



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: Indian and Insular Affairs Subcommittee Staff, Ken Degenfelder (Ken.Degenfelder@mail.house.gov), Jocelyn Broman (Jocelyn.Broman@mail.house.gov), and Justin Rhee (Justin.Rhee@mail.house.gov) x6-9725.
Date: Wednesday, May 8, 2024
Subject: Oversight Budget Hearing: “*Examining the President’s FY 2025 Budget Request for the Bureau of Indian Affairs, Indian Health Service, and Office of Insular Affairs*”

The Subcommittee on Indian and Insular Affairs will hold an oversight budget hearing titled “*Examining the President’s FY 2025 Budget Request for the Bureau of Indian Affairs, Indian Health Service, and Office of Insular Affairs*” **on Wednesday, May 8, 2024, at 2:15 p.m. in Room 1324 Longworth House Office Building.**

Member offices are requested to notify Ransom Fox (Ransom.Fox@mail.house.gov) by 4:30 p.m. on Tuesday, May 7, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Bureau of Indian Affairs (BIA) is responsible for many programs and policies that impact and support the well-being of American Indians and Alaska Natives (AI/ANs). However, the Administration’s continued focus on climate change programs and the resulting policies may limit tribal access to resource development while failing to fully support tribes’ self-governance and autonomy.
- The President’s FY 2025 budget request for BIA includes a tone-deaf proposal to reclassify contract support costs (CSCs) and payments for 105(l) leasing to mandatory spending. CSC and 105(l) leases are payments made to tribes and tribal organizations carrying out federal functions under a self-determination contract or self-governance compacts.
- The Indian Health Service (IHS) is the primary agency charged with providing health services to AI/AN communities throughout the United States. However, it has long been plagued by issues that contribute to its providing substandard medical care. The Administration continues its tone-deaf requests to shift all IHS funding to mandatory spending without adequate programmatic changes that will ensure quality health care for AI/ANs.
- Committee Republicans are committed to overseeing IHS to ensure it is fulfilling its mission efficiently and effectively for the benefit of native communities.

- The Office of Insular Affairs (OIA) carries out the Secretary of the Interior’s responsibilities for the five U.S. insular territories. OIA also administers and oversees federal assistance under the Compacts of Free Association (COFA) with the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau (Palau).
- With growing Chinese influence in the Pacific region, the U.S. must remain focused on countering the People’s Republic of China’s (PRC) attempts to coerce U.S. territories and the FAS. OIA spending should be fiscally responsible and reflect U.S. interests.
- Republicans will continue to oversee the activities of the OIA to advance economic opportunity and self-determination for the U.S. territories and the FAS while ensuring that U.S. interests are preserved.

II. WITNESSES

- **The Hon. Bryan Newland**, Assistant Secretary—Indian Affairs, U.S. Department of the Interior, Washington, D.C.
- **The Hon. Carmen Cantor**, Assistant Secretary for Insular and International Affairs, Office of Insular Affairs, U.S. Department of the Interior, Washington, D.C.
- **The Hon. Roselyn Tso**, Director, Indian Health Service, U.S. Department of Health and Human Services, Rockville, MD

III. BACKGROUND

Bureau of Indian Affairs

The BIA is the agency charged with the United States’ treaty and trust responsibilities towards AI/ANs and the 574 federally recognized tribes in the United States. BIA’s responsibility is primarily seen in its administration of approximately 56 million surface acres and 59 million acres of subsurface minerals estates held in trust by the United States for AI/ANs and for tribes.¹

The BIA provides both direct services to tribes and funding to tribes through self-determination contracting or self-governance compacting. A tribe can choose to compact or contract with the BIA to operate their programs rather than have BIA run them.² The BIA supports a wide range of programs for tribes, including programs that address community services (including public safety), manage water and resource rights, execute fiduciary trust responsibilities, support energy and mineral production on tribal lands, and encourage economic opportunity for native communities.³

The Administration’s FY 2025 budget requests \$3.4 billion in discretionary and permanent funding for the BIA, an increase of \$560.98 million over the FY 2024 annualized CR funding. This request includes a legislative proposal that, if enacted, would provide permanent funding for Indian Water Rights Settlements.⁴ Over the past several years, Indian Country has seen

¹ “About Us” Bureau of Indian Affairs. <https://www.bia.gov/about-us>.

² BIA Budget Justification, FY 2025, at IA-ES-1.

³ “Programs and Services” Bureau of Indian Affairs. <https://www.bia.gov/programs-services>.

⁴ Bureau of Indian Affairs. FY 2025 Bureau of Indian Affairs-Bureau Highlights at BIA-8.

substantial federal funding increases across agencies and programs that serve native communities. Congress should continue to provide oversight of agency activities to ensure funds are being used in a way that is beneficial to tribes and make programmatic changes when needed.

<i>Budget Authority by Activity Agency / Sub-Agency</i>	FY 2023 Actual	FY 2024 Annualized CR	FY 2025 Request	Change
<i>Tribal Leases (105(l) Leases)</i>	\$26 million	\$82.5 million	\$120 million	+ \$37.5 million (45.5% increase)
<i>Contract Support Costs</i>	\$288.4 million	\$431.4 million	\$426.2 million	- \$5.2 million (1.2% decrease)
<i>Trust Natural Resource Management</i>	\$333.1 million	\$333.1 million	\$359.3 million	+ \$26.2 million (7.9% increase)
<i>Land and Water Conservation Fund (LWCF) Tribal Land Acquisition</i>	\$0	\$0	\$8 million	+ \$8 million (new spending)
<i>Indian Land Consolidation</i>	\$8 million	\$8 million	\$11 million	+ \$3 million (37.5% increase)
<i>Public Safety and Justice</i>	\$579.7 million	\$579.7 million	\$651.2 million	+ \$71.5 million (12.3% increase)
Bureau of Indian Affairs (BIA) (Total)⁵	\$2.6 billion	\$2.8 billion	\$3.4 billion	\$560.98 million (+21.3% increase)

Payments for 105(l) Tribal Leases and Tribal CSCs – The Indian Self-Determination and Education Assistance Act⁶ (ISDEAA) provides that tribes and tribal organizations carrying out federal functions under a self-determination contract or self-governance compacts may receive payments for tribal leases or CSCs. Both payments for tribal leases and CSCs are legally required to be paid under ISDEAA and *Salazar v. Ramah Navajo Chapter* and have, since 2012, been included in appropriations bills as ongoing, indefinite appropriations.⁷

Payments for tribal leases occur when a tribe or tribal organization enters into a lease agreement with BIA, and a tribally-owned or rented facility will be used to carry out those functions. For 105(l) tribal leases at BIA, the Administration has requested an increase of \$37.5 million over FY 2024 CR levels for FY 2025, which would bring the account up to an estimated \$120

⁵ Specific BIA budget account breakdowns are above (note: only primary BIA accounts have been included). https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

⁶ P.L. 93-638.

⁷ 567 U.S. 182 (2012).

million.⁸ The House Appropriations Committee estimated that \$30 million would be used for tribal leases at BIA in FY 2023.⁹ However, the actual spending by BIA for tribal leases was \$26 million.¹⁰ This discrepancy indicates BIA can make improvements in estimating these costs.

CSCs cover the costs tribes incur for the management and administration of tribally operated programs under ISDEAA. For CSCs at the BIA, the Administration has requested \$426.2 million in discretionary funding for FY 2025, an increase of just over \$5 million over FY 2024 CR levels.¹¹ The BIA also proposes that \$5 million from the Indian Self-Determination Fund would supplement CSCs.¹²

The BIA budget request proposes a tone-deaf reclassification of 105(1) tribal leases and CSC payments as mandatory spending.¹³ Mandatory funding, like permanent reauthorizations, reduces opportunities for Congressional oversight to review and reevaluate programs' efficiency and efficacy. Continued discussions are needed on how the trust responsibility is carried out and what future policy decisions should be made. Regular reauthorizations and discretionary funding help to encourage and facilitate these discussions.

Tribal Natural Resource Management – The BIA provides services that manage and assist tribal management of the approximately 56 million surface acres and 59 million acres of subsurface minerals estates held in trust by the U.S. for AI/ANs and for tribes.¹⁴ These services develop mineral and energy resources for extraction while conserving and protecting tribal lands. Both cases provide important benefits to tribes, such as revenue, jobs, and protection of their cultural heritage.

Rather than supporting full tribal self-determination through an all-of-the-above energy approach, the BIA's budget request continues to highlight only clean energy and climate-change-related priorities. In the BIA's FY 2025 budget request, \$33.6 million is requested for energy and minerals activities, which specifically mentions investment in the deployment of clean energy in tribal communities.¹⁵ The Tribal Climate Resilience Program, which focuses on climate preparedness rather than addressing environmental changes in communities, sees a \$48.8 million request, which is a \$13.8 million increase over the annualized FY 2024 CR allocation.¹⁶ Overall, the BIA budget request includes an approximately \$26 million increase over the FY 2024 CR for all programs addressing "critical trust natural resource activities and investing in climate resilience and environmental justice."¹⁷ For example, the Division of Energy and Minerals Development will "continue to engage with tribal authorities regarding the development and

⁸ BIA Budget Justifications, FY 2025, at IA-PTL-3.

⁹ House of Representatives, Committee Print of the Committee on Appropriations, Report 117-400, p. 62 <https://www.congress.gov/117/crpt/hrpt400/CRPT-117hrpt400.pdf>.

¹⁰ BIA Budget Justifications, FY 2025, at IA-PTL-3.

¹¹ BIA Budget Justifications, FY 2025, at IA-ES-5.

¹² BIA Budget Justification, FY 2025, at IA-ST-2.

¹³ Bureau of Indian Affairs. FY 2025 Bureau of Indian Affairs-Bureau Highlights at BIA-7.

¹⁴ "Programs and Services" Bureau of Indian Affairs. <https://www.bia.gov/programs-services>.

¹⁵ BIA Budget Justifications, FY 2025, at IA-ES-3.

https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

¹⁶ Id. at IA-TNR-5.

¹⁷ Id. at IA-TNR-5 to IA-TNR-6; See also, FY 2025 Bureau of Indian Affairs-Bureau Highlights. <https://www.doi.gov/media/document/fy2025-bureau-indian-affairs-bureau-highlights>. p. 2.

management of renewable energy resources on tribal lands.” Unfortunately, this does little to acknowledge the other available resources tribes are interested in developing. The administration’s budget should support a broad range of resource development opportunities for tribes, not just renewable energy resources, to truly support tribal self-determination.¹⁸

The Administration’s continued preoccupation with climate resilience and environmental justice has failed to fully support tribes that seek to balance the development of natural resources and conservation on tribal lands. As tribes and tribal organizations have continuously proven, resource development and conservation can coexist and promote long-term resource stewardship that can benefit both current and future generations.

Indian Land Consolidation – The FY 2025 budget includes a request of \$11 million for the Indian Land Consolidation Program, an increase of \$3 million from the FY 2024 annualized CR. As seen in the subcommittee’s January 30, 2024, hearing on the Land Buy-Back Program, previous iterations of land consolidation were often not cost-effective or efficient at solving the land fractionation. Long-term forecasts indicate land fractionation levels will return to pre-Land Buy-Back Program levels by 2038 without sustained purchasing efforts.¹⁹ The BIA should consider programmatic changes to how to prevent further land fractionation on reservations. However, this challenge is not addressed in the FY 2025 budget proposal.

LWCF Tribal Land Acquisition – The FY 2025 budget proposes establishing a Land and Water Conservation Fund (LWCF) Tribal Land Acquisition Program in the Office of the Secretary account by allocating \$8 million from the permanent LWCF funding to create a Tribal LWCF set aside within the permanent LWCF fund. It would be run by BIA and prioritize “tribal land acquisition proposals...to advance conservation and recreation opportunities.”²⁰ It is important to note that when LWCF funds are used to purchase lands, the uses for those lands must be consistent with the uses outlined in the LWCF statute. This proposal could limit future tribal decision-making about land use and management to provide cultural, spiritual, and economic benefits to tribal communities.

Carcieri Fix Proposal – The FY 2025 budget request includes a legislative proposal for the Carcieri “fix.”²¹ In 2009, the Supreme Court held in *Carcieri v. Salazar*²² that the Secretary of the Interior may not acquire land for Indians pursuant to the Indian Reorganization Act²³ unless they are members of a tribe that was “under federal jurisdiction” in 1934. While there is support for tribes having land in trust, concerns remain about how the enactment of this provision could lead to additional off-reservation gaming. Considering the outstanding concerns, any attempts to

¹⁸ BIA Budget Justification, FY 2025, at IA-TNR-38.

https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

¹⁹ HNR. IIA Subcommittee. Hearing on “Examining the Opportunities and Challenges of Land Consolidation in Indian Country.” <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=415436>.

²⁰ BIA Budget Justification, FY 2025, at IA-ES-7. https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

²¹ FY 2025 Budget Appendix at p. 661. https://www.whitehouse.gov/wp-content/uploads/2024/03/appendix_fy2025.pdf.

²² *Carcieri v. Salazar*, 555 U.S. 379 (2009). FY 2024 Budget Appendix at 689. https://www.whitehouse.gov/wp-content/uploads/2023/03/int_fy2024.pdf.

²³ Act of June 18, 1934, 48 Stat. 985 (25 U.S.C. 465), amended by P.L. 100-581, 102 Stat. 294.

address *Carcieri* must be made through regular order in the appropriate authorizing committees of jurisdiction.

Tribal Public Safety – The BIA’s Office of Justice Services (OJS) is charged with administering public safety and justice programs to fund law enforcement, corrections, and court services to support safe tribal communities. To carry out law enforcement activities, the BIA can either provide direct service with federal employee law enforcement officers, or it can contract or compact with a tribe to carry out the functions the BIA would otherwise provide, pursuant to ISDEAA. However, questions have been raised about OJS’s effectiveness, especially regarding drug trafficking in Indian country. At a recent Oversight and Investigations Subcommittee hearing, the committee examined the impacts of cartels targeting Indian country, and it was revealed that illegal drug cartels are targeting Indian lands and threatening tribal members with violence.²⁴

Native communities also experience a disproportionate amount of violence. More than four in five AI/AN adults (83 percent) have been the victim of some form of violence in their lifetime, equating to roughly 3 million people who have experienced a form of violence.²⁵ The victimization rate over the lifetime of an AI/AN woman is 1.2 times higher than that of a white woman and 1.3 times as likely for men.²⁶

The Administration’s FY 2025 budget request for OJS is \$651.2 million, an increase of 11.5 percent from FY 2024 annualized CR levels. Most of this funding would be focused on criminal investigations and police services, with BIA stating that this increase would support increasing staff for both direct service and tribally run law enforcement programs.²⁷ Specifically, an increase of \$33.5 million is allocated for “boots on the ground” positions like uniformed officers, criminal investigators and dispatch personnel that operate on a 24/7 basis.²⁸ However, the Administration’s budget does not discuss BIA’s challenges with the recruitment and retention of law enforcement officers other than to note that it remains a top priority. Recruitment and retention of personnel will factor greatly into whether any increase in funding can actually be utilized by the agency or whether it will simply stagnate supporting positions the agency cannot fill.

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²⁴ House Natural Resources, Oversight and Investigations Subcommittee Hearing, “*Biden’s Border Crisis: Examining the Impacts of International Cartels Targeting Indian Country*” Apr. 10, 2024. <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=415813>.

²⁵ National Institute of Justice, “Five Things About Violence Against American Indian and Alaska Native Women and Men,” U.S. Department of Justice, <https://www.ojp.gov/pdffiles1/nij/249815.pdf>.

²⁶ Id.

²⁷ BIA Budget Justifications, FY 2025, at IA-PSJ-2. https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

²⁸ Id. IA-PSJ-2.

Indian Health Service

The IHS within the Department of Health and Human Services (HHS) is charged with providing health services to AI/ANs under the Snyder Act of 1921²⁹ and by virtue of the trust relationship between the federal government and federally recognized tribes. The Administration’s FY 2025 budget request for IHS is \$8.2 billion, including both discretionary and mandatory funding. This is a \$1 billion (14 percent) increase over FY 2024 enacted levels.³⁰ As was previously requested in the Administration’s FY 2024 budget request, the FY 2025 budget again requests moving all budgeting authority for the agency to mandatory spending beginning in FY 2026 rather than maintaining the agency’s budget authority as discretionary spending.³¹

Agency Budget Authority by Activity	FY 2023 Final³²	FY 2024 Annualized CR	FY 2025 Request	Change
IHS Services	\$4.92 billion	\$4.92 billion	\$5.64 billion	+ \$721 million (14.6% increase)
IHS - Facilities	\$959 million	\$959 million	\$994 million	+ \$35 million (3.7% increase)
IHS - Contract Support Costs	\$969 million	\$969 million	\$979 million	+ \$10 million (1% increase)
IHS - Tribal Lease Payments	\$111 million	\$111 million	\$348.9 million	+ \$237.9 million (214.3% increase)
Total IHS³³	\$6.96 billion	\$6.96 billion	\$7.96 billion	+ \$1 billion (14.43% increase)

The above table breaks out the IHS’s budget authority by activity. The Services activity includes funding for clinical services provided at federal facilities, facilities operated by tribes or tribal organizations, or through services provided by non-IHS providers paid for using the Purchased/Referred Care (PRC) program.³⁴

²⁹ 25 U.S.C. 13.

³⁰ Indian Health Service Budget Justification, FY 2025, at CJ-2.

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

³¹ Id. at CJ-3.

³² The FY 2023 Final column details final regular appropriation, including required and allowed transfers and the rescission of \$29 million withing Services account (P.L. 117-328).

https://www.bia.gov/sites/default/files/media_document/fy2025-508-bia-greenbook.pdf.

³³ Specific IHS budget account breakdowns are above (note: only primary IHS accounts have been included).

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

³⁴ Id. at CJ-15.

The Facilities activity includes construction, maintenance, and improvements of IHS facilities, including sanitation facilities construction.³⁵ As mentioned previously, CSC are costs associated with tribally run health programs (facility overhead) that the federal government would pay if they were providing direct health services to an Indian tribe, and tribal lease payments are what IHS pays to lease facilities from tribes for health care services.³⁶

In recent years, the IHS has received significant funding through various pieces of legislation during and following the COVID-19 pandemic. For example, through the Infrastructure Investment and Jobs Act (IIJA), the IHS Sanitation Facilities Construction program received \$3.5 billion over five years.³⁷ Indian country has seen these appropriation increases and one-time funding as the first steps toward the long-term underfunding issue.

Mandatory Funding Request for IHS – The Administration has consistently proposed in its budget requests since 2021 that all IHS activities should be reclassified as mandatory funding, and the FY 2025 budget maintains that tone-deaf posture. The Administration’s FY 2025 Budget proposal requests a mandatory funding formula from FY 2026 through FY 2034 for a total of \$42 billion over the time period while exempting the IHS from sequestration.³⁸ Mandatory funding, like permanent reauthorizations, reduces opportunities for Congressional oversight to review and reevaluate programs’ efficiency and efficacy. Continued discussion is needed on how the trust responsibility is carried out and what policy decisions should be made going forward. Regular reauthorizations and discretionary funding can help to encourage and facilitate this discussion.

CSC and Tribal Lease Payments – As previously discussed, CSC and tribal lease payments are unique among the services that BIA and IHS pays because these costs are legally required pursuant to ISDEAA³⁹ and the *Salazar v. Ramah Navajo Chapter* Supreme Court decision.⁴⁰ Since 2012, these costs have been included in appropriations bills as ongoing, indefinite appropriations.

For IHS CSC, the Administration’s budget requests \$979 million for FY 2025, an increase of \$10 million above the FY 2024 CR level.⁴¹ The House Committee on Appropriations’ bill report for FY 2024 recommended \$1 billion for CSC at IHS.⁴² For IHS tribal leases, The Administration’s FY 2025 budget requests an increase of \$237.9 million above the FY 2024 CR

³⁵ Id. at CJ-18.

³⁶ Id.

³⁷ P.L. 117-58.

³⁸ IHS Budget Justification, FY25, at CJ-6.

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

³⁹ P.L. 93-638.

⁴⁰ 567 U.S. 182 (2012).

⁴¹ IHS Budget Justification, FY25, at CJ-5.

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

⁴² House Appropriations Committee, Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2024, p. 90, available at: <https://docs.house.gov/meetings/AP/AP00/20230719/116262/HMKP-118-AP00-20230719-SD002.pdf>.

level of \$111 million, bringing the account up to an estimated \$348.9 million.⁴³ The House Committee on Appropriations bill report for FY 2024 recommended \$149 million for tribal leases at IHS.⁴⁴

IHS Services & Purchased/Referred Care Program – In addition to providing direct-service healthcare to AI/ANs, the IHS also operates the Purchased/Referred Care (PRC) program.⁴⁵ Similar to the Choice Program in the Veterans Administration,⁴⁶ the PRC program is designed to ensure AI/ANs can obtain care when it is not available at IHS facilities, by paying private providers for services. However, serious deficiencies exist in the PRC program, including IHS's failure to implement controls to properly collect required information and failure to pay PRC claims within 30 days of submission.⁴⁷

Funding allocation is also a serious issue due in part to large cost overruns, including the provision of air and ground ambulance services to healthcare facilities in nearby cities that are often vast distances from remote reservations. When PRC funding is tight, AI/ANs may be unable to obtain basic care except in the case of a life-or-limb emergency.⁴⁸

Indian Health Facilities Construction and Maintenance – The second largest IHS budget line item is the Indian Health Facilities account, which provides funding to maintain facilities, purchase equipment, and construct new facilities. This account also supports the costs associated with newly opened facilities.⁴⁹ The order of what projects are funded first is based on an IHS list of priorities for construction projects created in the early 1990s, known as the 1993 Priority List. That list is not yet fully funded or completed. IHS's budget request for FY 2025 includes an additional \$10.3 billion over nine years. From 2026-2030, the account would fully fund the competition of the remaining 1993 Priority List; beyond 2030, the funding would be used to address any remaining needs.⁵⁰ On average, IHS hospitals are 39 years old, which is three times the age of the average hospital in the United States. The estimated costs associated with building

⁴³ IHS Budget Justification, FY25, at CJ-176.

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

⁴⁴ House Appropriations Committee, Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2024, p. 90, available at: <https://docs.house.gov/meetings/AP/AP00/20230719/116262/HMKP-118-AP00-20230719-SD002.pdf>.

⁴⁵ Indian Health Service, "Purchased/Referred Care (PRC)" <https://www.ihs.gov/prc/>.

⁴⁶ VA News. "10 Things to Know About the Veterans Choice Program." 2017. <https://news.va.gov/39882/10-things-know-veterans-choice-program/>.

⁴⁷ U.S. Dept. of Health & Human Services, Office of Inspector General, "Most Indian Health Service Purchased/Referred Care Program Claims Were Not Reviewed, Approved, and Paid in Accordance With Federal Requirements." April 2020. Report. No. A-03-16-03002. <https://oig.hhs.gov/oas/reports/region3/31603002.pdf> at Report in Brief and at 13.

⁴⁸ See, Lindsey Bark, "Purchase Referred Care is affected by federal funding, third party payer options," Cherokee Phoenix, Jul. 18, 2022. https://www.cherokeephoenix.org/health/purchase-referred-care-is-affected-by-federal-funding-third-party-payer-options/article_447c0622-06e0-11ed-8071-a70240d11ad9.html.

⁴⁹ CRS: Advance Appropriations for the Indian Health Service: Issues and Options for Congress, at 6. <https://www.crs.gov/Reports/R46265>.

⁵⁰ IHS Budget Justification, FY 2025, at CJ-188.

https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf.

and replacing older facilities were \$23 billion in 2021, an increase of 59 percent from just five years ago.⁵¹

Unfortunately, the IHS budget request does not contain any innovative proposals to address facility priority needs in the future. In 2010, Congress directed IHS to consider an Area Distribution Fund (ADF), in which a portion of healthcare facility construction funding could be devoted to all IHS service areas. An innovative proposal like the ADF would extend the benefits of appropriated funds for IHS facilities to a larger number of tribes and communities throughout Indian Country than would be possible by relying solely on funding for individual line-item projects.

IHS on the GAO High Risk List – In March 2017, the Government Accountability Office (GAO) listed IHS as “high risk.”⁵² Programs listed on the GAO’s High-Risk List are federal programs most vulnerable to waste, fraud, abuse, and mismanagement, or programs that need transformative change. For nearly a decade, the HHS inspector general and others have indicated that inadequate oversight of healthcare continues to hinder the ability of IHS to provide an adequate quality of care despite continued increases in the agency’s budget. In 2023, IHS finalized an agency work plan to address agency-wide priorities of patient safety, human capital, operational capacity, financial capacity, compliance and regulatory improvement, and strategic planning. In 2024, IHS reaffirmed its “commitment to tribes and Urban Indian Organizations” by publishing the “2024 Agency Work Plan.”⁵³

Congress should continue to conduct oversight of IHS actions to ensure it is fulfilling its stated mission to provide quality healthcare for all AI/ANs. It should also continue to scrutinize IHS funding to ensure transparency and hold the Biden Administration accountable.

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Office of Insular Affairs

The OIA within the Department of the Interior is charged with carrying out all duties and responsibilities of the Secretary of the Interior regarding all U.S. insular territories and the Freely Associated States (FAS), except Puerto Rico. OIA’s budget is divided into two major funding categories: current appropriations and permanent appropriations. Current appropriations are discretionary appropriations made by Congress in, or immediately prior to, the fiscal year or years during which they are available for obligation.⁵⁴ OIA has two types of current

⁵¹ IHS. 2021 Facilities’ Needs Assessment. 2020, at p. 3.

https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/The-2021-IHS-Facilities-Needs-Assessment-Report-to-Congress.pdf.

⁵² GAO, High Risk List, https://www.gao.gov/assets/2023-04/HIGH_RISK_LIST_W_DATES_2023.pdf.

⁵³ IHS, “Indian Health Service Reaffirms Commitment to Tribes and Urban Indian Organizations with 2024 Agency Work Plan,” <https://www.ihs.gov/newsroom/ihs-blog/february-2024-blogs/indian-health-service-reaffirms-commitment-to-tribes-and-urban-indian-organizations-with-2024-agency-work-plan/#:~:text=The%202024%20Agency%20Work%20Plan,quality%2C%20patient%2Dcentered%20care.>

⁵⁴ GAO-16-464SP, Principles of Federal Appropriations Law: Fourth Edition. 2016. GAO. <https://www.gao.gov/assets/2019-11/675709.pdf>.

appropriations: current discretionary and current mandatory. Discretionary appropriations must receive formal approval by Congress and be signed into law by the President each fiscal year, whereas mandatory funding must be allocated as mandated by existing law. Permanent appropriations are “standing” appropriations that, once made, are always available for specified purposes and do not require repeated action by Congress to authorize their use.

The FY 2025 OIA budget request for discretionary appropriations is \$91.4 million. This is a \$9.62 million decrease in discretionary funding, reflecting the expiration of the previous 2003 and 2010 COFA agreements⁵⁵ and the authorization of mandatory funding under the 2024 COFA agreements⁵⁶ with the FAS. The 2024 COFA agreements replace Compact Impact grants with the Compact Impact Fairness provisions, resulting in a \$6 million decrease in discretionary funding. The remaining \$7.65 million decrease in discretionary funding reflects the fulfillment of tax and trade obligations with the RMI, the switch from discretionary to mandatory funding for the U.S. Postal Services to the FAS under the 2024 COFA, and the expiration of the Enewetak program from the previous COFA agreements.

Type of Funding Agency	FY 2023 Actual	FY 2024 Annualized CR	FY 2025 Request	Change from FY 2024 Annualized CR
Current Discretionary	\$101.1 million	\$101.1 million	\$91.4 million	- \$9.69 million (9.59% decrease)
Current Mandatory	\$27.72 million	\$27.72 million	\$27.72 million	\$0
Total Permanent Funding	\$527.43 million	\$588.79 million	\$1.95 billion	\$1.36 billion (231.63% increase)
Office of Insular Affairs (Total)⁵⁷	\$656.25 million	\$717.61 million	\$2.06 billion	\$1.35 billion (105.79% increase)

OIA discretionary funds are provided as assistance to the U.S. territories, with a smaller amount of funding for COFA-related programs. The Administration’s FY 2025 budget requests \$91.4 million for discretionary assistance to territories, which supports several different activities, including American Samoa Operations (\$28.12 million), Capital Improvement Projects (\$27.7 million mandatory and \$1 million discretionary), Office of Insular Affairs (\$11.46 million), Technical Assistance (\$23.3 million), Brown Tree Snake Control (\$4 million), Coral Reef Initiative & Natural Resources (\$2.82 million), and Energizing Insular Communities (\$15.5 million).⁵⁸ When House Committee on Natural Resources Indian and Insular Affairs Subcommittee staff reached out to the OIA about the FY 2025 requested increases for assistance

⁵⁵ P.L. 108-188, P.L.115-9, and P.L.115-141.

⁵⁶ P.L. 118-42, See Division G, Title II.

⁵⁷ Office of Insular Affairs FY 2025 budget justification at 3. <https://www.doi.gov/media/document/fy-2025-office-insular-affairs-greenbook>.

⁵⁸ Office of Insular Affairs FY 2025 budget justification at 5. <https://www.doi.gov/media/document/fy-2025-oia-budget-justifications>.

to the territories, the OIA stated that the \$2.44 million requested increase across several programs addresses the rising costs for agencies carrying out the specific programs. Additional information is needed from OIA to understand how these costs were calculated, promote greater program transparency, and ensure fiscal responsibility.

Compacts of Free Association – The United States’s compact agreements with the FAS nations—the FSM, RMI, and Palau—give the U.S. security and defense rights over these nations in exchange for U.S. economic assistance and defense guarantees.⁵⁹ These rights allow the U.S. to establish military facilities on the islands and exercise strategic denial, which allows the U.S. to deny foreign military access to FAS territory. The importance of these rights and relationships cannot be overstated, as the FAS maritime space provides a critical buffer between China and the United States. These compact agreements are integral to the United States’s ability to exercise peace through strength with our allies to counter increasing global threats.⁶⁰

The OIA’s FY 2025 budget request reflects the start of the newly renewed COFA agreements.⁶¹ The total permanent funding level for the OIA is \$1.95 billion, which includes \$1.57 billion in COFA funding distributed to the RMI, the FSM, Palau, and judicial training in all the FAS.⁶² The remaining \$380 million in permanent funding reflects the continuation of Guam Section 30 Income Tax and U.S. Virgin Islands Rum Excise Tax fiscal payments.⁶³

Because the OIA is the lead federal agency to administer and oversee federal assistance that is provided under the COFA, the House Committee on Natural Resources plays a key role in overseeing the OIA’s implementation of the COFA and management of COFA funds, including the sectoral grant funds and trust funds. Committee Republicans believe that compact spending must be fiscally responsible and reflective of U.S. security interests, and it is the prerogative of the OIA to ensure that the COFA funding and programs meet those objectives.

Capital Improvement Projects – The Capital Improvement Projects (CIP) program is a critical budget account for the U.S. territories because it addresses various critical infrastructure needs on the islands, including hospitals, schools, and wastewater and solid waste systems. Improvements to infrastructure benefit the current population and businesses, which lay the groundwork for attracting new investment in the territories and improving economic development.⁶⁴

⁵⁹ House Committee on Natural Resources Legislative Hearing, Discussion Draft on H.J. Res. ____ (Rep. Westerman), “Compact of Free Association Amendments Act of 2023 (October 19, 2023), <https://www.congress.gov/event/118th-congress/house-event/116439?s=1&r=57>.

⁶⁰ For further information on the importance of the Indo-Pacific in relation to U.S. security interests, please see the hearing memo from the previous IIA legislative hearing on the COFA legislation. https://naturalresources.house.gov/uploadedfiles/hearing_memo_-_sub_on_ia_leg_hearing_on_cofa_discussion_draft_10.19.23.pdf.

⁶¹ The *Compact of Free Association Amendments Act of 2024* was signed into law on March 8, 2024 as part of the Consolidated Appropriations Act, 2024 (P.L. 118-42).

⁶² Office of Insular Affairs FY 2025 budget justification at 61. <https://www.doi.gov/media/document/fy-2025-oia-budget-justifications>.

⁶³ Id at 31.

⁶⁴ Id at 19.

The CIP program is funded through mandatory spending (\$27.72 million), and OIA has requested \$1 million for FY 2025 in discretionary funds to supplement the mandatory spending.⁶⁵ According to OIA, this \$1 million addition would help offset the mandatory funding for CIP, which has not been increased to offset increases in construction and labor costs or adjusted for inflation since the program was authorized in 1996.⁶⁶ The OIA does not clearly explain why this increase is necessary and how exactly it calculated the requested appropriation amount.

In 2005, the OIA implemented a competitive allocation system for CIP grants. Grant determinations for capital needs are now made based on competitive criteria measuring the demonstrated ability of governments to exercise prudent financial management practices and meet federal grant requirements and processes.⁶⁷ Further oversight of grant funds is still required. Committee Republicans have long advocated for increased accountability and transparency in how taxpayer dollars are spent across the federal budget, and it is important to ensure all CIP grants comply with the current competitive criteria.

Energizing the Territories – The Administration’s FY 2025 OIA budget request continues to pick winners and losers with respect to energy sources by promoting renewable energy projects rather than an all-of-the-above energy approach. While the Energizing Insular Communities (EIC) program would remain at level funding for the FY 2025 request, the Administration continues to prioritize “renewable energy, electric vehicles, and grid infrastructure.”⁶⁸ The Biden administration seeks to force the Insular Areas to transition to solar, wind, hydroelectric, geothermal, and ocean energy rather than allowing U.S. territories the autonomy to choose the most reliable and affordable energy sources available to meet their energy needs.

OIA’s EIC Program has assisted and will continue to assist the administration in its efforts to transition the territories to renewables, such as solar and battery power.⁶⁹ Unfortunately, this would also force Insular Areas to increase electricity generated from renewable sources while ignoring liquefied natural gas (LNG), nuclear, biomass, and other options that are more proven to be more reliable than intermittent renewable sources.⁷⁰ The OIA budget justification does not mention addressing energy security and reliability from baseload sources for Insular Areas that suffer from frequent outages. Addressing this is critically important as the territories are prone to severe weather and unstable electricity transmission infrastructure. Instead of mandating EIC program dollars supporting renewable-only energy generation, OIA should include all forms of energy sources for electricity generation in the EIC program, ultimately supporting Insular Area self-determination.

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⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id. at 20.

⁶⁸ Id. at 57.

⁶⁹ Id.

⁷⁰ House Committee on Natural Resources Oversight Hearing, *Energizing the Territories: Promoting Affordable and Reliable Energy Sources for the U.S. Insular Areas* (April 11, 2024), <https://www.congress.gov/event/118th-congress/house-event/117031>.