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President Bush Releases the FY 2005 Budget – President Bush released his budget of over \$2.3 trillion to Congress Monday, a proposal strongly prioritizing the military campaign and homeland security while attempting to halve the deficit over the next five years. The following legislative update provides a preliminary overview of the President's budget as it sets the nation's fiscal course for the year. The entire President's budget is available on-line at <http://www.whitehouse.gov/omb/budget/fy2005>.

Budget Overview

The Administration's budget proposes an overall spending increase of 3.5 percent, with a requested 7 percent boost for defense and a 10 percent increase for domestic security. The President plans to rein in discretionary spending for non-defense and non-homeland security programs at nearly .5 percent growth, well below the inflation rate. President Bush has called upon Congress to make permanent his 2001 and 2003 tax cuts as well as provide the first funds for a new initiative to send a manned mission to Mars.

To counteract the surges in defense spending and unprecedented deficit levels, Bush's budget relies mainly on reduced spending in domestic programs. Moreover, the proposal excludes future expenditures in Afghanistan and Iraq, likely to result in emergency supplemental appropriation requests of up to \$50 billion after the Presidential elections. Without cuts to entitlement programs, decreases are confined to the \$362 billion for non-defense/non-homeland security programs, or 18 percent of the total budget.

The budget calls for cuts to overall spending levels for seven of the 16 Cabinet-level agencies, with the steepest cuts slated for the Departments of Agriculture, Health and Human Services, Justice, and the Environmental Protection Agency. Below is a snapshot of proposed budget authority levels by agency for fiscal year 2005.

Discretionary Budget Authority

| Agency | (in millions) | FY 2004 Enacted | FY 2005 Proposed | Change |
|-------------------------------|---------------|-----------------|------------------|--------|
| Agriculture | | 20,729 | 19,056 | (1673) |
| Commerce | | 5,772 | 5,716 | (56) |
| Defense | | 375,259 | 401,717 | 26,458 |
| Education | | 55,650 | 57,339 | 1,689 |
| Energy | | 23,290 | 23,571 | 281 |
| Health and Human Services | | 67,589 | 66,770 | (819) |
| Homeland Security | | 27,063 | 28,315 | 1252 |
| Housing and Urban Development | | 30,415 | 31,264 | 849 |
| Interior | | 10,643 | 10,850 | 207 |

| Agency | (in millions) | FY 2004 Enacted | FY 2005 Proposed | Change |
|---------------------------------------|---------------|-----------------|------------------|--------|
| Justice | | 19,338 | 18,748 | (590) |
| Labor | | 11,733 | 11,880 | 147 |
| Transportation | | 57,391 | 57,448 | 57 |
| Treasury | | 11,179 | 10,773 | (406) |
| Veterans Affairs | | 29,135 | 29,654 | 519 |
| Environmental Protection Agency | | 8,365 | 7,759 | (606) |
| Corps of Engineers | | 4,562 | 3,965 | (597) |
| National Aeronautics and Space Admin. | | 15,378 | 16,244 | 866 |
| Small Business Administration | | 757 | 678 | (79) |

Bureau of Indian Affairs

The BIA budget request for FY 2005 is \$2.3 billion, a drop of \$52 million from the 2004 enacted level. With a continuing focus on reorganization which NCAI has opposed, the 2005 BIA budget proposes a net increase of \$42 million in trust related improvements to information technology, trust services, probate, and workforce.

| (in thousands) | FY 2003 Actual | FY 2004 Enacted | FY 2005 Request | Change from 2004 enacted |
|--|----------------|-----------------|-----------------|--------------------------|
| BIA Operation of Indian Programs | | | | |
| Tribal Priority Allocations | 772,480 | 770,634 | 775,631 | 4,997 |
| Other Recurring Programs | 597,724 | 614,137 | 600,611 | (13,526) |
| Non-Recurring Programs | 72,486 | 75,642 | 73,011 | (2,631) |
| Central Office Operations | 69,579 | 88,506 | 134,444 | 45,938 |
| Regional Office Operations | 63,806 | 63,685 | 62,523 | (1,162) |
| Special Programs/Pooled Overhead | 269,171 | 280,101 | 283,257 | 3,156 |
| Total – Operation of Indian Programs | 1,845,246 | 1,892,705 | 1,929,477 | 36,772 |
| BIA Construction | | | | |
| Education | 293,795 | 294,954 | 229,083 | (65,871) |
| Public Safety and Justice | 5,013 | 4,983 | 4,985 | 2 |
| Resources Management | 38,918 | 38,678 | 40,857 | 2,179 |
| General Administration | 2,168 | 2,156 | 2,156 | 0 |
| Construction Management | 6,091 | 6,056 | 6,045 | (11) |
| Total – BIA Construction | 345,988 | 346,827 | 283,126 | (63,701) |
| Indian Land and Water Claims Settlements | | | | |
| Miscellaneous Payments To Indians | 60,553 | 59,865 | 34,771 | (25,094) |
| Indian Guaranteed Loan Program | 5,457 | 6,417 | 6,421 | 4 |

Operation of Indian Programs (OIP) – The BIA budget includes \$1.93 billion for OIP, an increase of \$36.8 million over the 2004 enacted amount. The largest percentage of the OIP increase falls under Central Office Operations, which received a proposed 52 percent rise from \$88.5 million up to \$134.4 million for FY 2005. Tribal Priority Allocations increased by \$5 million in the budget request, up by 6.5 percent over the 2004 enacted level. The President's budget would slash Other Recurring Programs by \$13.5 million, the largest proposed cut among the OIP areas for FY 2005.

Self-Determination Contracts – The President requested a \$2 million reduction in funding for contract support costs, down to a proposed level of \$133,314,000 from the 2004 enacted level of \$135,315,000.

Trust Management – The 2005 request includes a \$29.1 million increase for rebuilding the Bureau's information technology infrastructure to support trust reform. The 2005 budget also requests \$5.5 million for 25 new trust-related positions and \$4 million for 35 probate specialists and attorney decision-makers to address the pending probate cases, numbering upwards of 18,000.

Office of Tribal Consultation – The budget includes \$1.1 million to establish a permanent Office of Tribal Consultation, created to promote greater federal consultation with tribes in dealing with trust reform.

Construction – The President proposed a \$63.7 million cut to BIA Construction, with most of the reduction affecting Education Construction, which received a 22 percent cut of \$65.9 million. Resources Management received a \$2 million increase. According to budget highlights prepared by the Interior Department, the Education Construction cuts are meant to allow the program to focus on building schools already funded for construction. The Education Facilities Improvement and Repair program, which funds projects to address critical health and safety concerns at existing schools, would be cut by approximately \$10.6 million under the proposed budget to \$137.5 million for FY 2005.

School Operations – Critical funding for School Operations, which NCAI has called for much-needed increases to in budget testimony, would be *decreased* under the President's proposed budget to \$522.4 million, down from \$528.5 million enacted for FY 2004. Despite current funding that is approximately 70% of the formula *required by law* for Administrative Cost Grants, the equivalent of contract support for tribally operated schools, the President's request would decrease this critical line item by \$3.8 million to \$45,348,000 for FY 2005.

Tribally Controlled Community Colleges (TCCC) – Bush requested \$43.4 million for TCCCs, down from \$49.2 million enacted for FY 2004 (before across-the-board cuts to enacted levels).

Office of Special Trustee for American Indians

The 2005 request for Office of Special Trustee (OST) accounts totals \$322.7 million, with a proposed net increase of \$113.6 million for trust improvements. The President called for a 32 percent increase of \$60 million for the OST, and a 245 percent increase of \$53 million for Indian Land Consolidation, an area which NCAI has emphasized as key to long-term trust management reforms.

| (in thousands) | FY 2003 Actual | FY 2004 Enacted | FY 2005 Request | Change from 2004 enacted |
|-----------------------------------|-------------------|--------------------|--------------------|-----------------------------|
| Office of Special Trustee | 140,359 | 187,304 | 247,666 | 60,362 |
| Indian Land Consolidation Program | 7,928 | 21,709 | 75,000 | 53,291 |

Historical Trust Accounting -- The 2005 budget request for the Office of Historical Trust Accounting within OST is \$109.4 million, an increase of \$65 million. The amount may change due to legal issues pending in the court.

Indian Land Consolidation – To address the fractionation of individual Indian interests in land held in trust, the budget includes a \$53.3 million increase for the Indian Land Consolidation Program. The increase is to expand the program using contractual agreements with tribes or private entities to purchase individual interests on behalf of the Department.

Indian Health Service

The 2005 budget request for IHS is \$2.97 billion, a 1.6 percent increase over the FY 2004 request and \$45 million over last year's enacted budget.

Increases in the budget include: Clinical Services (\$75 million increase); Contract Health Services (\$18 million increase); Preventive Health (\$5 million increase); Sanitation Construction (\$10 million increase); Facilities and Environmental Health Support (\$5 million increase); and \$1 million increases each for Urban Health and Direct Operations. The President's budget also calls for a \$23 million increase to staff new outpatient clinics. A \$36 million increase in IHS is requested to fund pay raises for tribally and federally run health care facilities.

The funding request remained level for Contract Support Costs, Tribal Self-Governance, and Indian Health Professions. The Administration's budget proposes to decrease the amount of funding for Health Care Facilities Construction by \$52 million.

| (in millions) | FY 2003 Actual | FY 2004 Enacted | FY 2005 Request | Change from 2004 enacted |
|---|-------------------|--------------------|--------------------|-----------------------------|
| Indian Health Service: | | | | |
| Clinical Services | 2,560 | 2,618 | 2,693 | 75 |
| <i>Contract Health Services (Non-Add)</i> | 475 | 479 | 497 | 18 |
| Preventive Health | 103 | 107 | 112 | 5 |
| Contract Support Costs | 269 | 267 | 267 | 0 |
| Tribal Management/Self-Governance | 8 | 8 | 8 | 0 |
| Urban Health | 31 | 32 | 33 | 1 |
| Indian Health Professions | 31 | 31 | 31 | 0 |
| Direct Operations | 60 | 61 | 62 | 1 |
| Diabetes Grants | 100 | 150 | 150 | 0 |
| Subtotal - Services Program Level | 3,162 | 3,274 | 3,356 | 82 |
| Indian Health Facilities: | | | | |
| Health Care Facilities Construction | 82 | 94 | 42 | (52) |
| Sanitation Construction | 93 | 93 | 103 | 10 |
| Facilities & Env. Health Support | 132 | 138 | 143 | 5 |
| Maintenance & Improvement | 56 | 55 | 55 | 0 |
| Medical Equipment | 17 | 17 | 17 | 0 |
| Subtotal - Facilities Program Level | 380 | 397 | 360 | (37) |
| Total - Program Level | 3,542 | 3,671 | 3,716 | 45 |
| Less Funds Allocated From Other Sources: | | | | |
| Health Insurance Collections | 586 | 593 | 593 | 0 |
| Rental of Staff Quarters | 6 | 6 | 6 | 0 |
| Diabetes Grants | 100 | 150 | 150 | 0 |
| Total - Budget Authority | 2,850 | 2,922 | 2,967 | 45 |

Health and Human Services

The FY 2005 budget totals \$580 billion in outlays, an increase of \$32 billion, or 5.8 percent over the comparable FY 2004 budget. The discretionary portion of the HHS budget totals \$67 billion in budget authority, an increase of 1.2 percent over the FY 2004 level. Highlighted below are some of the programs affecting tribes within HHS.

Head Start -- The budget request is \$6.9 billion, reflecting a proposed \$169 million increase. However, \$45 million is earmarked for the nine state pilot projects. The remaining increase is assigned to salary increases for Head Start teachers, program enhancements, and training and technical assistance.

Child Care and Development Block Grant -- The budget request includes a \$12 million increase to childcare block grants. Tribes are eligible to apply directly for the grants.

Administration on Native Americans -- ANA's budget request remained constant with FY 2003 and 2004 budget requests at \$45 million.

Department of Energy

The President's proposed budget would increase funding by 4.5 percent for the Department of Energy. The request would increase the low-income weatherization program, which benefits many individual tribal residents – however, energy efficiency programs overall received proposed reductions. Tribes seeking language to develop and distribute energy should be aware that the budget proposed for the Office of Electric Transmission and Distribution is \$90.8 million, up from the \$80.8 million level enacted in FY 2004. There are also two programs proposed to improve communications and controls to modernize the transmission and distribution system. The President's budget would fund fossil energy program at \$447 million, an increase of \$69 million.

The Environmental Management Program proposed budget is \$8.6 billion, with \$7.4 billion to go to an accelerated cleanup program. Some of the areas involved in ongoing cleanup are on or near tribal lands and ceded areas. An Office of Legacy Management is being created to ensure protection of human health and environment.

For FY 2005, the Yucca Mountain project in the Office of Civilian Radioactive Waste Management Program would increase by \$304 million to \$908 million. Yucca Mountain, located on homelands of Shoshone and Paiute peoples, is destined to be the host for over 70 million tons of this country's spent nuclear fuel and radioactive waste, primarily from commercial nuclear reactors. During the next few years, the repository will undergo a license application to the Nuclear Regulatory Commission, construction, and finalization. With a possible opening in 2010, nuclear waste will be transported across the nation, including across tribal lands, via rail and highway.

Department of Justice

The President's budget requested \$22.1 billion for DOJ, an increase of more than 2 percent—one of the highest increases in non-defense discretionary funding in the president's request. However, among Office of Justice Programs, Indian Country Prison grants would receive a decrease of \$2.46 million and Tribal Courts would be decreased by \$7.59 million under the proposed budget. In Community Oriented Policing Services (COPS), Tribal Law enforcement would be cut by \$4.74 million.

Environmental Protection Agency

The President's budget proposed overall EPA funding at \$7.76 billion, a 7.2 percent reduction. The Clean Water State Revolving Loan Fund would receive a \$492 million cut from FY 2004, with funding for FY 2005 requested to be \$850 million. Clean Water Act Section 319 non point source grants would be cut from \$238 million to \$210 million under the President's budget. The FY 2005 request for Wastewater Treatment programs would cut funding to \$800 million from last year's \$1.3 billion. The Drinking Water State Revolving Loan Fund would receive level funding at \$850 million. The FY 2005 request would increase the Superfund to \$1.38 billion. The proposed Brownfields budget is \$210 million, the same amount proposed last year before congress dropped it to \$171 million. A Great Lakes cleanup effort received a proposed \$35 million increase up to \$45 million.

Housing and Urban Development

Under the President's budget, NAHASDA funds would be decreased from the \$654.1 million amount enacted in FY 2004 to \$647 million for FY 2005. For the Indian Housing Loan Guarantee program, the President's budget requested \$1 million, down from \$3 million enacted in FY 2004. Indian/Hawaiian Loan Programs would be decreased to \$2 million in the FY 2005 request from \$6 million in FY 2004. The budget request proposed \$71.6 million for Community Development Block Grants for FY 2005.

Department of Homeland Security

The President's budget proposed a 4.6 percent increase for DHS to be funded at \$28.3 billion. Grants to large metropolitan areas for terrorist threats would be doubled to \$1.4 billion in FY 2005. The local government funding for law enforcement, fire and emergency medical service would be cut from \$4 billion to \$3.6 billion in the proposal. Funding for Homeland Security measures are primarily in DHS agencies but other grants are available through the Health and Human Services, Health Resources Services Administration. With the exception of the Assistance to Firefighters Grant Program (DHS Federal Emergency Management Agency) tribal governments are not eligible for direct DHS funding. Funding formulas will be developed which will likely include tribal land areas and populations. Due to the Homeland Security Act of 2002, tribes are treated as local governments (counties and municipalities), and must apply to state governments or non-tribal local governments for DHS funding. Legislation to amend the Homeland Security Act of 2002 has been proposed (S.587 and companion bill H.R. 2242) to be treated the same as states. Tribal leaders are concerned that DHS planning and response task forces and advisory commissions underway do not include tribal representatives. Additionally, some DHS grants may be competitive and grant review committees will lack tribal knowledgeable reviewers.