

NACo GUIDE TO CONGRESSIONALLY DIRECTED SPENDING FOR FY 2023 HOW COUNTIES CAN NAVIGATE THE EARMARKS PROCESS



This National Association of Counties (NACo) guide provides an overview of the Fiscal Year (FY) 2023 funding opportunities directly available to state and local governments and nonprofit organizations through Congressionally Directed Spending, more commonly known as Congressional earmarks.

It is anticipated that a large number of projects will be requested from stakeholders, but only a limited number can be funded by Congress due to Congressional Committee rules limiting the number of these so-called earmarks. Members of Congress may only submit up to 15 requests to the Congressional Appropriations Committee. For FY 2023, Members of Congress will be required to post every Community Project Funding request on their official House website following the Committee's 15-day review period. Providing 15 days between making a request and posting it on a Member of Congress' website will allow Congressional subcommittee staff time to review requests and make sure they are properly categorized as a Community Project Request. Further, to ensure that all Members of Congress' requests are easily accessible, the Appropriations Committee will continue to provide a "one-stop" link to all House Members' online project requests.

Generally, project eligibility requirements for funding are the same as for competitively awarded projects through existing federal grant programs. A key difference from previous years is that the project request must be for FY 2023 funds only and cannot include a request for multi-year funding. However, the performance period for a project funded with amounts provided in FY 2023 will depend on the appropriations account from which it is funded and may be longer than one year. Further, when planning your requests, it's important to keep in mind that several of the programs eligible for Community Project Funding requests require a State or local match for projects either by statute or according to longstanding policy. The Committee will not waive these matching requirements for Community Project Funding requests, so it is important to ensure that you can meet the matching requirements before requesting a project.

Note: *This does not mean that matching funds must be in hand before requesting a project, but that local officials must have a plan to meet such requirements for such a project to be viable.*

NACo has no official role in the Congressionally Directed Spending (Earmarks) application process. However, NACo is here to help members contact their Members of Congress to apply and to advocate for their projects once they are submitted. **The following information in this guide has been pulled from various committee documents to ensure the accuracy of information.**

BASIC PROJECT INFORMATION REQUIRED

The House and Senate Appropriations Committee require all project requests to provide the following information for initial consideration of the requests.

- Official Project Name
- **Project Purpose:** This is a short description of the project that will be made public in Congressional disclosures for both requested and funded earmarks.
- **Justification:** This provides a longer, 250-word summary of the project including its intended purpose, history, goals and performance standards, the current status of the project, and justification for why the project is a worthwhile investment for taxpayers.
- **Project Budget:** This should outline the total cost of the project and how funds will be spent, such as on salaries, programming, equipment, etc.
- **Project Financing:** Requests should provide a full accounting of the non-earmark funding dedicated to the project, including non-federal funding such as state, county, or municipal general funds, nonprofit funding, or financing mechanisms.
- **Timeline to Completion:** While completion of projects is not required within the fiscal year the earmark funds are requested, the Senate Appropriating Committee prioritizes funding projects that can be fully expended within one federal fiscal year (October 1 through September 30th) and allow the project to be completed during the fiscal year cycle.

EARMARK CONSIDERATION TIMELINE

1. Counties submit requests to applicable U.S. Senator or House of Representative member (contact the personal office for their internal deadline, which is ahead of the April 27-29 Committee deadlines)
2. Senate/House Appropriations review the submitted requests
3. Senate/House Appropriations craft legislation in private and then publicly release funding bills with earmarks and other funding policy
4. Senate bill is conferenced with the House bill
5. Consolidated funding bill is signed into law with Senate and House earmarks
6. Earmark funding is distributed to organizations awarded earmarks

SUBCOMMITTEE DEADLINES

The Appropriations' Member database opened at 10:00 AM EDT on **Monday, April 4, 2022.**

The deadlines for **Members of Congress** to submit a proposed request by [Subcommittee](#) are as follows:

- **Wednesday, April 27:** Financial Services and General Government; Labor, Health and Human Services, Education, and Related Agencies; Legislative Branch; State, Foreign Operations, and Related Programs
- **Thursday, April 28:** Agriculture, Rural Development, Food and Drug Administration, and Related Agencies; Defense; Homeland Security; Military Construction, Veterans Affairs, and Related Agencies;
- **Friday, April 29:** Commerce, Justice, Science, and Related Agencies; Energy and Water Development, and Related Agencies; Interior, Environment, and Related Agencies; Transportation, and Housing and Urban Development, and Related Agencies

ELIGIBLE PROJECTS AND REQUIREMENTS

The following information, broken down by project type, provides an overview of what projects are eligible to receive Community Project Funding. Again, it is important to consider that this may not be exhaustive, given that there may be additional requirements.

AGRICULTURE, RURAL DEVELOPMENT, FOOD & DRUG ADMINISTRATION

Deadline for **Members of Congress** to submit: April 28, 2022. Counties must submit the project before this date (based on their applicable Senator or Representative)

U.S. Department of Agriculture

Rural Development (USDA RD) Community Facilities

- This flexible account can be used to purchase, construct, make improvements to, or purchase equipment for community facilities in rural communities.
- Allowable uses of funds include support for health care facilities, public facilities such as town halls, courthouses, or street improvements, community support services for child care centers, community centers, or fairgrounds, improvements to the facilities of emergency personnel, community educational services for museums, libraries, or private schools, food systems including community gardens, food pantries, and utility services for telemedicine and distance learning equipment.
- Only nonprofits operating in rural communities with populations of 20,000 or less are eligible to compete for this funding source. The maximum federal share is up to 75 percent, and the share non-federal share increases depending on population size and the median income of the local community.

ReConnect Broadband Program

- ReConnect broadband pilot grants facilitate broadband deployment in rural areas. Grants funds can be used for the costs of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service to rural areas without sufficient broadband access.
- The area must be rural and lack sufficient access to broadband service. A rural area is any area not located within a city, town, or incorporated area with a population of greater than 20,000 inhabitants.
- Stand-alone middle-mile projects are not eligible under the ReConnect Program. However, middle-mile 5 facilities are eligible if they are needed to bring sufficient broadband service to all premises in the area.

COMMERCE, JUSTICE & SCIENCE

Deadline for **Members of Congress** to submit: April 29, 2022. Counties must submit the project before this date (based on their applicable Senator or Representative)

U.S. Department of Justice (DOJ)

Department of Justice Byrne JAG Discretionary Projects

- This program has a wide range of allowable uses of funds, generally defined as providing additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice systems, including the development of new Law Enforcement Assisted Diversion (LEAD) programs.

- Nonprofit organizations may apply directly for certain programs and based on a partnership with a local law enforcement agency for other grant opportunities.

Community Oriented Policing Services Technology and Equipment (COPS Tech)

- Funding will be provided for COPS Technology and Equipment (COPS Tech) community project grants for State, local, and tribal law enforcement to develop and acquire effective technologies and interoperable communications that assist in investigating, responding to, and preventing crime, provided that such equipment meets the applicable requirements of the National Institute of Standards and Technology (NIST) Office of Law Enforcement Standards (OLES).

ENERGY & WATER DEVELOPMENT

- Deadline for **Members of Congress** to submit: April 29, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)
- The purpose of these lists is to assist in locating official project names for Army Corps of Engineers and Bureau of Reclamation authorized projects. They may not include all authorized studies and projects. If you would like to submit a request that is not included on any of these lists, but you believe is authorized, please reach out to your local Corps District office or Reclamation Region office to obtain the requested authorization information.

Army Corps of Engineers

- [Investigations](#)
- [Construction](#)
- [Environmental Infrastructure \(EI\), Construction](#)
- [Operation and Maintenance](#)
- [Mississippi River and Tributaries](#)

Bureau of Reclamation

- [Water and Related Resources](#)

FINANCIAL SERVICES & GENERAL GOVERNMENT

- Deadline for **Members of Congress** to submit: April 27, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)

Small Business Administration (SBA)

- The majority of programs within the Small Business Administration may be earmarked for nonprofits and partner county and municipal governments to receive funding and support local small businesses. These grants can range from delivering services on entrepreneurial development, financial literacy workshops, small business incubators, and support for historically underserved businesses.
- Earmark funds received under the authority of the Small Business Administration cannot be sub-granted to for-profit small businesses for their purposes, funds must be retained and utilized by the nonprofits or partner county and municipal governments to deliver services or training directly to small businesses.

HOMELAND SECURITY

- Deadline for **Members of Congress** to submit: April 28, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)

Department of Homeland Security (DHS)

Building Resilient Infrastructure and Communities (BRIC) grant program

- Only projects that meet the requirements detailed in the most recent Notice of Funding Opportunity for the Building Resilient Infrastructure and Communities (BRIC) grant program will be considered for funding, including the cost-share requirement and environmental and historic preservation requirements, as applicable. For any projects designated for funding in the final fiscal year 2023 Homeland Security Appropriations Act, the state agency responsible for administering mitigation grants in the requestor's state must apply to the Federal Emergency Management Agency, and that entity will serve as the administrative agent for the grant. Therefore, all project proposals must be accompanied by a letter of support from the appropriate state agency affirming that it believes the project is eligible.

INTERIOR & ENVIRONMENT

- Deadline for **Members of Congress** to submit: April 29, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)

Department of the Interior (DOI)

Land Acquisition Through the Land and Water Conservation Fund

- Federal acquisition of lands and water and interests must be for land and habitat conservation and the encouragement of outdoor recreation, as established by the Land and Water Conservation Fund (LWCF) Act of 1965. Land acquisition project requests funded from the LWCF should be requested through the agency that would manage the land being acquired. The four land management agencies are
 - Bureau of Land Management
 - Fish and Wildlife Service
 - National Park Service
 - Forest Service.

Environmental Protection Agency (EPA)

State and Tribal Assistance Grants (STAG)

- The vast majority of requests made to the Interior Subcommittee are for STAG infrastructure grants. These grants fund local wastewater and drinking water infrastructure projects. This includes the construction of and modifications to municipal sewage treatment plants and drinking water treatment plants. Similar to past practice, the Committee will be limiting STAG infrastructure grants only to projects that are publicly owned or owned by a non-profit entity and that are otherwise eligible for the funding from that state's Clean Water or Drinking Water State Revolving Funds (SRF) loan programs.

LABOR, HEALTH AND HUMAN SERVICES & EDUCATION

- Deadline for **Members of Congress** to submit: April 27, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)

Department of Education

Elementary and Secondary Education

- Community project funding for elementary and secondary education should be submitted through the Innovation and Improvement account. Elementary and secondary education community project funding includes instructional services, afterschool centers, curricula development, teacher training, acquisition of books and computers, arts education, social and emotional learning activities, full-service community schools, and early childhood education. In general, the focus of elementary and secondary education community project funding should be providing early childhood or K-12 educational services.
- Community project funding cannot be used for construction or renovation of school buildings, except in the case of minor remodeling required as part of technology upgrades. Daycare and childcare projects that do not include educational services are also not eligible.
- Eligible grantees are state education agencies, school districts, colleges and universities, and other public and private nonprofit entities. Generally, community project funding intended for individual schools is provided to the applicable school district and not directly to the individual school.

Department of Labor (DOL)

Workforce Innovation and Opportunity Act

- Under the Department of Labor's Employment and Training Administration authority, earmark funds may be used by nonprofits, K-12 school systems, and institutions of higher education to enhance Workforce Innovation and Opportunity Act (WIOA) eligible activities.
- Eligible nonprofits or partner county or municipal governments programs for funding include those designed to provide direct services to individuals to enhance their employment opportunities and training for locally available, in-demand, jobs, enhancing connections between a state and local workforce investment system, or evaluating existing workforce investment systems for potential future enhancements.

Department of Health and Human Services (HHS)

Substance Abuse and Mental Health Services Administration (SAMHSA)

- SAMHSA provides a wide range of funding to create or expand the nonprofits, as well as partnering with state, county, and municipal governments to provide mental health or substance abuse treatment or prevention programs for local residents, such as through crisis stabilization centers. No SAMHSA funding may be used for construction projects. Eligible SAMHSA Mental Health projects include those support programs that promote the prevention or treatment of mental health disorders, including rehabilitation, outreach, and other support services.

Health Resources and Services Administration (HRSA)

- HRSA provides funding to nonprofits, as well as partnering state, county, and municipal governments, to enhance the ability of the local community to respond to pressing health care needs. Allowable activities include the construction of facilities, capital equipment purchases, health professions workforce development, and rural health needs.

Health Resources and Services Administration (HRSA) Health Facilities Construction and Equipment

- This flexible account can provide federal funding to contribute towards the cost of construction, renovation, or capital equipment purchase for facilities for health, mental health, or substance abuse services, training of health professionals, or medical research.
- This may include nonprofit hospitals; health centers and clinics; skilled nursing facilities; mental health centers; facilities for schools of medicine, nursing, or other health professions; and medical research laboratories.
- Funding may also be utilized to purchase capital equipment involved in patient care, such as lab equipment, x-ray machines, or other equipment with a useful life of more than a year and a unit cost of at least \$5,000 are permissible expenses.
- Earmarked funds are prohibited from paying for previously acquired equipment, and previously completed construction, or to pay for salaries or operating costs of the health care facilities. General feasibility studies for a health care facility are prohibited expenses, but architectural and engineering costs with an eligible construction project are a permissible use of funds.

Rural Health

- This account may fund projects to improve health care in rural areas, including medical, dental, or mental health care services; health promotion and education; chronic disease management; telehealth services; and improvements to emergency medical services.
- Eligible applicants are only those health care providers that service communities to meet HRSA's definition of a rural community. Please see HRSA's Rural Health Grants Eligibility Analyzer to determine the specific eligibility for your project.

MILITARY CONSTRUCTION & VETERAN'S AFFAIRS

- Deadline for **Members of Congress** to submit: April 28, 2022. Counties must submit the project **before this date** (based on their applicable Senator or Representative)

Department of Veterans Affairs

- Community project funding requests are eligible ONLY for VA Minor Construction projects. VA's Minor Construction program includes capital projects with costs equal to or less than \$20,000,000, particularly projects that construct new space instead of renovating existing space. Examples may include expanding existing facility square footage to provide additional healthcare capacity, construction of specialty care buildings or clinics, building parking structures, or expanding gravesite space at cemeteries.
- The Committee will only consider projects that appear on VA's Integrated Departmentwide Priority List for 2023 Construction Projects (2023 Construction SCIP List).
 - The yearly Construction SCIP list includes projects that have been reviewed by VA and are determined to be at an advanced enough stage to receive funds. This will ensure that federal dollars are not set aside for projects that are not yet ready to allocate funds. Please note that while this list includes both major construction and minor construction projects, only minor construction projects will be considered for Member requests.

- Veterans memorials, parks, museums, and other similar projects are not eligible for community project funding. Funds are also not available for direct grants to veterans organizations or local programmatic efforts.

TRANSPORTATION, HOUSING & URBAN DEVELOPMENT

- Deadline for **Members of Congress** to submit: April 29, 2022. Counties must submit the project before this date (based on their applicable Senator or Representative)

U.S. Department of Transportation (DOT)

Airport Improvement Program (AIP)

- AIP community project funding requests shall be used for enhancing airport safety, capacity, and security, and mitigating environmental concerns.
- All projects must be:
 - AIP is eligible by sections 47101 to 47175 of title 49, United States Code, and FAA policy and guidance.
 - Supported broadly by local stakeholders, including residents, businesses, and elected officials.
 - Administered by an airport and/or airport sponsor

Highway Infrastructure Projects

- Highway Infrastructure Projects are capital projects eligible under title 23 of the United States Code. Eligible projects are described under Section 133(b) of title 23, United States Code, as amended by title III of division A of the Infrastructure Investment and Jobs Act. Tribal and territorial capital projects authorized under Chapter 2 of title 23, United States Code, are also eligible.
- All projects must be:
 - Capital projects or project-specific planning/design for a capital project.
 - Supported by the state or Tribal government that would administer the project. Inclusion in a Statewide Transportation Improvement Plan (STIP) or Transportation Improvement Plan (TIP) would satisfy this requirement.
 - Administered by public entities or Tribal entities.
- The Subcommittee will not fund activities that are administrative even if they are eligible expenses under the statutory citation. These include general operating expenses and activities required under sections 134 and 135 of title 23, United States Code.

Transit Infrastructure Projects

- Transit Infrastructure Projects are public transportation capital projects eligible under chapter 53 of title 49 of the United States Code. Eligible capital projects are described under Section 5302(4) of title 49, United States Code, and Section 5339(b)(1) and (c)(1)(B) of title 49, United States Code.
- All projects must be:
 - Transit capital projects or project-specific planning/design for a transit capital project.
 - Supported by the state, local governmental authority, or Tribal government that would administer the project. Inclusion in a Statewide Transportation Improvement Plan (STIP) or Transportation Improvement Plan (TIP) would satisfy this requirement.

- Administered by public entities or Tribal entities.

U.S. Department of Housing and Urban Development (HUD)

Economic Development Initiative and Community Development Block Grant

- The Economic Development Initiatives (EDI) program allows Congress to earmark funds for Community Development Block Grant (CDBG) projects directly to nonprofits, projects must meet the same eligibility requirements under the existing CDBG authority.
- Allowable activities include the acquisition of real property, construction, and rehabilitation of community facilities, beautification of urban land, conservation of open spaces, natural resources, or scenic areas for recreational opportunities, demolition or removal of buildings, elimination of blight, housing projects, and projects to remove barriers that restrict the mobility and accessibility of elderly and handicapped persons.
- Projects must primarily benefit the low-income and moderate-income residents of a community and cannot be used for the acquisition, construction, or rehabilitation of buildings for the general conduct of government, such as a town hall.