel systems, two-thirds of civilian agencies fully deployed their systems on time.

DTS is not being utilized

- Dr. Scott A Comes of Program Analysis and Evaluation in the Defense Department testified last year that the estimated savings projected for DTS assumed a utilization rate of 60% in the first year of operation, rising to 90% thereafter.
- In actuality, the utilization rate for DTS was approximately zero through 2004, reached approximately 15% in 2005 and now in the last year of the contract period remains about 30%. It is already too late for DTS ever to recover the enormous investment that has been wasted on it.
- Furthermore, DTS fails to find the lowest applicable airfare in a significant number of cases. Industry expert Robert Langsfeld, who did a comparative study of DTS with the three civilian e-travel systems approved by GSA, testified last year that DTS performed less efficiently than any of the civilian GSA systems.
- According to GAO testimony before the PSI Committee, during fiscal years 2001 and 2002, DOD spent almost \$124 million on airline

tickets that included at least one leg of the trip in premium class – usually business class.

- Because of control breakdowns within DTS, DOD paid for airline tickets that were neither used nor processed for refund – amounting to about 58,000 tickets totaling more than \$21 million. Based on limited data provided by the airlines to GAO, it is possible that the unused value of the fully and partially-used airline tickets that DOD has purchased could be at least \$100 million during the life span of DTS.
- GAO also found that DOD sometimes paid twice for the same airline ticket through DTS. Based on GAO’s mining of limited data, the potential magnitude of the improper payments was 27,000 transactions for over \$8 million.

DTS is not cost effective

- DTS is claiming that they saved over \$13 million this year, but their spokesman was unable to say in comparison to what. Apparently that “savings” is the amount estimated in reduced paperwork and accounting, estimated at about \$20 per transaction. This does not take into account the numerous instances in which DTS fails to display the lowest applicable airfare, the necessity to hand-check all its transactions, or the fact that the great bulk of DOD travel is still arranged through old-fashioned conventional travel agents. The alleged savings are completely illusory.
- Under the DTS contract Northrop is being paid millions of dollars each month for operation & maintenance, training, help desk, development & deployment - regardless of the actual extent of use by DOD travelers. In addition, DOD is also paying travel agents (commercial travel managers) fees ranging from \$5.25 to \$12.50 to perform a travel transaction using DTS (the agent still has to buy the ticket & perform other administrative functions) and higher fees (up to \$23) if a travel agent has to "touch" or assist in completing or correcting a DTS transaction.
- Under the GSA Contract DOD would pay only \$5.25 per transaction to whichever of three contractors won the contract. GSA e-travel

systems are fully automated and do not require the assistance of a travel agent. Ironically, one of the three GSA –approved vendors for e-travel for civilian agencies is Northrop Grumman, the company that holds the DTS contract.

DTS is beset with contracting problems

- The facts show that DTS is another instance of a guaranteed-profit, cost-plus contract. The government is responsible for paying all of the costs of the system in addition to the amount the contractor receives as profit.
- The original DTS contract provided for compensation on a per-transaction basis – pay for performance. By April 2001, after years of testing failures, it was clear that the original DTS would not work and the contract was secretly rewritten.
- In 2002, the DOD and TRW (later purchased by Northrop Grumman) secretly negotiated a total restructure of the contract, in which the government agreed to pay for all the of losses sustained to date by the DTS contractor and to shift from a pay for performance to a cost-plus arrangement.
- DOD has paid Northrop Grumman over \$264 million to develop DTS, when this program was supposed to be fully operational in 2001 and development costs were to be at no cost to the Federal government in the original contract.
- Another contract change was an agreement by the government to pay the \$43.7 million that had been spent in development costs by the original contractor, subsequently acquired by Northrop Grumman. We got absolutely nothing for that money; it just covered the losses covered by the contractor when the original contract stipulated that the contractor would bear all risks for the development and deployment of DTS.
- Last year Judge George Miller of the Federal Court of Claims decided that he would not even look into allegations of violations of the Competition in Contracting Act because the software and source

codes are owned by the contractor, so if the contract were opened for bidding and another bidder was awarded the contract, the Government would have nothing left than a \$500 million loss. But just a week before the September 29, 2005 hearing of the Senate Permanent Subcommittee on Investigations the contractor promised to transfer ownership of this intellectual property to the Defense Department at the end of the contract period if requested, ostensibly to maintain the fiction that the open bidding on the contract in 2006 is on the level. Ownership of DTS seems to bounce around to wherever it is most convenient to avoid serious scrutiny.

- The Director, Defense Finance and Accounting Service, testified before the Senate Permanent Subcommittee on Investigations in September 2005, and promised that when Northrop Grumman's contract expired on September 30, 2006, the DTS contract would be re-bid.

However, this pledge has proved to be false. In February 2006, the Program Director, Defense Travel System Program Management Office, admitted to the Court of Federal Claims that when Northrop Grumman's contract expired on September 30, 2006, DOD planned to extend it on a sole source basis to Northrop Grumman through September 30, 2007 for an additional \$20 million.

FederalTimes.com – June 14th, 2006

Defense Travel System delayed for landing

By [STEPHEN LOSEY](#)

May 10, 2006

Budget cuts will stretch the deployment of the Defense Travel System into fiscal 2007 and indefinitely delay the rollout of one of its new features, the travel system's program director said May 3.

DTS, the Pentagon's end-to-end travel and financial management system, has had nearly \$10 million cut from its budget since fiscal 2003, said Air Force Col. Brandy Johnson. Last year, Johnson said DTS would be available at 11,000 Defense Department sites by the end of fiscal 2006.

Johnson said DTS will be at most large bases, offices and other Defense facilities by October. But about 1,100 to 1,600 sites will still be without the system that is eventually expected to save \$234 million of the military's yearly \$8.8 billion travel costs.

Johnson said the delay is not cause for concern.

"We're well within the program parameters, even if it slips into 2007," Johnson said.

But DTS has been harshly criticized by Congress and the Government Accountability Office for wasteful spending and numerous delays. Sen. Tom Coburn, R-Okla., tried to kill DTS last October with an amendment to the Defense appropriations bill. That amendment was voted down 65-32.

DTS was originally supposed to be completed in 2002. Darby Smith, GAO's assistant director for financial management and assurance, said that DTS's problems largely stem from a lack of well-defined requirements and oversight. Those shortcomings date from the project's start 10 years ago and are fairly common among government acquisitions, Smith said.

DTS is a Web-based system that automates travel booking and reimbursement. Johnson said that about 449,000 travelers have used it at 7,300 sites to reserve flights and hotel rooms, get approval for trips, and then submit vouchers to be reimbursed for expenses.

DTS was meant to cost \$474 million before the Pentagon started cutting funds to help pay for the war on terror, Johnson said.

And the budget cuts forced Johnson in March to put on hold an improvement that would calculate travel expenses for military permanent change-of-station [PCS] moves. Johnson originally wanted to roll out the PCS feature in December. Now she's not sure when it will be out, saying she needs \$3 million to \$5 million to do the job.

"It's really budget-dependent," Johnson said. "We re-engineered travel for TDY [temporary duty], and we want to do the same for PCS."

Delays in other Pentagon programs that DTS is meant to rely on have also set it back, Johnson said. For example, the debut of the Defense Integrated Military Human Resources System (DIMHRS), an electronic system that aims to integrate the military's personnel and pay systems, slipped from spring 2006 to fiscal 2008.

This has meant DTS must continue to store large quantities of personal data about its users — such as their phone numbers, Social Security numbers and rank — when it had planned to get that

information from DIMHRS, Johnson said. And when DTS releases a new update, it must take time to transfer that data from the old system to the new.

“We’re partnered with a lot of systems,” Johnson said. “If they’re not ready, we can’t do anything with them.”

But the setbacks are minor, Johnson said, and said DTS has “turned a corner” in getting users. In October, DTS had processed more than 1 million travel orders and 872,000 voucher claims, said Zack Gaddy, the director of the Defense Finance and Accounting Service, which oversaw DTS until it was moved to the Business Transformation Agency in February. Since then, the number of voucher claims has nearly doubled to 1.6 million and travel orders have hit 1.9 million, Johnson said.

The Government Accountability Office said in January that service members and civilian employees are still reluctant to use DTS.

Johnson said her office is trying to encourage use of DTS by giving on-site personnel more training. DTS also is scheduling regular conference calls between its experts and on-site personnel to solve any problems that may arise.

And people must become comfortable with any new technology before they start using it, Johnson said. She expects new sites to take about six months to a year before use of DTS becomes commonplace.

“More people are getting familiar with it, and it’s becoming more user-friendly as we get feedback,” Johnson said.

Johnson said DTS saved \$22 million a year between 2003 and 2005. This year, she expects it will save \$33 million.

But as more people use DTS, and as legacy travel and financial management system are rendered obsolete and eliminated, annual savings will skyrocket to at least \$234 million by fiscal 2008, Johnson said.

Also, program officials are finding new uses for DTS’ voucher system. For instance, Johnson said DTS vouchers can be used to reimburse service members and Defense employees for dental work, investigation expenses such as fees for checking court records, clothing, liability insurance and other expenses.

“DTS is really misnamed,” Johnson said. “We’re first and foremost a financial management system — not just travel.”

Johnson said she’s not concerned about mission creep, or other activities encroaching on DTS’ travel function. DTS is flexible, and nothing has to change for its voucher system to handle expenses other than travel, she said.

“We’ll continue to evolve,” Johnson said. And during the next two years, DTS will aim to bypass travel agents more often and book flights and rooms directly with airlines and hotels. By “cutting out the middleman,” Johnson expects the Pentagon will save even more money, though she’s not sure how much.

Travel agents would still be used to book complicated international flights, she said.

“Over the next two years, there will be gnashing of teeth, and there will be winners and losers,” Johnson said.

2. Coburn DOD Authorization Amendment (# 4372) regarding reporting requirements on improper payments at the Department of Defense for travel payments made at DOD in fiscal year 2005.

The Improper Payment Information Act was enacted in November 2002 for the purpose of finding and eliminating payments that should not have been made, or were made for incorrect amounts, by government agencies.

In the past year, the Subcommittee on Federal Financial Management has held three hearings on improper payments. The results have been horrifying.

Improper payments- which include inadvertent, fraudulent, and irresponsible payments- are costing the taxpayers at the very least, **\$37 billion each year.**

Even worse, this \$37 billion represents *only 18 of 70 agencies* who are currently reporting improper payment information as required under law.

One of the most daunting things about the government's improper payment problem is that the magnitude is not yet known, because some of the largest programs are not reporting.

The Department of Defense is reporting improper payment information for only three programs: Military Retirement Fund, Military Health Benefits, and for the first time this year, DoD began reporting improper payments for Military Pay.

However, it is very likely that many other activities and programs with large outlays at the Department are at risk of making "significant" improper payments.

Federal programs and activities deemed to be at "*significant*" risk of making improper payments by their respective agencies are required under existing law to report improper payment information to Congress.

("Significant" as defined by OMB means at least 2.5% of all payments made are improper, and the absolute dollar figure associated with that 2.5% or more totals at least \$10M.)

To be certain, the Act EXEMPTS NO AGENCY from compliance. The following four steps are required by the statute:

- Perform a risk assessment to determine whether or not programs and activities are risk susceptible to making “significant improper payments,” defined by OMB as program where at least 2.5% of all payments are improper AND the absolute dollar figure associated with that 2.5% or more totals at least \$10M.
- Develop a statistically valid estimate of improper payments for all programs and activities identified as susceptible to significant improper payments in the risk assessment.
- Develop a corrective action plan for all programs where the statistical estimate exceeds \$10 million in annual improper payments, agencies are required to develop a remediation plan for eliminating improper payments. The remediation plan must contain annual targets for reducing improper payment levels.
- Report the results of IPIA activities on an annual basis in their Performance and Accountability Report (PAR).

An August 2005 Department of Defense Inspector General Report entitled, “Identification and Reporting of DoD Erroneous Payments” found that the Defense Financial Accounting Service (DFAS) did not use statistical methods to estimate the amount of erroneous payments related to travel payments.

The Department of Defense reported that they had assessed payments related to travel for risk of making significant improper payments, and reported in their fiscal year 2005 Performance and Accountability Report that these payments were at low risk for making significant improper payments.

Anyone who has kept up with the Department of Defense’s expenditure on travel knows that it is probable they are making significant improper payments.

Take, for example, the 58,000 unused airline tickets in 2000 and 2001 found at the Department that had a residual value of \$21.1 million. (GAO)

Or the potential 27,000 improper reimbursements for travel at DOD in 2001 and 2002 totaling more than \$8 million. (GAO)

After these horrifying discoveries in 2004, the Office of Management and Budget and the Department of Defense took actions to implement GAO's recommendations to improve travel management at DOD.

However, the DOD IG's report issued last August confirms that DOD did not use a statistically valid estimate when measuring for improper payments at the Department.

What this means is that their methodology for determining how many payments were made in error was flawed.

This could potentially mean millions of dollars spent by DOD with no form of oversight, even though the Improper Payments Information Act and guidance issued by the Office of Management and Budget requires that agencies use a statistically valid estimate---or an adequately sized sample---to determine the level of risk of making improper payments.

I am introducing this amendment to hold the Department of Defense accountable for payments they made in the area of travel for fiscal year 2005.

My amendment requires the Department of Defense to fix their methodology this year.

Specifically, it does three things:

- 1) It requires DOD to provide the Congressional Defense Committees and the Government Affairs Committees with risk assessments for fiscal year 2005 that determine whether or not travel payments at DOD are at significant risk for making improper payments.
- 2) It requires DOD to use a statistically valid estimate for determining whether or not travel payments are at risk for making significant improper payments;
- 3) Finally, it requires DOD to provide a justification for their methodology as being statistically valid and accurately representing the full universe of travel payments made at DOD.

3. Coburn DOD Authorization Amendment regarding the Defense Travel System at the Department of Defense.

The Defense Travel System (DTS) is the electronic system the Department of Defense uses to make travel arrangements for the military service branches and defense agencies.

Originally designed to streamline DOD's fractured, inefficient travel system by creating a one stop shop for travel arrangements on a pay per use basis, DTS has proven to be a major disappointment that has cost American taxpayers a staggering \$200 million above the original projected cost.

In short, the American taxpayer has funded a project that is FOUR YEARS behind schedule, is deployed in barely half of the 11,000 DOD travel sites, cannot be relied upon to provide DOD travelers with the lowest available airfare, and is plagued with contracting problems

And yet...Congress continues to fund this broken system.

A Record of Failure:

In July 2002, the DOD Inspector General released a report on DTS which highlighted numerous concerns with the program and stated that DTS was being "substantially developed without the requisite requirements, cost, performance, and schedule documents and analyses needed as the foundation for assessing the effectiveness of the system and its return on investment."

Following on that IG report, DOD's office for Program Assessment and Evaluation prepared a report recommending termination of the program.

More recently, in January 2006, GAO reported that "DTS's development and implementation have been problematic...thus it is not surprising that critical flaws have been identified, resulting in significant slippages between the planned and actual deployment dates of the system."

In the report, GAO also noted that DTS, as originally envisioned, was to commence within 120 days after the effective date of contract award in September 1998, with complete deployment to approximately 11,000

locations by April 2002. However, that date has been changed to September 2006—a **slippage of over 4 years**.

According to the same GAO report, DOD paid for airline tickets, purchased through DTS that were neither used nor processed for refund—amounting to about 58,000 tickets totaling more than \$21 million for fiscal years 2001 and 2002.

GAO found in this most recent audit that selected requirements for display of flights and airfares found that system testing was “ineffective in ensuring that the promised capability was delivered as intended.”

This means that not only is DTS not performing, the current system is incapable of testing properly in order to determine what is required in order to meet DOD’s plan.

Further, DOD could not prove that DOD travelers even had access to the flights that were available for travel. There is no doubt such a flaw would have produced higher travel costs.

Confirming the problems with DTS, their own officials acknowledged that this problem has existed **BEFORE DEPLOYMENT of the system—since 2002!!!** In August 2005, DTS officials stated that the problem was corrected and went ahead with deploying the system.

Again, what has not been mentioned is that some DOD agencies continue to use the existing legacy travel systems at locations where DTS is already deployed! This means that all of the proclaimed savings that DTS was supposed to reap are nowhere to be found—because DOD continues to use legacy systems to do the same thing.

A blatant example of the waste from the use of these two systems can be seen in the way that travel vouchers are processed:

According to an April 13, 2005, memorandum from the Assistant Secretary of the Army (Financial Management and Comptroller), from October 2004, to February 2005, at locations where DTS had been deployed, the Army paid the Defense Finance and Accounting Service (DFAS)—the system where the majority of DOD payments are routed through—approximately \$6 million to process 177,000 travel vouchers manually (or \$34 per travel voucher), versus about \$186,000 to process 84,000 travel vouchers

electronically (\$2.22 per travel voucher). Overall, for this 5 month period, the Army reported that it spent about \$5.6 million more to process these travel vouchers manually as opposed to electronically using DTS

This example here shows that DTS is not even being utilized! Why in the world are we—the Congress—continuing to fund two duplicative travel payment systems at DOD which has proven to lose millions of dollars in a matter of months?

Despite these reports, cost overruns, deployment delays, and poor management, DTS continues to be funded and congressional oversight of the program seems to have diminished.

Demanding a Better Performance from DTS

It is time to demand better performance from DTS. The internet contains a plethora of on-line travel sites to assist the public make cost effective travel arrangements.

These sites offer the consumer the lowest price, the best departure time, the most direct or the shortest flight time. Once the choice is made and the ticket is secured through the on-line service, the payment is received.

Why shouldn't this same system be employed at the Department of Defense? And why after years of deplorable results from DTS, does Congress continue to fund this failed system?

My amendment will require the Department of Defense develop and fully implement a Fee-For-Use-of-Service System. Continuing to pump money into a broken system isn't working. We must examine the system itself to find a more reliable solution.

Switching to a Fee-For-Use-of-Service System will ensure better service for the Department of Defense and-most importantly-will save the taxpayer millions of dollars.

Rebuttal of DTS Claims

DTS claims it is already saving the Government money (\$13 million this year) and will save much more when it is finally being used consistently.

The DTS director has been unable to answer the simple question (posed to him during a meeting with Mike Schwartz) “what did you subtract from what in order to get the \$13 million”. The only way they could possibly have calculated this would be to take the estimated per-ticket savings of a fully-automated processing by DTS versus hand processing, estimated at \$34 per-ticket, and then multiplying that by the 1.8 million or so transactions processed by DTS. That is an estimated theoretical savings, not a real number at all. It ignores such actual factors as the failure of DTS to display the lowest applicable airfare, the necessity to hand-check every DTS transaction; and the fact that the utilization rate of DTS is still so slow that most DOD travel is done the most expensive way, by a phone call to a travel agent. The right comparison would be DTS versus any of the civilian e-travel systems, and on that comparison DTS fails miserably.

DTS claims that there actually will be competitive bidding for the DTS contract renewal.

This might be true. The no-bid, sole-source contract extension was just for one year, and it is probably true that an RFP is being prepared within DOD and that potential vendors are preparing to bid. The point is that regardless of fair and competitive bidding, this contract should not be extended. The one-year, no-bid extension was intended simply to prolong the life of this turkey beyond the current contract. Also it is safe to suspect that the fair and competitive bidding will be rigged or will disappear entirely by this time next year. There is nothing in the history of DTS to suggest that a promise should be believed, especially in view of the non-transparent way the current contract was produced.

DTS is planning to integrate new technology that is more accurate than anything now on the market in finding flights and fares.

Good. This new technology is not yet perfected, and not yet on the market, but in a competitive environment, we get technological improvements and those improvements might solve some of the problems of inefficiency in DTS. However, this new technology is being developed independently and will be available to the civilian e-travel vendors, so the Defense Department will be able to take advantage of this advance even after DTS is retired and replaced by an e-travel system that works.

4. Amendment #4370 – Requires annual analysis on total cost of earmarks and an analysis on the effectiveness of each in meeting the goals of the Department of Defense

Key Points

Earmarks Are Consuming a Growing Proportion of Defense Funds

The number of earmarks in defense appropriations laws has grown from about 587 in Fiscal Year 1994 to about 2,847 in Fiscal Year 2006. The amount of money earmarked has increased over the same period, from about \$4.2 billion to \$9.4 billion. The amount earmarked as a percentage of the total in the defense appropriations bill has correspondingly increased from about 1.8 percent in 1994 to approximately 2.4 percent in 2006.

Earmarks Are Siphoning Funds Away from National Security Priorities

Last year, the White House Office of Management and Budget (OMB) wrote to the House Appropriations Committee warning that the hundreds of million of dollars set aside for Congressional pork projects would be slashed from a Pentagon program designed to fill some military desk jobs with civilians and would thereby “limit one of [the Defense Department’s] most productive initiatives for reducing the strain on our armed forces [and to] free up critically needed troops for the Global War on Terror.” The letter said “the committee’s additions to the Navy’s shipbuilding budget ... and numerous other smaller funding increases, preempts the Department’s ability to invest cost-effectively in 21st-century capabilities” and that “The administration is concerned that these reductions could damage the readiness of U.S. forces and their preparedness.”

Earmarks Partially Responsible for Emergency Supplementals and Rising Debt

Pork projects could be used to offset much of the cost of the emergency supplemental bills that have been used to finance the various frontlines in the war against terrorism. The emergency supplemental bill passed by Congress and signed by the President this month provided \$65.8 billion to support Operation Iraqi Freedom and Operation Enduring Freedom. The total amount spent on earmarks in Defense appropriations over the past three fiscal years amounted to approximately \$27 billion—about 40 percent of the

amount needed to pay to continue our military operations in these battlefronts in the war against terrorism. Instead, the supplemental bills have relied on “emergency” spending which is not offset and is directly added to our nation’s \$8.4 trillion debt. Furthermore, much of that money contained within the emergency supplemental bills will, in fact, replenish the Pentagon programs that were cut to pay for earmarks.

Earmarks Are Often Not Needed or Wanted by the Department of Defense

Many Congressional earmarks inserted within Defense appropriations bills are not needed, or even wanted, by the Pentagon. Just this week, the *Washington Post* published an article entitled “The Project That Wouldn’t Die; Using earmarks, members of Congress kept money flowing to a local company that got \$37 million for technology the military couldn’t use.”

The \$80 billion emergency supplemental passed last year was riddled with add-ons. It included \$10 million to expand wastewater facilities in Swiftwater, Pennsylvania. The University of Texas Southwestern Medical Center got \$3 million. A wastewater treatment plant in Desoto County, Mississippi, got \$35 million, and \$4 million went to the Fire Sciences Academy in Elk, Nevada

In its report on its fiscal 2001 Defense appropriations bill, the Senate Appropriations Committee wrote: “The committee understands that medical studies indicate the potential benefits of cranberry juice and other cranberry products in maintaining health. The committee urges the Secretary of Defense to take steps to increase the department’s use of cranberry products in the diet of on-base personnel and troops in the field. Such purchases should prioritize cranberry products with high cranberry content such as fresh cranberries, cranberry sauces and jellies and concentrate and juice with over 25 percent cranberry content.” In retrospect, one must wonder if these resources and the billions of dollars diverted to other earmarks would have been better spent on anti-terrorism efforts.

Defense Earmarks Have Been Linked to Corruption and Ethics Concerns

Earmarks contained within Defense appropriations bills have been linked to a number of recent Congressional corruption and ethics probes. Last fall,

Congressman Randy “Duke” Cunningham resigned from the House of Representatives after he admitted to taking \$2.4 million in bribes from two defense contractors. Federal investigators are examining whether Congressman Jerry Lewis, who is the House Appropriations Chairman, abused his position by steering earmarks to his political allies and former employees. The *Wall Street Journal* notes that, “the Lewis episode underscores the link between Member-steered earmarks and the opportunity for corruption. Convicted super-lobbyist Jack Abramoff openly boasted that earmarks were his political currency and he called the Appropriations Committee that doles them out a ‘favor factory’ for lobbyists.”

The Coburn Amendment Adds Transparency and Accountability to Earmarks

This amendment would require the Department of Defense to report annually:

- The total annual cost of earmarking in Defense appropriations bills. Currently, we can determine the total number of earmarks and the actual price tag of those, but we do not know the hidden cost, which includes staff time and administration. This annual report will provide Congress and the public a more complete understanding of the total cost of “pork” to the Department of Defense.
- The purpose and location of each earmark.
- An analysis of the usefulness of each earmark in advancing the goals of the Department of Defense. This will provide members of Congress a more complete view of the cost effectiveness of each project and if such projects warranted continued funding.

The term “earmark” in the amendment means a provision of law or a directive contained within a joint explanatory statement or report accompanying a bill that specifies the identity of an entity, program, project or service, including a defense system, to receive assistance not requested by the President and the amount of the assistance.

This annual earmark report will ensure that policymakers and the public are fully aware of the impact of unnecessary earmarks on the budget of the

Department of Defense and siphon away from military preparedness and national defense. The grading system will likewise provide needed information to lawmakers about projects inserted into bills that have not had proper oversight, debate or discussion. This added transparency will ensure that every member of Congress can cast a truly informed vote and ensure greater accountability for how federal funds are allocated and spent.

Background

The President's annual defense appropriations requests are accompanied by budget justification documents that show in detail how the Defense Department plans to spend appropriated funds. While Congress should exercise oversight to ensure that dollars intended for national defense are being properly spent, military leaders are best equipped to make decisions about what armor, equipment and projects are necessary to assist our men and women in uniform protect our nation and win the war against terrorism.

Unfortunately, like other appropriations bills, the Defense appropriations bills have increasingly been loaded up with earmarks, or member directed pork projects not requested by military leaders or the Commander-in-Chief. Also multiple defense earmarks have been the subject of legal and media investigations and have led to the resignations and the conviction of Congressman Randy "Duke" Cunningham for bribery. Most importantly, however, earmarks siphon funds away from more important defense priorities and add billions of dollars to our already insurmountable national debt.

Earmarks Are Consuming a Growing Proportion of Defense Funds

The Congressional Research Service (CRS) recently released a report on earmarks inserted into the appropriations bills for every federal department.

For the Department of Defense, CRS defined the term *earmark* to mean congressional additions of funds at a level of specificity below the normal line item level. Understood in this way, a congressional committee would not be said to earmark funds if it adds money to buy additional fighter aircraft, for example, but would be said to earmark funds if it specifies that a particular kind of radar is to be incorporated into an aircraft upgrade program.

For Fiscal Year (FY) 2006 defense appropriations, the number of congressional earmarks — as defined above — totaled 2,847, with a dollar value of \$9.427 billion, which is 2.36 percent of the total provided in the law.

The number of earmarks in defense appropriations laws has grown from about 587 in FY1994 to about 2,847 in FY2006. The amount of money earmarked also has increased over the same period, from about \$4.2 billion to \$9.4 billion. The amount earmarked as a percentage of the total in the defense appropriations bill has correspondingly increased from about 1.8 percent in FY1994 to approximately 2.4 percent in FY2006.

These amounts only reflect the amount of the earmark and not the costs associated with administering the earmark.

Defense Appropriations
Summary of Estimated Earmarks
(millions of current dollars)

Fiscal Year	Total Appropriation	Estimated Total \$ Value of Earmarks	Earmarks as Percent of Total Appropriation	Number of Earmarks Identified^b
2006 ^a	\$399,462	\$9,427.0	2.36 percent	2,847

Sources: Earmarks were derived from the FY2006 Department of Defense Appropriations Act (P.L. 109-148) and the joint explanatory statement of the conference committee (H.Rept. 109-359).

- a. Does not include emergency appropriations for Iraq, Afghanistan, Katrina-related operations, and other purposes provided in Title IX and in Division B of the law.
- b. Of the 2,847 earmarks identified, 46 are in the text of the law, including 4 that are duplicated in the joint explanatory statement of the conference committee. The remaining 2,801 are in the joint explanatory statement only.

Earmarks Are Siphoning Funds Away from National Security Priorities

The President, as Commander-in-Chief, annually proposes a budget for the Department of Defense based upon the needs of the armed forces as determined by military leaders and those responsible for protecting our nation’s security. Earmarks tend to be inserted into bills to support the parochial political interests of members of Congress and their supporters. The billions spent on earmarks every year are, essentially, siphoned away from other defense priorities for political gain and hamper the military’s ability to fulfill its mission.

Last year, the White House Office of Management and Budget (OMB) wrote to the House Appropriations Committee warning that the hundreds of million of dollars set aside for Congressional pork projects would be slashed from a Pentagon program designed to fill some military desk jobs with civilians and would thereby “limit one of [the Defense Department’s] most productive initiatives for reducing the strain on our armed forces [and to] free up critically needed troops for the Global War on Terror.” The letter said “the committee’s additions to the Navy’s shipbuilding budget ... and numerous other smaller funding increases, preempts the Department’s ability to invest cost-effectively in 21st-century capabilities” and that “The administration is concerned that these reductions could damage the readiness of U.S. forces and their preparedness.”

Additionally the pork projects could be used to offset much of the cost of the emergency supplemental bills that have been used to finance the various frontlines in the war against terrorism. The emergency supplemental bill passed by Congress and signed by the President this month provided \$65.8 billion to support Operation Iraqi Freedom and Operation Enduring Freedom. The total amount spent on earmarks in Defense appropriations over the past three fiscal years amounted to approximately \$27 billion—about 40 percent of the amount needed to pay to continue our military operations in these

battlefronts in the war against terrorism. Instead, the supplemental bills have relied on “emergency” spending which is not offset and is directly added to our nation’s \$8.4 trillion debt.

Furthermore, Chris Hellman, a military policy analyst at the Center for Arms Control and Non-Proliferation, notes that much of that money contained within the emergency supplemental bills will, in fact, replenish the Pentagon programs that were cut to pay for the pet projects. “They rob Peter to pay Paul and rob someone else to pay Peter,” he said.

In its report on its fiscal 2001 Defense appropriations bill, the Senate Appropriations Committee wrote: “The committee understands that medical studies indicate the potential benefits of cranberry juice and other cranberry products in maintaining health. The committee urges the Secretary of Defense to take steps to increase the department’s use of cranberry products in the diet of on-base personnel and troops in the field. Such purchases should prioritize cranberry products with high cranberry content such as fresh cranberries, cranberry sauces and jellies and concentrate and juice with over 25 percent cranberry content.” In retrospect, one must wonder if these resources and the billions of dollars diverted to other earmarks would have been better spent on anti-terrorism efforts.

Earmarks Are Often Not Needed or Wanted by the Department of Defense

Many Congressional earmarks inserted within Defense appropriations bills are not needed or even wanted by the Pentagon.

Just this week, the *Washington Post* published an article entitled “The Project That Wouldn’t Die; Using earmarks, members of Congress kept money flowing to a local company that got \$37 million for technology the military couldn’t use.”

The article explained:

“Over the past decade Vibration & Sound Solutions Ltd., a small Alexandria defense contractor, has received a steady flow of federal contracts to work on ‘Project M’-- \$37 million in all from annual ‘earmarks’ by congressional supporters such as Rep. James P. Moran Jr. (D-Va.). Project M, a technology involving magnetic levitation, was conceived as a way to keep submarine machinery quieter, was later marketed as a way to keep Navy SEALs safer in their boats and, in the end, was examined as a possible way to protect Marines from roadside bombs. All the applications have one thing in common: The Pentagon hasn’t wanted them. ...

“Paul M. Lowell, a civilian Navy employee who for a time oversaw VSSL’s work as chief of staff in the Office of Naval Research, said Project M ‘seemed to me a solution looking for a problem the Navy might have.’

“‘But it kept failing to solve any problems the Navy had,’ Lowell said. ‘It looked at first as if it might have some merit. But we found out quickly it didn’t really solve the

problems. And the company wasn't very responsive and wasn't very robust. . . . It was living entirely' on grants from Congress.

“Lowell said Project M wouldn't have lasted as long inside the Navy, where scientific projects are subjected to peer review.

“The Navy rejected Project M's use in submarines in 2001. Moran, who said the company's 25 or so jobs were important to his district, and Rep. Duncan Hunter (R-Calif.), now chairman of the House Armed Services Committee, kept money flowing to the company until this year.”

This is not an isolated example.

“Congress said to steer military funds to pet projects; US analysts see war effort hurt,” proclaimed a *Boston Globe* headline regarding the House appropriations committee's FY 2006 defense appropriations bill.

The article explained:

“Congress, taking advantage of wartime support of national defense spending, is using the military's budget to steer billions to pet projects that apparently have little to do with Iraq or the ongoing war on terrorism, according to congressional documents, government budget officials, and watchdog groups. The projects range from an unneeded warship and a seriously flawed cargo plane the Pentagon tried to cancel to millions each for a Mississippi wastewater treatment plant, a Nevada fire training station, and a Texas research hospital, the documents show. . . .

“Lawmakers have increasingly used the wars in Iraq and Afghanistan as cover to saddle the Pentagon's budget with ‘add-ons’ -- projects that benefit legislators' home districts but are not necessarily related to the military, according to a review of budget documents and interviews with budget specialists. . . .

“The fiscal year 2006 Defense Appropriations Bill adds nearly \$900 million to build a destroyer that the Navy did not request, but would secure jobs at Ingalls Shipbuilding in Mississippi. It adds \$75 million to buy four new helicopters from Sikorsky Aircraft in Connecticut, even though the Army did not ask for them. The appropriations bill provides seed money to buy dozens of C-130J transport planes built by Lockheed Martin in Georgia in the coming years -- even though the Pentagon wanted to stop delivery on the planes after reports of critical design and engineering problems. The National Drug Intelligence Center in Johnstown, Pa., would stay open and get more money even though the Pentagon wanted to close it. It is often unclear in the bill which legislator is responsible for which add-on, but some, such as Representative John Murtha, Democrat of Pennsylvania, have touted their work to constituents back home. Murtha added the money for the drug center.

“There are 20 pages' worth of smaller, sometimes vaguely-described projects that appear to have less to do with the war on terrorism: \$5 million to study mood disorders; \$2.7 million to research a cancer vaccine; \$4 million to find new ways to diagnose heart attacks; \$4 million for something called the "diabetes regeneration project." None of them were included in the Pentagon's initial \$363.7 billion spending request.

“Steve Kosiak, a defense budget specialist at the Center for Strategic and Budgetary Assessments, said that some of the add-on expenses make military sense, but ‘it is hard to figure out what is pork and what is legitimate’ because details are hard to come by; only about 10 percent of the add-ons to the appropriations bill are clear enough to identify as pork without extensive research. ...

“Keith Ashdown, vice president for policy at Taxpayers for Common Sense, a fiscally conservative watchdog group, said Congress is showing ‘a trend to dictate to the military services where and when they should be spending more and more of their money’ in part to further their parochial interests. And he said legislators are showing little restraint: ‘They are giving all the pet items to everybody. The numbers have skyrocketed.’ Ashdown said his analysis found that the ‘parochially and politically motivated earmarks’ totaled 2,671 last year, compared to just 62 in 1980. The analysis also showed that 65 percent of the add-ons were inserted by members of key committees. ...

“The rise is partly blamed on the practice since the Sept. 11, 2001, attacks to pay for the wars in Afghanistan and Iraq through separate ‘emergency’ spending bills so the money is not tallied in the overall federal budget. These bills have provided another opportunity to direct defense dollars to lawmakers’ states or districts while also freeing room in the regular defense bill for more favored programs, according to specialists.

“The \$80 billion war bill passed [last] year was riddled with add-ons, according to several analyses. It included \$10 million to expand wastewater facilities in Swiftwater, Pa. The University of Texas Southwestern Medical Center got \$3 million. A wastewater treatment plant in Desoto County, Miss., got \$35 million, and \$4 million went to the Fire Sciences Academy in Elk, Nev.”

Defense Earmarks Have Been Linked to Corruption and Ethics Concerns

Earmarks contained within Defense appropriations bills have been linked to a number of recent Congressional corruption and ethics probes.

Last fall, Congressman Randy “Duke” Cunningham resigned from the House of Representatives after he admitted to taking \$2.4 million in bribes from two defense contractors.

On July 6th 2005 according to the Department of Justice, the FBI opened an inquiry into the sale of Congressman Duke Cunningham’s Del Mar, California house. In November of 2003 Cunningham sold his Del Mar home to Mitchell Wade, a defense contractor and Cunningham campaign contributor. Wade paid \$1.7 million for the 3,826 square foot

house. When Wade resold the house in October 2004, he took a \$700,000 loss. However, during that span of time home prices in San Diego County rose an average of nearly 25 percent. At the same time, in 2004, Wade's Company, MZM Inc. tripled its revenue and almost quadrupled its staff, according to the companies own web site.

In November 2005, Cunningham took a plea agreement. Cunningham's plea agreement with federal prosecutors stemmed from the investigation of the 2003 sale of his California home to the defense contractor for an inflated price. Under the agreement, Cunningham acknowledged a conspiracy to commit bribery, mail and wire fraud and tax evasion. He also pleaded guilty to a separate tax evasion violation for failing to disclose income in 2004. Prosecutors said Cunningham had taken bribes from contractors, which enabled him to buy a mansion, a suburban Washington condominium, a yacht and a Rolls Royce. A government statement said Cunningham received at least \$2.4 million in bribes and will forfeit his \$2.5 million mansion and about \$1.8 million in cash, antiques, furnishings and other valuables.

A pre-sentencing memo included a detailed list-- with pictures-- of the house, boat, cars, antiques, rugs and other bribes he took over the previous five years. It contained a copy of a "bribe menu" on Cunningham's personal note card that signified he would trade \$1 million of federal funding for \$50,000, then offer a discount of \$25,000 per million once he had collected \$200,000.

On March 3, 2006, Cunningham was sentenced to 8 years, 4 months in prison.

Federal investigators are examining whether Congressman Jerry Lewis, who is the House Appropriations Chairman, abused his position by steering earmarks to his political allies and former employees. In one case, the Justice Department is investigating whether defense industry lobbyists were urged to contribute money to a political action committee run by Mr. Lewis's stepdaughter, with a good portion of the money used for her own salary.

Another aspect of the probe is said to be whether Mr. Lewis steered hundreds of millions of dollars in earmarked projects to the clients of his friend, campaign contributor and former House colleague Bill Lowery. One of Mr. Lowery's clients is an unindicted co-conspirator in the bribery scandal that sent Cunningham to jail for securing earmarks for defense contractors in exchange for personal gifts.

According to the *Wall Street Journal*, "The lobbying firm's defense clients receive hundreds of millions of dollars in federal contracts from Appropriations. Two of the top rainmakers at Mr. Lowery's firm have been former Appropriations staffers who worked for Mr. Lewis. This week, the Los Angeles Times reported that Mr. Lowery's firm paid one of those staffers, Jeffrey Shockey, nearly \$2 million when he left the firm and returned to Appropriations when Mr. Lewis became Chairman in 2005. *Roll Call* newspaper also reported this week that Mr. Shockey's former lobbying firm received more than \$1 million in higher fees from government contractors shortly after he returned to Capitol Hill. Mr. Lewis recently hired a top criminal defense team and denies any

wrongdoing. He says that all earmarks and contracts went for projects with the ‘highest standards of public benefit.’”

Prior to becoming chairman of the Appropriations Committee, Mr. Lewis was the chairman of the defense appropriations subcommittee, which oversees more discretionary spending than any other congressional body. During his tenure as subcommittee chairman, Lewis “brought us the biggest increase in defense earmarking in history,” according to Taxpayers for Common Sense.

The Copley News Service reports that, “Representative Jerry Lewis has green lighted hundreds of millions of dollars in federal projects for clients of one of his closest friends, lobbyist and former state Congressman, Bill Lowery. Lowery, the partners at his firm and their clients have donated 37 percent of the \$1.3 million that Lewis' political action committee received in the past six years. The Lewis-Lowery relationship, however, is remarkable for the closeness and mutual dependence of the powerful appropriations chairman and the ambitious lobbyist, who served together on the appropriations committee from 1985 until Lowery left Congress in 1993. They've even exchanged two key staff members, making their offices so intermingled that they seem to be extensions of each other.”

The *Wall Street Journal* notes that, “even if all of this is technically legal, the cronyism and revolving door between Congress and lobbyists look terrible” and that “more broadly, the Lewis episode underscores the link between Member-steered earmarks and the opportunity for corruption. Convicted super-lobbyist Jack Abramoff openly boasted that earmarks were his political currency and he called the Appropriations Committee that doles them out a ‘favor factory’ for lobbyists.”

The Coburn Amendment Adds Transparency and Accountability to Earmarks

This amendment would require the Department of Defense to report annually:

- (1) The total annual cost of earmarking in Defense appropriations bills. Currently, we can determine the total number of earmarks and the actual price tag of those, but we do not know the hidden cost, which includes staff time and administration. This annual report will provide Congress and the public a more complete understanding of the total cost of “pork” to the Department of Defense.
- (2) The purpose and location of each earmark.
- (3) An analysis of the usefulness of each earmark in advancing the goals of the Department of Defense. This will provide members of Congress a more complete view of the cost effectiveness of each project and if such projects warranted continued funding.

The term “earmark” in the amendment means a provision of law or a directive contained within a joint explanatory statement or report accompanying a bill that specifies the

identity of an entity, program, project or service, including a defense system, to receive assistance not requested by the President and the amount of the assistance.

This annual earmark report will ensure that policymakers and the public are fully aware of the impact of unnecessary earmarks on the budget of the Department of Defense and siphon away from military preparedness and national defense. The grading system will likewise provide needed information to lawmakers about projects inserted into bills that have not had proper oversight, debate or discussion. This added transparency will ensure that every member of Congress can cast a truly informed vote and ensure greater accountability for how federal funds are allocated and spent.

Recent Defense Appropriations Earmarks

FISCAL YEAR 2006

Amount	State	Project Description
\$591,017,000		For eight additional C-130J aircraft.
\$500,000	AK	Arctic Winter Games. According to the winter games website, "The Arctic Winter Games is a high profile circumpolar sport competition for northern and arctic athletes. The Games provide an opportunity to strengthen sport development in the participants' jurisdictions, to promote the benefits of sport, to build partnerships, and to promote culture and values. The Games celebrate sport, social exchange and cultures. The Games provide an opportunity for the developing athlete to compete in friendly competition while sharing cultural values from northern regions around the world."
\$12,800,000	AK	Alaska land mobile radios
\$21,650,000	HI	Hawaii Federal Health Care Network
\$6,000,000	HI	Center of Excellence in Research and Ocean Sciences
\$4,000,000	HI	Center of Excellence for Disaster Management and Humanitarian Assistance
\$2,500,000	HI	Small business pilot program to re-engineer the DOD vendor payment process
\$2,000,000	HI	Small business development and transition
\$2,800,000	KY	For biometrics signature research
\$2,520,000	KY	Kentucky National Guard Counterdrug and High Intensity Drug Trafficking Area
\$26,350,000	WV	Facility restoration plan at the Allegheny Ballistics Lab and \$2,600,000 for the West Virginia National Guard for drug interdiction and counter-drug activities. The Allegheny Ballistics Center is located at the Robert C. Byrd Institute for Flexible Manufacturing
\$8,270,000		For breath alcohol testing equipment, including \$7,270,000 for Breathscan® alcohol detectors and \$1,000,000 for autonomous non-invasive alcohol testing

\$5,600,000	CA	For the Gallo Center. According to its website, “The Ernest Gallo Clinic & Research Center (EGCRC) at the University of California, San Francisco (UCSF) was established in 1980 to study basic neuroscience and the effects of alcohol and drug abuse on the brain.” There is no mention of any defense-related research. Apparently, they will serve no pork before its time.
\$4,000,000	OH	Toledo Shipyard Improvement Plan. According to The <i>Toledo Blade</i> , the shipyard was scheduled to close on October 31, 2005. Business at the shipyard has been waning over the last 20 years.
\$2,500,000	CA	For the Allen Telescope array Griffith Observatory Planetarium. While the Allen Telescope Array will look for extraterrestrial life, the newly renovated Griffith observatory will showcase American accomplishments in space. There are no exhibits yet planned on how DOD will defend the world against aliens.
\$1,000,000		Waterfree Urinal Conservation Initiative
\$1,000,000	PA	For the already-closed Philadelphia Navy Yard. At the September 2004 announcement of a \$2 billion plan for the Navy Yard, Philadelphia Mayor John Street said, “The Plan builds on the Navy Yard’s history as an industrial site and defines an exciting mix of office, research, commercial, and residential development including a new marina district and extension of the Broad Street Subway to access the Yard as part of a new Philadelphia waterfront neighborhood that will result in as many as 30,000 jobs at the 1,200-acre site. The Navy Master Plan is a centerpiece of the Mayor’s New River City proposal, which calls for coordinated development of the City’s entire 38 miles of waterfront.”
\$500,000	AZ	Translational Genomics Research Institute According to the Institute’s website, “The vision of the Translational Genomics Research Institute is a world where genomic discoveries can be rapidly translated to the diagnosis and treatment of disease in a manner tailored to the individual.” There is no mention as to why they receive money from the Department of Defense.

FISCAL YEAR 2006

Amount	State	Project Description
\$23,000,000	HI	Hawaii Federal Health Care Network
\$7,000,000	HI	Center for Excellence for Research in Ocean Sciences

News Articles: Pork Projects in the Department of Defense Appropriations

1) "The Project That Wouldn't Die"

Washington Post

By Charles R. Babcock

June 19, 2006; D1

<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/18/AR2006061800631.html?referrer=emailarticle>

Using earmarks, members of Congress kept money flowing to a local company that got \$37 million for technology the military couldn't use.

Over the past decade Vibration & Sound Solutions Ltd., a small Alexandria defense contractor, has received a steady flow of federal contracts to work on "Project M" -- \$37 million in all from annual "earmarks" by congressional supporters such as Rep. James P. Moran Jr. (D-Va.).

All the applications have one thing in common: The Pentagon hasn't wanted them.

The Navy concluded that it would not use the technology.

Analysts and others who follow congressional earmarking closely say the company's experience exemplifies one of the pitfalls of the process: Once begun, promising but speculative programs like Project M are hard to kill, sustained by members of Congress who want to keep jobs in their districts, military officials who want to keep their options open and businesspeople who want to keep their companies afloat.

2) "Taxpayer advocates want C-130J program canceled"

Associated Press in Arkansas Democrat-Gazette

February 26, 2005

(FY 2006 Approps: \$591,017,000 for eight additional C-130J aircrafts)

"...The performance of the C-130J has been criticized. A 2004 report from the office of the inspector general of the Department of Defense rated the J model unsatisfactory and cited deficiencies in, among other things, its defensive systems. Even so, the department is reconsidering an earlier decision not to purchase any additional C-130Js."

3) "Pork barrel technology projects on the rise"

CNET News.com

By Declan McCullagh

March 30, 2006 4:00 AM PST

(FY 2006 Approps: \$1,000,000 for Waterfree Urinal Conservation Initiative)

<http://news.com.com/2009-1028-6050719.html>

“But such earmarks for favored recipients--known colloquially as pork--have become easier than ever for politicians to secure because of the rapid growth in homeland security and military spending, especially if they can find some plausible technological veneer.”

Falcon Waterfree Technologies, which boasts of being the "world leader" in waterfree urinals, has unusually strong ties to Washington. Its owner, Carl Covitz, was an undersecretary for the Housing and Urban Development Department. Its advisory board includes Al Gore, the former vice president; Richard Riordan, the former mayor of Los Angeles; Donald Rosenblum, a former Army lieutenant general; and Robert Tuttle, director of presidential personnel in the Reagan administration.

The company claims that each of its urinals can save some 40,000 gallons of fresh water a year.

4) “Defense bill pays for Breathalyzers, Lewis and Clark celebrations”

The Hill

By Roxana Tiron

January 4, 2006

http://www.hillnews.com/thehill/export/TheHill/Business/010406_earmarks.html

...The increase in so-called pork-barrel projects is just part of the growth pattern of the defense budget, according to Winslow Wheeler, a project director with the Center for Defense Information and a former longtime staffer on the Senate Budget Committee. “Earmarks undergo virtually no review, making it impossible to distinguish between truly meritorious projects and those that are pure pork,” he said.

5) “Saving the fish, not the troops”

New York Daily News

By Douglas Feiden

February 26, 2006

http://www.nydailynews.com/news/wn_report/story/394799p-334738c.html

Politicians allot \$1.7B to armor for the troops- then spend 7 times as much for pork.

“Body armor that can mean the difference between life and death has been shamefully tough to find for battalions of U.S. troops on the bloodiest battlefields of Iraq. But that hasn't stopped Congress from squandering Pentagon funds on thousands of wacky and wasteful projects that do more to protect pols' jobs than save soldiers' lives.”

6) “Toledo Shipyard operator to stop building”

The Toledo Blade (Ohio)

By TAD VEZNER

September 15, 2005

(FY 2006 Approps: \$4,000,000, OH, Toledo Shipyard Improvement Plan)

Despite millions of dollars in pledged public aid for modernizations and upgrades, the Toledo Shipyard's operator has indicated that it will pull anchor by the end of October, costing the area about 70 jobs. Over the last several years, a package of public assistance was put together to modernize and upgrade the "bare bones" facility, including \$5 million in federal dollars, \$1 million from Lucas County, and \$1.5 million from the city of Toledo.

"I'm hoping that the city and the county and the federal monies can remain earmarked and set aside," Mr. Hartung, president of the port authority, added.

U.S. Rep. Marcy Kaptur (D., Toledo), who fought to secure the federal grant money to modernize the facility, suggested in a statement yesterday that the dollars would stay in place. "I view [the money] as a down-payment on the future of the Great Lakes maritime industry in Toledo and a readily available resource to attract a new operator for the Toledo Shipyard," she said.

Washington Post

June 19, 2006; D1

<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/18/AR2006061800631.html?referrer=emailarticle>

The Project That Wouldn't Die

Using earmarks, members of Congress kept money flowing to a local company that got \$37 million for technology the military couldn't use.

By Charles R. Babcock
Washington Post Staff Writer

Over the past decade Vibration & Sound Solutions Ltd., a small Alexandria defense contractor, has received a steady flow of federal contracts to work on "Project M" -- \$37 million in all from annual "earmarks" by congressional supporters such as Rep. James P. Moran Jr. (D-Va.).

Project M, a technology involving magnetic levitation, was conceived as a way to keep submarine machinery quieter, was later marketed as a way to keep Navy SEALs safer in their boats and, in the end, was examined as a possible way to protect Marines from roadside bombs.

All the applications have one thing in common: The Pentagon hasn't wanted them.

The company is holding out hope, but with little other business and the congressional funding apparently at an end, VSSL is planning to close its Alexandria headquarters and lab.

The government got its money's worth in Project M, VSSL President Robert J. Conkling said in a recent interview. The technology might still be used to help the nation's military, he said.

"I don't know how you can calculate return on investment" on a system that prevents special operations forces from being injured, he said.

Analysts and others who follow congressional earmarking closely say the company's experience exemplifies one of the pitfalls of the process: Once begun, promising but speculative programs like Project M are hard to kill, sustained by members of Congress who want to keep jobs in their districts, military officials who want to keep their options open and businesspeople who want to keep their companies afloat.

Paul M. Lowell, a civilian Navy employee who for a time oversaw VSSL's work as chief of staff in the Office of Naval Research, said Project M "seemed to me a solution looking for a problem the Navy might have."

"But it kept failing to solve any problems the Navy had," Lowell said. "It looked at first as if it might have some merit. But we found out quickly it didn't really solve the problems. And the company wasn't very responsive and wasn't very robust. . . . It was living entirely" on grants from Congress.

Lowell said Project M wouldn't have lasted as long inside the Navy, where scientific projects are subjected to peer review.

The Navy rejected Project M's use in submarines in 2001. Moran, who said the company's 25 or so jobs were important to his district, and Rep. Duncan Hunter (R-Calif.), now chairman of the House Armed Services Committee, kept money flowing to the company until this year.

Moran received \$17,000 in campaign contributions from Conkling and his wife over the years.

"I was interested in the technology" after Conkling invited him to see the facility, Moran said recently. He said he earmarks projects if the company involved employs people in his district and the military thinks it has merit. "I'm not sure the research bore out as effectively as they wanted," he said of Conkling and VSSL.

Former Armed Services Committee aide Anthony R. Battista was an original incorporator of VSSL. Former representative William L. Dickinson (R-Ala), long a senior member and colleague of Hunter's on the Armed Services Committee, was an investor, Conkling said. Both were on the company's board of directors and lobbied for its technology.

Hunter said he supported Project M because he thought the technology targeted critical national needs, not as a favor for Battista and Dickinson. Conkling did not contribute to Hunter's campaigns.

Earmarking appropriations bills with billions of dollars designated for projects of particular companies has been under attack in recent months because of the high federal budget deficit and the recent corruption convictions of former representative Randy "Duke" Cunningham (R-Calif.) and a Washington defense contractor who traded bribes for federal contracts.

The practice has blossomed over the past decade. The number of earmarks in the annual defense spending bill increased from 587 worth \$4.2 billion in fiscal 1994 to 2,506 worth \$9 billion in fiscal 2005, according to a recent Congressional Research Service study. There were 231 "plus-ups" -- the Navy's term for the money Congress adds for its members' pet projects -- totaling nearly \$600 million just in the Office of Naval Research budget in fiscal 2005, about a quarter of the total.

Advocates generally defend earmarks as a way to move innovative ideas quickly through a sluggish bureaucracy. Rep. Jerry Lewis (R-Calif.), chairman of the House

Appropriations Committee, cites the development of the Predator pilotless aircraft in southern California as an example of a "good" earmark.

Winslow Wheeler, a retired congressional aide who has written a book about earmarks, said he knows of no study of how often such set-asides result in useful products for the military.

Members of Congress "don't want to know," Wheeler said, because "evaluating those projects would separate the wheat from the chaff."

Conkling, 69, said in a recent interview that Project M's origins trace to the Cold War in the mid-1980s, when he was consulting for a British company, GEC-Marconi.

Shortly before that, Conkling had been in business with Tongsun Park, a South Korean businessman who had been indicted on charges of bribing members of Congress in the 1970s. Those charges were dropped. Also, Park was a member of the wedding party at Conkling's marriage in 1986.

The British company's "maglev" technology interested the Pentagon's research agency, known as DARPA, which funded it, Conkling said. (The M, he noted, didn't stand for magnetic, but was just the next letter the research agency used to name its projects.)

By the early 1990s the Navy was impressed enough to want to finish development of the system in the United States. But Conkling said his client was reluctant to turn development over to a Navy lab and asked him to "Americanize the technology." In 1994 he incorporated VSSL, anticipating a project that would last about three years, he said.

The goal was to put a submarine's machinery on a 60-by-100 foot raft and use magnets to levitate it, cutting the vibrations that reached the hull and making the craft less detectable to enemy sonars.

Congressional staff members were impressed, Conkling said, and with Dickinson as an investor and helping spread the word, the project "built its own constituency."

In 1995, the House authorizing committee recommended spending \$7 million on Project M. Appropriators agreed. VSSL's first contract, for nearly \$12 million, was signed two years later. Yearly funding continued until 2001, when the Navy delivered a report to Congress that was both laudatory and damaging.

It praised Project M for results "not achievable by any other means." But it added: "Unfortunately, the price for this high level of performance is that this technology creates significant impacts to the design of the ship that cannot be economically overcome at this time."

The Navy concluded that it would not use the technology.

Instead of being a death knell for the earmark, however, Conkling said Rear Adm. Jay M. Cohen, chief of Naval Research, suggested that he take the anti-vibration idea and try it on a new problem: the rocky ride that special-operations sailors encountered maneuvering their speedboats in high seas.

Conkling said Hunter and Moran backed the new idea and he filled out an earmark form in Moran's office. "A ton of SEALs are getting cashiered for injuries on boats," said Hunter, whose district includes a major base for the elite Navy team. "So remedying it became important to me."

In 2003, VSSL suffered another blow when a competing earmark directed the Navy to pick a Long Island company to build a seat to protect its SEALs. The VSSL seats have been installed on a prototype of the Navy's X-Craft, another project supported by Hunter.

As a result, Conkling's company was hurting for cash again, according to e-mails made available to The Washington Post. In late 2003, Conkling sent an e-mail to Cohen that said that the "lack of funding is now critical" and that he was considering closing the company.

In May 2004, Hunter wrote to Gordon England, then secretary of the Navy, asking him to take time for a demonstration of the company's technology, while acknowledging that its immediate use in the SEAL patrol boat "may not be realistic."

VSSL shifted gears again last year, announcing that it was adapting its technology to build seats for a Marine road vehicle. The idea was Cohen's, Conkling said, and the goal was to mitigate the effect of blast and shock from roadside bombs.

The company has not received any earmarked funding for next year. Conkling said VSSL is now "restructuring" to focus on selling its seats.

Dickinson, now retired from VSSL's board, said he went to Hunter several times to help VSSL get funding, and though the company had good ideas, it "could never get a substantial contract from the Navy."

Battista said he tried but couldn't get in to lobby Secretary of Defense Donald H. Rumsfeld and his deputy, Paul Wolfowitz, on behalf of the company. He still thinks the technology "would have helped the military."

Cohen, now retired from the Navy, said the good news about VSSL's technology "is that the money invested in Project M is owned in large part by the taxpayer and when the time is right it will be utilized" by all the services.

At the Office of Naval Research, he said, his job was to take risks. "With risk comes the chance of both success and failure."

Staff researcher Alice Crites contributed to this report.

Commentary: Soldiers, food stamps and cranberries

By George C. Wilson, National Journal News Service

After loudly condemning President Clinton for the declining readiness of the American military, a tough-talking Congress this election year has taken defense matters into its own hands. Here's how some powerful Senators would set things right: break their promise to get soldiers off food stamps, buy three flying limousines for generals and admirals at a cost of \$52 million each, and feed the troops more cranberries.

In truth, despite their blame-Clinton game, Senators stand accused by their own referees of writing defense money bills this year that favor back-home pork projects and glamorous weapons over the unglamorous spare parts and other items that make the armed services genuinely more ready to fight. Here, for example, are some of the unusually blunt words the Republicans' own analysts wrote in explaining to the Senate how its Defense Appropriations Subcommittee marked up Clinton's fiscal 2001 budget:

"Having decided to spend most additional money on major equipment items and not on readiness, the Defense Subcommittee not only left [spending money] on the table but it also disregarded the assumptions of the budget resolution" that Congress would raise pay enough to get troops off food stamps.

"The question must be asked," the assessment continues, "does this Senate-reported Department of Defense appropriations bill take full advantage of the opportunity afforded by the budget resolution to more fully address the serious readiness deficiencies created by the Clinton administration and the senior leadership of the Department of Defense? Moreover, does the bill specifically reject the Senate's 99-0 vote and implicit advice to address the issue of military food stamps?"

Those words almost certainly will be hurled at Ted Stevens, the Alaska Republican who chairs the Senate Appropriations Committee, and Daniel K. Inouye, R-Hawaii, the ranking Democrat on the Defense Subcommittee, when their money bill is debated and amended in the coming days. John McCain, R-Ariz., the most outspoken anti-pork legislator, has already blasted his Senate Armed Services Committee for failing to get men and women in uniform off food stamps when it marked up its \$310 billion defense authorization bill last month.

"We should have acted to eliminate the food stamp Army," McCain said in casting the only vote against sending that bill to the full Senate. "To do less is an affront to our most needy service members and their families. It is unconscionable that the men and women who are willing to sacrifice their lives for their country have to rely on food stamps to make ends meet, and it is an abrogation of our responsibilities as Senators to let this reality go on without some sort of legislative remedy."

McCain, in his written dissent, also blasted his own committee for failing to address critical shortages in the military while adding \$460 million-money the Navy did not request-for an LHD-8 amphibious assault ship. The ship will be built by Litton Ingalls Shipbuilding in Mississippi, which happens to be the home state of Republican Senate Majority Leader Trent Lott. Lott and Republican Sen. Olympia Snowe of Maine also succeeded in getting an extra \$144 million authorized for the DDG-51 destroyers built both at Litton Ingalls and at Maine's Bath Iron Works.

"Not to be outdone by the surface shipyards," McCain fumed, "the submarine builders received early authorization to procure the next five Virginia-class submarines at a cost of \$2.1 billion each, accelerating the authorization for the fifth boat by a full year from the Navy's current plan. In effect, the submarine shipbuilders [General Dynamics Electric Boat of Groton, Conn., and Newport News Shipbuilding in Virginia] have been given permission to continue the current noncompetitive teaming arrangement instead of allowing the market to determine whether only one shipyard is needed."

The vigor with which the public applauded such anti-pork remarks when McCain ran for President suggests a perception beyond the Capital Beltway, justified or not, that Congress is wasting defense dollars rather than acting as the Pentagon's responsible overseer. The fine print of congressional budget language - including words urging the consumption of more cranberries-can only harden that impression.

In its report on its fiscal 2001 Defense appropriations bill, the Senate Appropriations Committee wrote: "The committee understands that medical studies indicate the potential benefits of cranberry juice and other cranberry products in maintaining health. The committee urges the Secretary of Defense to take steps to increase the department's use of cranberry products in the diet of on-base personnel and troops in the field. Such purchases should prioritize cranberry products with high cranberry content such as fresh cranberries, cranberry sauces and jellies and concentrate and juice with over 25 percent cranberry content."

The report neglects to explain to the taxpayers - or to anyone else - that the Senate committee's language was driven by the mountains of unsold cranberries piling up in such states as Maine, Massachusetts, New Jersey, and Wisconsin. Further disillusionment awaits the ordinary taxpayer who checks the Internet and sees that the Ocean Spray Cranberries political action committee contributes to a long list of lawmakers, including several on congressional military committees.

Another Senate Appropriations Committee action, revealed in the fine print of its report but not otherwise explained, was to order the Pentagon to buy three flying limousines that the President did not request, for about \$50 million each. If the committee action becomes law, the Air Force will get one Boeing 737-700 airliner for \$52 million, and the Navy, which buys planes for the Marine Corps as well as for itself, will get two for a total of \$110 million. Generals and admirals for years have hankered after new and larger executive aircraft to take them and their staffs from place to place in comfort. The plane

the committee would buy, designated the C-40, is designed to carry 121 passengers or 19 tons of freight, but not combat troops or tanks.

Much of the fine print in the military bills to be voted on in coming days seems to embrace the philosophy, "To the 'vicars' belong the spoils." The vicars in this case are key Capitol Hill leaders and members of the four military committees in Congress - the Senate and House Armed Services committees, and the Senate and House Defense Appropriations subcommittees. Lott, for example, is credited with this language in the pending Senate and House Defense appropriations bills: "None of the funds appropriated or made available in this act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve." This hurricane-hunting squadron is located in Biloxi, Miss.

Other well-positioned Senate vicars who helped their parishes within the same bill include Stevens-last year named as Alaskan of the Century-and Inouye of Hawaii. The Defense Appropriations Subcommittee added \$17 million to improve the Fort Wainwright and Fort Greeley Army bases in Alaska. It also took \$10 million out of the Air Force's most crucial readiness account-operations and maintenance-and gave the money to the Transportation Department "to realign railroad track on Elmendorf Air Force Base and Fort Richardson"-both in Alaska. Hawaii got an extra \$24 million for its Pearl Harbor shipyard, along with \$15 million not requested by Clinton for Hawaiian health care centers.

Teeth marks of two of the chamber's oldest lions, Republican Strom Thurmond of South Carolina and Democrat Robert C. Byrd of West Virginia, show up in other parts of the same Defense appropriations bill. The now-closed Charleston, S.C., Navy shipyard is down for \$10 million in unrequested funds, and the National Guard chief is directed to see if Camp Dawson, W.Va., would make a suitable center for training Guardsmen in helping victims of gas, nuclear, or germ attacks.

Here's another pork provision in the same vein. Language tucked into both the Senate and House Appropriations bills is reminiscent of past successful campaigns by Sen. Arlen Specter, who is now the third-ranked Republican on the Senate Appropriations Committee, to force the Pentagon to buy coal from his home state of Pennsylvania and ship it to Germany to heat U.S. military barracks there. This year's provision sets up a quid pro quo under which the Air Force would help modernize the heating plant of the German city of Kaiserslautern - home to a large U.S. Air Force base-if it burns Pennsylvania coal.

Fretted one Pentagon official: "The mayor of Kaiserslautern is already mad at us for all the coal we sent him. He would rather buy German coal." The defense official, however, said enough wiggle room may be put in the final congressional language to keep another mountain of Pennsylvania coal from rising in Germany.

House vicars, too, have found spoils for their parishes in the Defense appropriations bill. Norm Dicks, a Democrat from Washington state, pushed up Clinton's request for research

funding for an advanced B-2 bomber from \$48 million to \$145 million. Dicks' district includes a lot of Boeing Co. workers who help make the plane's wings. House appropriators also aided lawmakers from Connecticut by tripling the Administration request for UH-60 Blackhawk helicopters, made by Sikorsky in Stratford, Conn. The extra 11 Blackhawks would go to the politically powerful Army Reserve and National Guard-not the active-duty Army.

Congressional tinkering with presidential budgets is not always a bad thing. Past Congresses showed more vision than the Pentagon did in pushing the nuclear submarine fleet into being, for example, and this Congress is wisely restructuring the Joint Strike Fighter program. But McCain had it right when he said: "The military needs less money spent on pork and more money spent wisely to redress the serious problems caused by a decade of declining defense budgets. Those of us who have been criticized for sounding alarm bells about military readiness now have the empty satisfaction of seeing that there is more to maintaining a strong defense than a politician's history of falsely promising to do so."

This document is located at <http://www.govexec.com/dailyfed/0600/061200t3.htm>

http://www.boston.com/news/nation/articles/2005/06/17/congress_said_to_steer_military_funds_to_pet_projects?mode=PF

boston.com

THIS STORY HAS BEEN FORMATTED FOR EASY PRINTING

The Boston Globe

Congress said to steer military funds to pet projects US analysts see war effort hurt

By Bryan Bender, Globe Staff | June 17, 2005

WASHINGTON -- Congress, taking advantage of wartime support of national defense spending, is using the military's budget to steer billions to pet projects that apparently have little to do with Iraq or the ongoing war on terrorism, according to congressional documents, government budget officials, and watchdog groups.

The projects range from an unneeded warship and a seriously flawed cargo plane the Pentagon tried to cancel to millions each for a Mississippi wastewater treatment plant, a Nevada fire training station, and a Texas research hospital, the documents show.

The House of Representatives opened debate yesterday on a \$409 billion defense appropriations bill for next year that includes at least \$12 billion for weapons and research programs the Pentagon did not ask for and what critics label "pork," according to the congressional reports and initial estimates by budget specialists. The projects were added by influential House members, who propose paying for many of them by cutting the budget for more urgent defense programs such as military training.

The extras have led the White House and budget hawks to assert that legislators could add billions more to a bloated federal budget and further hamper the military's ability to fulfill its mission. In a letter sent yesterday, the White House Office of Management and Budget earmarked \$3.6 billion in the House bill that was shifted from the Pentagon's operations and maintenance accounts that would be used to pay for the added programs.

"The administration is concerned that these reductions could damage the readiness of US forces and their preparedness," the OMB wrote to Representative Jerry Lewis, Republican of California, and Representative David Obey, Democrat of Wisconsin, the chairman and ranking members of the Appropriations Committee.

The OMB letter said that the \$285 million that would be slashed from a Pentagon program designed to fill some military desk jobs with civilians "would limit one of [the Defense Department's] most productive initiatives for reducing the strain on our armed forces [and to] free up critically needed troops for the Global War on Terror."

The letter said "the committee's additions to the Navy's shipbuilding budget . . . and numerous other smaller funding increases, preempts the Department's ability to invest cost-effectively in 21st-century capabilities."

Lawmakers have increasingly used the wars in Iraq and Afghanistan as cover to saddle the Pentagon's budget with "add-ons" -- projects that benefit legislators' home districts but are not necessarily related to the military, according to a review of budget documents and interviews with budget specialists.

"The addition of pork to the bill has accelerated as people get more supportive of defense because of the war," said Winslow Wheeler, a former aide to the Senate Budget Committee chairman, Pete Domenici,

Republican of New Mexico. Wheeler, a high-profile critic of congressional spending practices since leaving Congress in 2003 after 30 years, believes that "pork is growing just about more than anything else." The price tags range to several hundred million dollars.

The fiscal year 2006 Defense Appropriations Bill adds nearly \$900 million to build a destroyer that the Navy did not request, but would secure jobs at Ingalls Shipbuilding in Mississippi. It adds \$75 million to buy four new helicopters from Sikorsky Aircraft in Connecticut, even though the Army did not ask for them.

The appropriations bill provides seed money to buy dozens of C-130J transport planes built by Lockheed Martin in Georgia in the coming years -- even though the Pentagon wanted to stop delivery on the planes after reports of critical design and engineering problems. The National Drug Intelligence Center in Johnstown, Pa., would stay open and get more money even though the Pentagon wanted to close it.

It is often unclear in the bill which legislator is responsible for which add-on, but some, such as Representative John Murtha, Democrat of Pennsylvania, have touted their work to constituents back home. Murtha added the money for the drug center.

There are 20 pages' worth of smaller, sometimes vaguely-described projects that appear to have less to do with the war on terrorism: \$5 million to study mood disorders; \$2.7 million to research a cancer vaccine; \$4 million to find new ways to diagnose heart attacks; \$4 million for something called the "diabetes regeneration project." None of them were included in the Pentagon's initial \$363.7 billion spending request.

Steve Kosiak, a defense budget specialist at the Center for Strategic and Budgetary Assessments, said that some of the add-on expenses make military sense, but "it is hard to figure out what is pork and what is legitimate" because details are hard to come by; only about 10 percent of the add-ons to the appropriations bill are clear enough to identify as pork without extensive research.

A study by Taxpayers for Common Sense recently identified more than \$12 billion in add-ons last year and expects the number to be higher this year.

Keith Ashdown, vice president for policy at Taxpayers for Common Sense, a fiscally conservative watchdog group, said Congress is showing "a trend to dictate to the military services where and when they should be spending more and more of their money" in part to further their parochial interests. And he said legislators are showing little restraint: "They are giving all the pet items to everybody. The numbers have skyrocketed."

Ashdown said his analysis found that the "parochially and politically motivated earmarks" totaled 2,671 last year, compared to just 62 in 1980. The analysis also showed that 65 percent of the add-ons were inserted by members of key committees.

The rise is partly blamed on the practice since the Sept. 11, 2001, attacks to pay for the wars in Afghanistan and Iraq through separate "emergency" spending bills so the money is not tallied in the overall federal budget. These bills have provided another opportunity to direct defense dollars to lawmakers' states or districts while also freeing room in the regular defense bill for more favored programs, according to specialists.

The \$80 billion war bill passed earlier this year was riddled with add-ons, according to several analyses. It included \$10 million to expand wastewater facilities in Swiftwater, Pa. The University of Texas Southwestern Medical Center got \$3 million. A wastewater treatment plant in Desoto County, Miss., got \$35 million, and \$4 million went to the Fire Sciences Academy in Elk, Nev.

To reduce the need to draft special funding bills, the appropriations bill being debated in the House adds

\$45 billion to pay for the wars in Iraq and Afghanistan for the first six months of 2006.

But Chris Hellman, a military policy analyst at the Center for Arms Control and Non-Proliferation, said much of that money will replenish the Pentagon programs that were cut to pay for the pet projects. "They rob Peter to pay Paul and rob someone else to pay Peter," he said.

Bryan Bender can be reached at bender@globe.com. ■

Wall Street Journal

Earmarker in Chief

June 15, 2006; Page A14

<http://online.wsj.com/article/SB115033555119580784.html>

The Congressional debate over "earmarks" continues, and not in a way that makes the GOP majority look good. This week the Members are pushing through another 1,500 special spending projects, even as the controversy has engulfed California's Jerry Lewis, who as House Appropriations Chairman is earmarker in chief.

Federal investigators are examining whether Mr. Lewis abused his position by steering earmarks to his political friends and former employees. In one case, the Justice Department is investigating whether defense industry lobbyists were urged to contribute money to a political action committee run by Mr. Lewis's stepdaughter, with a good portion of the money used for her own salary.

Another aspect of the probe is said to be whether Mr. Lewis steered hundreds of millions of dollars in earmarked projects to the clients of his friend, campaign contributor and former House colleague Bill Lowery. One of Mr. Lowery's clients is an unindicted co-conspirator in the bribery scandal that sent former Republican Congressman Duke Cunningham to jail for approving earmarks to defense contractors in exchange for personal gifts.

The lobbying firm's defense clients receive hundreds of millions of dollars in federal contracts from Appropriations. Two of the top rainmakers at Mr. Lowery's firm have been former Appropriations staffers who worked for Mr. Lewis. This week, the Los Angeles Times reported that Mr. Lowery's firm paid one of those staffers, Jeffrey Shockey, nearly \$2 million when he left the firm and returned to Appropriations when Mr. Lewis became Chairman in 2005. Roll Call newspaper also reported this week that Mr. Shockey's former lobbying firm received more than \$1 million in higher fees from government contractors shortly after he returned to Capitol Hill.

Mr. Lewis recently hired a top criminal defense team and denies any wrongdoing. He says that all earmarks and contracts went for projects with the "highest standards of public benefit." But even if all of this is technically legal, the cronyism and revolving door between Congress and lobbyists look terrible and certainly won't help Republicans restore an image of fiscal rectitude before November.

More broadly, the Lewis episode underscores the link between Member-steered earmarks and the opportunity for corruption. Convicted super-lobbyist Jack Abramoff openly boasted that earmarks were his political currency and he called the Appropriations Committee that doles them out a "favor factory" for lobbyists. Duke Cunningham parlayed earmarks into a Rolls Royce in his driveway, until his greed landed him in the pokey. We also now know that one of the major beneficiaries of the most notorious

earmark from last year -- the \$300 million Bridge to Nowhere in Alaska -- is a relative of GOP Senator Lisa Murkowski.

This spring, House Republicans elected new leaders and promised to restrain earmarking. But this week the House is busily approving a \$68 billion Treasury, Transportation and Housing and Urban Development spending bill stuffed with more than 1,500 new earmarks at a cost of some \$900 million.

They include \$500,000 for a scenic trail in Monterey, California; \$1.5 million for the William Faulkner Museum in Oxford, Mississippi; \$500,000 for a swimming pool in Columbus, Ohio; and \$500,000 for an athletic facility in Yucaipa, California. Several of these projects, including the athletic facility, have been promoted by Bill Lowery's lobbying firm -- the very firm in the middle of the Jerry Lewis probe.

Yesterday, Jeff Flake of Arizona and other Members offered amendments to strip the earmarks, but they lost those floor votes by a wide margin. Our favorite: a \$500,000 earmark for renovating a swimming pool in Banning, California. The same pool had already received a \$250,000 earmark in each of the previous two years. Mr. Flake's floor proposal to strike the swimming hole subsidy got all of 61 votes.

In a rare bit of good news, Congressman Mark Kirk of Illinois prevailed on his amendment to prohibit any federal funds for the Alaska bridge project. The House Budget Committee also passed yesterday, on a 24-9 bipartisan vote, a modified line-item veto that would give Presidents the ability to strip out some of the worst of these projects. One of the loudest critics of the item veto is, ahem, Mr. Lewis. But meanwhile, in the spending bills where it matters, Congress is earmarking as usual.

If Republicans aren't spooked by the Lewis investigation, they should be. Here is one of their major barons under investigation for the kind of high-handed spending favoritism that voters detest about Washington. Republicans won the House in 1994 in part because the House Bank and Post Office scandals revealed the arrogance of a Democratic majority that believed it could do anything and voters would never send them packing. If Republicans don't change their behavior, earmarking could be the story that does the same for them this year.

<http://www.signonsandiego.com/news/politics/20051223-9999-lz1n23lewis.html>

A steady flow of financial influence

Close ties make Rep. Lewis, lobbyist Lowery a potent pair

By Jerry Kammer
COPLEY NEWS SERVICE

December 23, 2005

WASHINGTON – From powerful positions on the House Appropriations Committee, California Rep. Jerry Lewis has greenlighted hundreds of millions of dollars in federal projects for clients of one of his closest friends, lobbyist and former state Congressman Bill Lowery.

Meanwhile, Lowery, the partners at his firm and their clients have donated 37 percent of the \$1.3 million that Lewis' political action committee received in the past six years.

Such intertwining of public, political and for-profit business is legal. But because the relationships between campaign contributors, lobbyists and lawmakers are forged out of the public's view, they are not widely known or understood.

That could be changing as a result of the scandal that toppled Randy "Duke" Cunningham from Congress. In the wake of the Rancho Santa Fe Republican's admission last month that he took \$2.4 million in bribes from two defense contractors, there is growing concern about the Capitol Hill environment in which Cunningham prospered.

One of the defense companies that received federal contracts with Cunningham's support was a Lowery client. And some of the money was disbursed when Cunningham was a member of the defense appropriations subcommittee and Lewis was the committee chairman.

Washington is filled with lobbyists trying to get money for their clients. Some of the most successful are former lawmakers who trade on contacts with old colleagues and their understanding of legislative strategy.

The Lewis-Lowery relationship, however, is remarkable for the closeness and mutual dependence of the powerful appropriations chairman and the ambitious lobbyist, who served together on the appropriations committee from 1985 until Lowery left Congress in 1993. They've even exchanged two key staff members, making their offices so intermingled that they seem to be extensions of each other.

"Word is getting around that if you want to be close to Jerry Lewis, it's a good idea to be close to Bill Lowery," said a former Capitol Hill insider who asked not to be identified, saying he "cannot afford to make an enemy out of the chairman of the appropriations committee."

Lowery declined to be interviewed for this article. But a three-month investigation – based on examination of dozens of spending bills, lobbyist disclosure records, court records and reports by Lowery clients, as well as interviews with Capitol Hill veterans familiar with his work – makes clear that his lobbying success is based largely on his access to Lewis.

The son of southeast San Diego parents who ran a neighborhood hardware store, Lowery faced chronic personal financial problems throughout his congressional career. Now he owns a luxurious Capitol Hill town house and a riverfront estate in Southern Virginia. For Lewis, the relationship has eased the burden of fundraising, which he calls "the last thing I want to do with my time."

Lowery, his partners and their spouses have contributed \$135,000 to Lewis' campaigns and political action committee over the past decade, routinely giving the maximum allowed by law. Lowery also organizes and hosts Lewis fundraisers. And many of Lowery's defense-contractor clients contribute to Lewis as part of their lobbying strategy.

Taken together, they have contributed \$480,000 to Lewis' political action committee since 2000.

Last year Lewis used some of that money to wow the Republican leadership with checks for \$650,000 in "excess campaign funds" to help maintain Republican control of the House. In January he was given the coveted chairmanship of the appropriations committee, which oversees about \$900 billion in federal spending. He called the honor "the highlight of my career."

Beyond their close friendship, the essential ingredient in the Lewis-Lowery relationship is earmarking, the congressional practice in which special projects, sometimes derided as "pork," are slipped quietly into the federal budget without public review. Some earmarks are added just before final votes on appropriations bills, so they receive no scrutiny or analysis.

Earmarks have more than tripled in the past seven years. In 1998, Congress approved 2,000 earmarks, worth \$10.6 billion. Last year it passed 15,584 earmarks, worth \$32.7 billion.

As the number of earmarks has grown, so has the number of lobbyists, some of whom specialize in appropriations lobbying. The nation's capital has nearly 35,000 registered lobbyists, more than twice as many as it had five years ago. They now outnumber the 535 members of the House and Senate 65-to-1.

Norman Ornstein, a scholar at the conservative American Enterprise Institute, a Washington, D.C., think tank, is alarmed at what he calls the "pernicious" effect of earmarking – the linkage of lobbyists, elected officials, earmark seekers and campaign finance. "They all come together in a self-enforcing loop," he said.

Earmarking has drawn scrutiny since Cunningham pleaded guilty to taking bribes from two defense contractors – including Lowery client Brent Wilkes of Poway-based ADCS Inc. – who received earmarks with Cunningham's support.

Between 1998 and 2002, Wilkes paid Lowery's firm about \$200,000 to lobby for his company's defense projects.

Ornstein calls the Cunningham scandal an extreme example of the consequences of the lobbyist-contractor-politician connection.

"We now have a situation where billions of dollars of federal funds are allocated not on the basis of where it is most needed and can be spent most effectively, but according to who's sloshing the (campaign contribution) money around so they can get the earmarks," Ornstein said.

"When you do that, then ultimately you are being very destructive to the society."

Rep. Jeff Flake, R-Ariz, said few lawmakers are willing to criticize the practice because so many have something to gain from it.

"They want to make sure their earmarks stay in the bill, so no one complains," Flake said.

Even congressional staff members can have a stake in an earmark, said Nathan Facey, who left the staff of appropriations committee member Marcy Kaptur, D-Ohio, this year to go to graduate school.

"Sometimes staffers know that if they can help a lobbyist's project get put into an appropriations bill, they'll be able to get a job with that same lobbyist, which will allow them to make a lot more than what they're making with the government," Facey said.

Lewis has vowed to slash earmarking as chairman of the appropriations committee. But at the same time he says earmarks play "a very positive role" because they meet specific needs in the congressional districts that receive them. The role of Congress, he says, is to evaluate White House budget proposals and make useful changes.

"That's why you get elected," he said in an interview at his Capitol Hill office, as his dog, Bruin, a Bichon Frise-poodle mix, lay curled at his feet.

Those who don't see the value of earmarks, Lewis said, are "way out of touch in terms of what we elected officials have to deal with year in and year out."

Wide range of clients

Lewis' willingness to sign off on earmarks has been a boon to Lowery's firm, now known as Copeland Lowery Jacquez Denton & White.

From 1998 to 2004, the firm's income more than tripled, from \$1.58 million to \$5.11 million, according to the Center for Public Integrity, a nonpartisan organization that monitors government ethics. It had 28 clients in 1998 and now has 101.

The biggest growth has come in the past seven years, as Lewis served as chairman of the defense appropriations subcommittee, then of the full committee.

Lowery's personal income expanded with his firm's influence, according to court records from his two divorces. During his first divorce, from Katie Brown in 1997, he was earning about \$850,000 a year. When he and Melinda Morrin divorced last year, he testified he had earned "just under \$2 million" in 2003.

His firm's client list now includes government agencies, universities and defense contractors across California, all looking for earmarked money.

The city of San Diego paid Lowery's firm \$960,000 to seek federal funding for transportation, sewage treatment, summer youth employment and other projects between 1998 and 2002. A number of projects were funded.

This year the California state Senate became a client. The registration form filed by Lowery's firm says it will lobby for "a fair share of federal funds" for the state.

Minutes of a 1999 Redlands City Council meeting illustrate the reasoning of many Lowery clients. Councilman Kasey Haws urged that the firm be hired because "it is expected that (the cost) will be returned many times over in federal funds received."

The lobbying duties for Lewis' constituents were handled primarily by Jeffrey Shockey, who worked for Lewis, then Lowery, and now Lewis again.

When Shockey was with the Lowery firm, his clients included his alma mater, Cal State San Bernardino.

As word spread that millions of dollars in federal money were raining down on the CSUSB campus, Dr. Clifford Young, who oversees federal relations for the school, began receiving calls from other universities and from town and county governments across the Inland Empire.

"They were asking, 'Who are you using (in Washington)? What are they doing for you? How are they doing it for you?' I get a lot of those calls."

As word traveled, the cities of San Bernardino, Highland, Twentynine Palms, Victorville, Murrieta and Loma Linda signed on. So did San Bernardino and Riverside counties, along with the San Joaquin Council of Governments and several universities. Redlands, Lewis' hometown, wanted a hired hand in Washington, as did the University of Redlands.

Nearly all cashed in with earmarks.

The University of Redlands got \$700,000 over two years for "technology enhancement."

Twentynine Palms got \$200,000 for a visitor center.

The town of Yucca Valley got \$100,000 for a civic center park and a half million dollars for a solar energy project

San Bernardino County got \$50,000 for a wading pool.

Among the biggest beneficiaries was Loma Linda University, whose medical center got millions of dollars earmarked into NASA's budget for research projects. Since 1988 the small Seventh-day Adventist school has received more than \$160 million in earmarks. Some Lewis staffers call it "Loma Lewis University."

The projects have earned Lewis the gratitude of his constituents, who during his 27 years in Congress never provided him less than 60 percent of the vote. He has become such an icon in his district that last year no Democrat stepped up to run against him.

San Bernardino City Councilwoman Susan Lien Longville told the local Sun newspaper about her gratitude for more than \$1 million in Environmental Protection Agency funds that Lewis earmarked to create a lake.

"It has been the generous earmarks that Congressman Lewis has provided for us that has allowed us not to dip into the general fund or redevelopment fund," she said.

Her comment illustrates what is perhaps the ultimate political magic of earmarking. Local communities benefit while the cost is simply added to the national debt. Earmarking concentrates benefits and disperses costs.

A close friendship

In some ways, Lewis and Lowery are an unlikely pair.

Lowery, 58, has a boisterous amiability and loves to entertain a crowd with his bawdy humor. The affable and courtly Lewis, 71, has the temperament of an amused and supportive uncle.

The congressman and the lobbyist have celebrated birthdays together, vacationed together and often share meals at restaurants near their Capitol Hill homes. Lewis was the best man at Lowery's second marriage. Lowery emceed a gala for Lewis in Redlands last year. Their day-to-day contacts are made convenient by Lowery's special access to Capitol Hill.

As a former congressman, he can exercise at the House gym and walk onto the House floor. He has parking privileges near congressional offices for his 2004 Lexus, whose

California license reads "U.S. Congress: C 41 r," reflecting that he is a retired representative of the 41st District.

Lewis and Lowery have often traveled together. In 1999, shortly after Lewis became chairman of the defense appropriations subcommittee, they toured the San Diego headquarters of Orincon, a defense contractor now owned by Lockheed Martin. Lowery was Orincon's lobbyist and sat on its board of directors. Lewis' political action committee got \$47,000 from Orincon's executives between 2001 and 2003.

San Jose-based Tessera Technologies, which is working on a project to cool electronic components to make them more reliable, paid Richard White \$180,000 in 2003 and 2004, according to his lobbyist disclosure forms. The project received \$4.5 million in earmarks in those years.

Lowery has cultivated relationships with the appropriations committee staff and with the staffs of some committee members. When the committee worked late one night to meet a legislative deadline, he sent the staff about \$300 worth of sandwiches. When Cunningham's staff held its 2001 Christmas party at the Oceanaire restaurant near the White House, he paid the \$1,800 bill.

The appropriations committee staff, meanwhile, has invited Lowery to birthday parties, going-away parties and baby showers. Over the years Lowery has become an active member of what Lewis calls "the Lewis family."

Joining the lobbyist

When the Republicans won control of the House in 1994, Lewis was named chairman of an appropriations subcommittee that controlled the budgets of a long list of federal agencies, including the Department of Veterans Affairs, NASA and the EPA.

He won praise for cutting spending at those agencies. But he continued to find money for projects in his home district.

In 1999 Lewis became chairman of the defense appropriations subcommittee, which oversees more discretionary spending than any other congressional body.

He soon won praise from budget hawks for what ultimately was a losing battle to cut funding for the Air Force's F-22 fighter. Despite that early demonstration of fiscal toughness, earmarks in the defense bills exploded on Lewis' watch.

"We used to think that Mr. Lewis would be a champion for smart spending," said Keith Ashdown of the watchdog group Taxpayers for Common Sense. "But he brought us the biggest increase in defense earmarking in history."

Many of the earmarks went to clients of Lowery's firm, which grew even more prosperous when Lewis' principal defense-earmarks gatekeeper, Letitia White, joined the

firm in 2003. White declined to be interviewed other than to say she chose the Lowery firm from among "five excellent offers."

Lowery had worked with White when she was on Lewis' staff, treating her to occasional meals and gifts of her favorite wine, Veuve Clicquot champagne. She often received him and his clients at her office, where they discussed the clients' earmark proposals.

At the firm, White quickly acquired a client roster of two dozen defense firms for which she seeks earmarks and other special treatment. In 2004 she brought in \$1.44 million in lobbying fees.

White's husband, a former tobacco industry lobbyist, had switched to defense lobbying by that time. He began lobbying for earmarks after Lewis took charge of the defense appropriations subcommittee.

This was a joint victory for the Whites.

Tessera's partner in the project is Clarkston, Washington-based Isothermal Systems Research. Letitia White was the company's principal lobbyist, and she billed Isothermal \$120,000 for lobbying services in 2003 and 2004.

The Whites contribute heavily to Lewis and the Republican Party.

Since 2003 they have poured \$30,000 into Lewis campaigns and his PAC. They also gave \$40,000 to the National Republican Congressional Committee and thousands more to PACs established to retain Republican control of the House.

Lewis said he saw no reason to question Richard White's lobbying efforts. "He's one of the people I think the world of," Lewis said.

At the request of Copley News Service, budget watchdog Ashdown examined appropriations bills to see how Letitia White's clients have fared. Ashdown said he was astonished at her success in getting earmarks.

The overall success rate for earmark requests submitted to Congress is 1 in 4, Ashdown said. In baseball terms that's a .250 average.

"Letitia White is hitting about .600 or .700," Ashdown said. "She might be the lobbyist batting champion. If I were looking for an earmark, I'd hire her in a heartbeat."

Ashdown said White is cashing in on her relationship with Lewis.

"Special interests want to buy influence," he said. "People know that if you keep Letitia White happy, you keep Jerry Lewis happy."

Lewis strenuously disagrees, saying White's 21 years of service in his office hasn't won her special treatment.

"Frankly she carries her own weight," he said. "She's a talented person who works very hard."

Lewis said White, 47, is so dedicated to public service that she asked to rejoin his staff when he took the reins of the appropriations committee. But he said no, because he wanted White, whose husband is 25 years older than she is, to build some financial security.

"I said, 'Letitia, I'm afraid you shouldn't do that,'" Lewis said.

Joining the lawmaker

When Jeffrey Shockey, 39, left Lowery's firm in January to return to work for Lewis, he accepted a salary of just under \$160,000.

Although that puts him among the best-paid congressional employees, it's a big comedown from the \$1 million or so he likely was earning as a prolific "rainmaker" for Copeland Lowery Jacquez Denton & White.

But the firm helped cushion the income drop by hiring Shockey's wife, Alexandra, as a subcontractor.

Alexandra Shockey, also a former Lewis employee, has her own lobbying venture, called Hillscape Associates. But Hillscape's address on federal disclosure forms is identical to that of the Lowery firm, where she keeps her office.

Both Shockeys declined to be interviewed, but in an e-mail Alexandra Shockey, 37, acknowledged that her client roster includes some of her husband's old clients. That means she is now lobbying congressional staffers who work for her husband – and she's doing it on behalf of her husband's former partners.

The Shockeys' attorney, William Oldaker, said the couple sought his legal advice about their working arrangement and he assured them they were complying with House ethics rules "in letter and spirit." He said the arrangement was disclosed to the House Ethics Committee "and Jeff has recused himself from any decisions involving any clients Alex represents."

That explanation did not impress Larry Noble of the Center for Responsive Politics, a campaign watchdog group.

"If what they are doing is appropriate, I think it reflects an ethics culture in the House that is blind to what most people would say are conflicts of interest," Noble said.

"People working for her husband are going to decide on issues that will affect her income and her ability to do her job, which in turn impacts on her husband."

Since 1999 the Shockeyes have contributed more than \$170,000 of their income to Republican causes, including \$40,000 to Lewis.

Lewis views Jeffrey Shockey's decision to return to join the appropriations committee staff not as another turn of Washington's revolving door, but as proof of the idealism he says is characteristic of the Shockeyes, the Whites and Bill Lowery.

"I'm very proud of the fact that these people basically are motivated by ... public service," Lewis said. "They didn't come to Washington to get rich. Instead, they came to Washington because they actually wanted to serve."

"They have attempted to make a serious contribution. And over time they have made a very serious contribution."

Union-Tribune researchers Denise Davidson, Erin Hobbs and Peter Uribe contributed to this report.

Amendment # 4371 – Limitation on DoD Contract Performance Bonuses

BACKGROUND

All Federal agencies and Departments, including the Department of Defense can choose among numerous contract types to procure products and services. One of the characteristics that vary across contract types is the amount and nature of the fee that agencies offer to the contractors for achieving or exceeding specified objectives or goals. Many different types of contracts exist – but only award and incentive fee contracts allow for an agency to adjust the amount of fee paid to contractors based on the contractor’s performance.

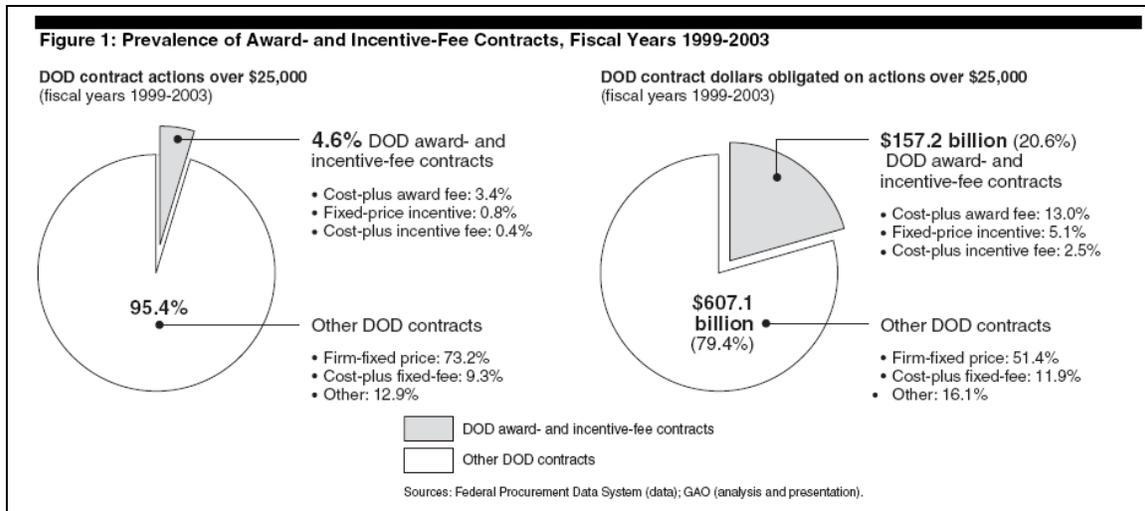
DoD contracting authority allows for certain award fees and incentive fees to be attached to the “base” amount of a contract. The premise is that the possibility of being awarded these fees will motivate contractors to deliver on-time, on-budget, with excellent customer service.

In December, GAO issued a report to the Subcommittee on Readiness and Management Support, Committee on the Armed Services, U.S. Senate, entitled: *“DOD Has Issued Billions in Award and Incentive Fees Regardless of Acquisition Outcome.”*

GAO found that the Department of Defense has been improperly paying awards and incentives attached to contracts. These are supposed to only be paid out for outstanding performances on contracts but are routinely paid out without regard to performance.

GAO’s Findings

- Award and incentive contracts represent only **5% of all contract actions**. However, in dollar terms, these pay-outs represented **21% of all DoD dollars spent - \$157.2 billion**.



- Most of the contracts and most of the dollars in the GAO study population are related to the acquisition of weapon systems. Since 1990, GAO has designated DOD weapon system acquisition as a high-risk area.
 1. *“Although U.S. weapons are the best in the world, DOD’s acquisition process for weapon programs consistently yields undesirable consequences—cost increases, late deliveries to the warfighter, and performance shortfalls.”*
- **GAO found no positive link** between performance of contracts with performance fees available.
 - *“DOD has not structured and implemented award-fee contracts in a way that effectively motivates contractors to improve performance and achieve acquisition outcomes. DOD practices—such as routinely paying its contractors nearly all of the available award fee, amounting to billions of dollars, regardless of whether the acquisition outcomes fell short of, met, or exceeded expectations; rolling an estimated \$669 million in unearned or withheld award fees to future evaluation periods; and paying a significant portion of the available fee for what award-fee plans describe as “acceptable, average, expected, good, or satisfactory” performance—all lessen the motivation for the contractor to strive for excellent performance. In addition, DOD award-fee plans have not been*

structured to focus the contractor's attention on achieving desired acquisition outcomes."

- *"Despite paying billions in fees, DoD has little evidence to support its belief that these fees improve contractor performance and acquisition outcomes."*
- Research going back to the 1960's out of GAO, Harvard University, and the RAND Corporation has found that award and incentives fees have no impact on contractor performance.

According to Testimony before the Subcommittee on Readiness and Management Support, Committee on Armed Services by Comptroller David Walker on April 5, 2006.

Although DoD guidance and federal acquisition regulations state that award fees should be used to motivate excellent contractor performance, most DoD award fee contracts pay a significant portion of the available fee for what award fee plans describe as "acceptable, average, expected, good, or satisfactory" performance. Although the definition of this level of performance varies by contract, these definitions are generally **not related to outcomes**.

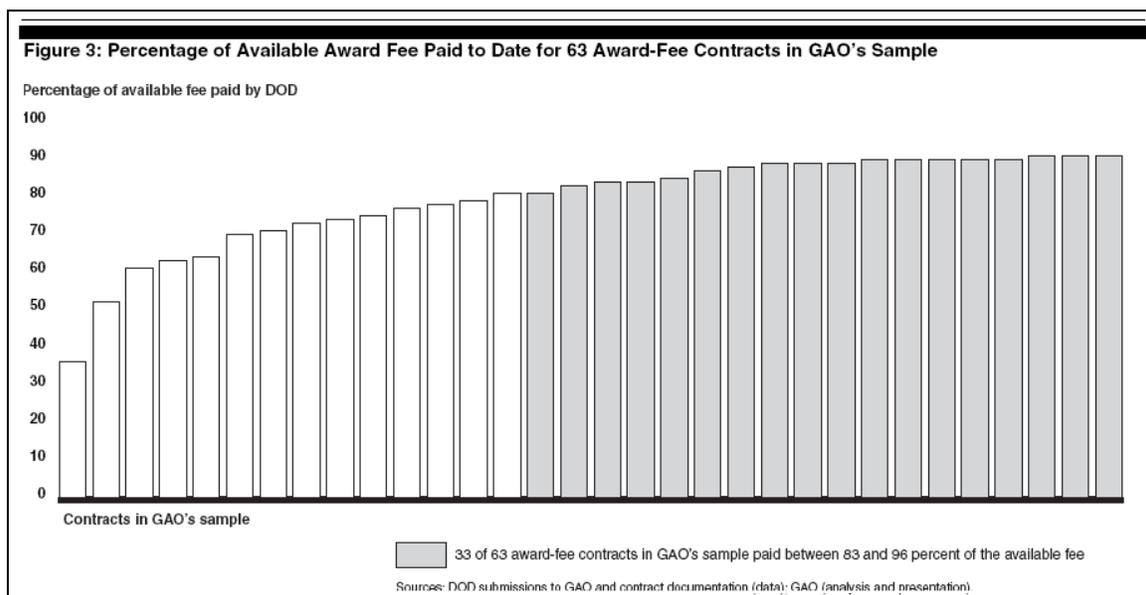
"Some plans for contracts in our sample did not even require the contractor to meet all the minimum standards or requirements of the contract to receive one of these ratings"

Mr. Walker went on to say that "some plans also allowed for fees to be paid for marginal performance"

High award fee payouts on programs that have fallen or are falling well short of meeting their stated goals also indicative of DoD's failure to implement award fees in a way that promotes positive performance and adequate accountability.

46% of the award fees dollars paid to date – **are not achieving or have not achieved their desired acquisition outcomes, yet contractors received most of the available award fee.**

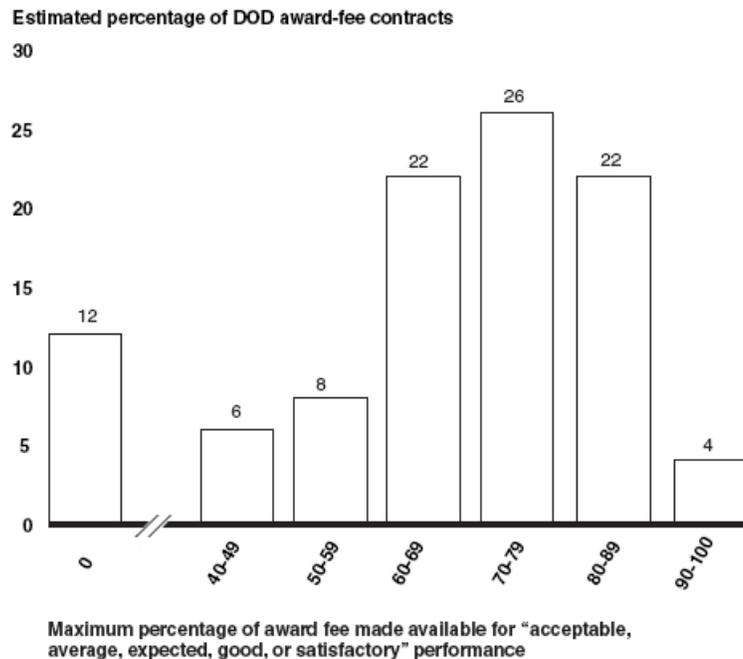
- GAO estimated that for DoD award-fee contracts sampled, the median percentage of available award fee paid to date was 90 percent, representing an estimated \$8 billion in award fees for contracts active between fiscal years 1999 through 2003.
- It is also important to remember that the \$8 billion that was paid to contractors in awards was just from the sample of 93 contracts from the study population of 597 DoD award and incentive fee contracts that were active and had at least one contract action valued at \$10 million or more from fiscal year 1999 through 2003. So one can easily see that the **\$8 billion paid out was ONLY A FRACTION of the total award bonuses given out to contractors.**



- If a contractor doesn't perform sufficiently to earn award fees available in a given "evaluation period", DoD has been routinely (against FAR specifications) "rolling over" these fees and making them available in subsequent years. GAO found that during its study years (FY99-03), **DoD rolled over \$669 million in fees** – that's money that wasn't earned the year it was supposed to be and should have been returned to the Treasury. This is a widespread practice that is only supposed to be used, according to existing regulations, in "rare" instances.

- GAO found that, *“Although DOD guidance and federal acquisition regulations state that award fees should be used to motivate excellent contractor performance in key areas, most DOD award-fee contracts pay a significant portion of the available fee from one evaluation period to the next for what award-fee plans describe as “acceptable, average, expected, good, or satisfactory” performance.”*

Figure 6: Maximum Percentage of Award Fee Available for “Acceptable, Average, Expected, Good, or Satisfactory” Performance and the Estimated Percentage of DOD Contracts That Paid These Percentages



Sources: Award-fee plans and contract documentation (data); GAO (analysis and presentation).

- The Comanche helicopter, F/A-22 and Joint Strike Fighter aircraft, and the Space-Based Infrared System High satellite system, have experienced significant cost increases, technical problems, and development delays, but the prime systems contractors have respectively received 85, 91, 100, and 74 percent of the award fee made available to date, totaling \$1.7 billion.

Program Performance and Award-Fee Payments on Selected DOD Development Programs				
	Comanche reconnaissance attack helicopter	F/A-22 Raptor tactical fighter aircraft	Joint Strike Fighter tactical fighter aircraft	Space-Based Infrared System High
Acquisition outcomes				
Research and development cost	\$3.7 billion	\$10.2 billion	\$10.1 billion	\$3.7 billion
increase over baseline	41.2 percent	47.3 percent	30.1 percent	99.5 percent
Acquisition cycle time	33 months	27 months	11 months	More than 12
increase over baseline	14.8 percent	13.3 percent	5.9 percent	months
Percentage and total	85 percent	91 percent	100 percent	74 percent
award fee paid to prime systems contractor (adjusted for rollover) ^a	\$202.5 million paid through 2004	\$848.7 million	\$494.0 million	\$160.4 million

Sources: DOD submissions to GAO, contract documentation, and GAO-05-301 (data); GAO (analysis).

- According to GAO, some programs, most notably the Missile Defense Agency’s Airborne Laser program, have structured fees to focus on acquisition outcomes, such as successfully demonstrating the system, which can help ensure that fee payments are actually representative of program results. However, about half of the 27 incentive fee contracts that GAO reviewed **failed or are projected to fail to meet a key measure of program success – actually completing the acquisition at or below the target price.**
- Worse, GAO states: “Some DOD award-fee contracts in our sample also allowed for a portion of the available award fee to be paid for marginal performance—a rating lower than satisfactory.”

Examples:

Performance Ratings in Award Fee Plans

Examples of award-fee contracts that allow for a portion of the available award fee to be paid for marginal performance—a rating lower than satisfactory:

- AN/SPQ-9B Radar Development contract
- AMRAAM Pre-Planned Product Improvement contract
 - Paid fee for marginal performance in the cost area for one award fee period
- Global Transportation Network for the 21st Century contract
- Joint Strike Fighter System Development and Demonstration contract
- Joint Strike Fighter F-136 Engine Pre- System Development and Demonstration contract
- Multi-Ship Multi-Option Maintenance contract for LPD-class ships

Examples of award-fee contracts that did not require the contractor to meet all of the minimum standards or requirements of the contract to receive a rating of satisfactory:

- AMRAAM Pre-Planned Product Improvement contract
- Multi-Ship Multi-Option Maintenance contract for LPD-class ships
- Ship Repair and Alteration contract for CVN-class ships

Source: GAO, private correspondence

WHAT THIS AMENDMENT DOES

The current bill language attempts to address this GAO by requiring the Secretary of Defense to issue guidance with detailed implementation instructions for the appropriate use of award and incentive fees in the Department of Defense acquisition programs.

- This amendment tightens up the bill language in Section 843(4), which currently reads:

“ensure that no award fee may be paid for contractor performance that is judged to be poor;”

- Instead, this amendment would state that no award bonuses should be given for contractor performance that is judged to be:

“below-satisfactory performance or performance that does not meet the basic requirements of the contract;”

If a contractor does not live up to the agreed upon contract – he/she shouldn't receive an award bonus (if one is agreed upon in the contract). **No private business would possibly agree to a contract that would pay MULTIPLE award bonuses when a contractor FAILED TO MEET THE BASIC REQUIREMENTS OF THE CONTRACT.**

According to testimony by Mr. David Walker, Comptroller General of the United States on April 5, 2006 before the Subcommittee on Readiness and Management Support, Committee on Armed Services, U.S. Senate, *“Cost increases incurred while developing new weapons systems typically mean that DOD cannot produce as many of those weapons as intended nor can it be relied on to deliver them to the war fighter when promised and with the initially advertised capabilities”*.

- In other words, the ultimate burden of this malfeasance falls upon the troops.