

NATIONAL CONGRESS OF AMERICAN INDIANS

NCAI TESTIMONY ON THE ADMINISTRATION'S FISCAL YEAR 2005 BUDGET REQUEST FOR INDIAN PROGRAMS

*Senate Committee on Indian Affairs
February 11, 2004*



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On behalf of the more than 250 member tribal nations of the National Congress of American Indians, we are pleased to present testimony on the Administration's Fiscal Year 2005 budget request for Indian programs. We look forward to working with this Committee to ensure that the critical programs and initiatives authorized and supported by this body are funded at levels which will ensure their long term effectiveness.

On February 2, President Bush proposed a \$2.4 trillion budget for FY 2005 that included level funding and numerous decreases for Indian programs, continuing the trend of consistent declines in federal per capita spending for Indians compared to per capita expenditures for the population at large.

We are deeply disappointed that this budget does not reflect leadership by this Administration to take on the "Quiet Crisis" which has resulted from underfunding of federal Indian Programs according to a 2003 report of the bipartisan U.S. Civil Rights Commission. While we recognize that this budget reflects fiscal belt-tightening across the board, we believe this quiet crisis should be a national priority to address—certainly as worthy of focus as programs such as sending a manned mission to Mars which this Administration has prioritized instead. We hope that Congress will work with tribes to see this priority better reflected in the budget process.

The Administration's proposed budget does not reflect the priorities of Indian Country to fully fund Indian health care, Tribal Priority Allocations, contract support, road maintenance, school facilities, and services at the local level. These priorities have been laid forth by the BIA/Tribal Budget Advisory Council, as well as by tribal leaders in budget consultations with IHS and other agencies. We ask that these recommendations be taken more closely to heart as the FY05 budget advances.

In addition to addressing the troubling general trend of decreased federal fulfillment of trust obligations to tribes, we want to highlight three key concerns within the proposed budget that we hope this Committee will work to address in FY05:

- **Self Determination programs** throughout the budget—initiatives this Administration has expressed consistent support for—have not only failed to receive needed funding increases, but face cuts which will deeply hobble tribes' ability to effectively assume local control in the face of shrinking TPA budgets, inadequate 638 pay cost increases, insufficient contract support funding, and grossly underfunded Administrative Cost Grants;
- **Funding for law enforcement in Indian Country** would continue a troubling downward trend under the FY05 request, at a time when homeland security and public safety concerns most require concerted federal support. Essential Department of Justice funding for Tribal Courts would be cut by \$7.6 million, and Indian Country Prison grants would be cut by \$2.5 million. A 50% increase in funding for tribal law enforcement is necessary to provide for basic public safety in Indian Country.

- Precious resources continue to be diverted to a **Department of Interior reorganization** which tribes have opposed and which fails to take into account the need for local flexibility or the results of the “to be” study which was recently completed by the Department. More effective use of funds is demonstrated by the laudable focus on funding for **Land Consolidation** within the proposed budget. Until a better plan which reflects consultation with the tribes—who know best what works in trust management at the local level—a moratorium should be placed on funding further reorganization.

BUREAU OF INDIAN AFFAIRS/OFFICE OF SPECIAL TRUSTEE

The BIA budget request for FY 2005 is \$2.3 billion, a drop of \$52 million from the 2004 enacted level. In the BIA budget, the costs of OST-BIA reorganization are effectively punishing tribes for the Department’s own trust mismanagement—a double injury to individual and tribal trustees hurt by this mismanagement. With continuing focus on a reorganization plan that NCAI and numerous tribes have opposed, the 2005 BIA budget proposes a net increase of \$42 million in trust-related programs, and cuts to other programs to offset trust increases that result in a de facto decrease in critical tribal funding within BIA of over \$100 million. Other key areas of the BIA budget, such as Tribal Priority Allocations and initiatives that support education and economic development, remain deeply under-funded.

Tribal Priority Allocations (TPA). TPA funding is the main source of tribal resources to provide governmental services at the local level for most tribes. Funding for this account supports ongoing services at the local tribal level for such critical needs as housing, education, natural resource management, and tribal government services. Since tribes have flexibility to use TPA funds to meet the unique needs of their individual communities, these funds are an essential resource for tribes to exercise their powers of self-governance. This account, key to tribal self-determination, has been deeply underfunded for years. According to a 2003 report by the U.S. Commission on Civil Rights, the percentage of BIA funds provided to TPA has steadily dwindled since 1998. Between FY 1998 and FY 2003, TPA spending power has decreased by \$36.5 million or 4.4 percent. Unfortunately, the proposed FY 2005 budget fails to even address inflationary costs, with only a \$5 million increase requested for this key account. NCAI recommends at least a 5 percent increase in TPA for FY 2005 to address inflationary cost increases, a total increase of \$35 million over the FY 2004 enacted level.

The Census Bureau’s *Poverty in the United States* for 2000 showed that American Indians and Alaska Natives remain at the bottom of the economic ladder – with 25.9 percent of our population falling below the poverty line. This compares to an 11.9 percent poverty rate for all races combined. Simply put, tribal governments simply cannot continue to provide essential government services to our growing – and disproportionately poor – population without a substantial increase in our TPA funds.

Self-Determination Pay Cost Increases. NCAI recommends that 638 Pay Costs be restored to full funding for tribes in the FY 2005 Interior Appropriations budget. In the past, the 638 Pay Cost account has matched what the Administration and Congress provide for federal workers employed by federal agencies each year. But tribes received only 15% of their 638 Pay Cost funding in FY 2003 and about 30% in FY 2004. As a result of these decreases, tribes’ core service funding is effectively rendered far less than nearly a decade ago. This underfunding seriously undermines tribes’ ability to provide critical services promoting the public safety, security, and well being of communities already suffering some of the worst living standards in America. Some federal agencies may be able to absorb such an onslaught of cuts, but tribes—wrestling with well-documented funding shortfalls to begin with—cannot. The Pay Cost disparity between federal and tribal employees seriously undermines the federal Indian policy of self-determination and self-governance.

Office of Special Trustee. The budget request includes a significant initiative to increase funding for trust management within the BIA and the Office of Special Trustee. The request included a significant increase of \$53.3 million to the Indian Land Consolidation account, a welcome increase to an area supported by NCAI

and tribes as vital to long-term trust management reforms. However, \$109 million would be directed toward a historical accounting without mutually acceptable parameters established on how to undertake this extraordinary complex task. The Office of Special Trustee would receive a \$113.6 million increase – to \$322.7 million – which is partially offset by a \$63 million cut to BIA Construction and a \$13.5 million cut to BIA Other Recurring Programs. Within BIA Construction accounts, Education Construction will lose \$65.9 million—despite a terrible backlog of new school construction needs that everyone agrees must be taken care of promptly.

Tribal leaders have repeatedly emphasized that funding needed to correct problems and inefficiencies in DOI trust management must not come from existing BIA programs or administrative monies—yet once again, this year's budget request reduces effective funding for tribes to fund a reorganization that tribes have opposed. It is critical that the Department request additional funding from Congress to correct the internal problems created through their administrative mistakes rather than depleting existing, insufficient BIA program dollars for these purposes.

Contract Support Costs (CSC). Contract Support Cost (CSC) funds are the key to self-determination for tribes—these funds ensure that tribes have the resources that any contractor would require to successfully manage decentralized programs. The President requested a \$2 million reduction in funding for contract support costs, down to a proposed level of \$133.3 million from the FY 2004 request of \$135.3. An additional \$25 million is needed in BIA to fully fund CSC (excluding direct contract support costs). This shortfall continues to penalize tribes that elect to operate BIA and IHS programs under the self-determination policy. Additional CSC appropriations are needed to implement the self-determination and self-governance policy as supported by Congress.

School Operations. NCAI and the U.S. Civil Rights Commission have called for badly needed increases to funding for BIA School Operations—but rather than addressing the tremendous need that exists for classroom dollars, transportation, and contract support for tribally operated schools, this critical account would be decreased under the proposed budget to \$522.4 million, down \$6 million from the enacted amount in FY2004.

Proposed funding for Administrative Cost Grants—the equivalent of contract support for tribally operated schools—not only fails to come close to addressing the drastic shortfalls faced in this account, but would actually be *cut*. Despite current funding that is approximately 70% of the formula required by law for essential Administrative Cost Grants that support sound management of tribally-operated schools the President's budget would cut funding for this critical line item by \$3.8 million to \$45.3 million for FY 2005.

With the added burden of implementing the requirements of the No Child Left Behind Act, additional funding for ISEP is absolutely critical to the continuing function of BIA schools. NCAI also remains deeply concerned about the impact of OIEP's consolidation of line officers on BIA school functions.

INDIAN HEALTH SERVICE

The FY 2005 funding request for the Indian Health Service marks a rise of \$45 million over the FY 2004 enacted level—but falls far short of addressing the overall growth in population and rapidly increasing medical costs which have resulted in expanded unmet needs in Indian Country. The HHS discretionary budget has increased at a much faster rate than the total IHS budget since 1975, despite estimates that between 1998 and 2003, the service population of IHS has increased at least 11.5 percent and industry experts estimate that medical costs have grown 10 to 12 percent annually.

Proposed funding for Indian health care facilities construction would be cut by more than half under the proposal, down from \$94 million enacted in FY 2004 to \$42 million requested in FY 2005. Funding for

Maintenance and Improvement as well as Medical Equipment for Indian health facilities would receive level funding in the proposed budget. Yet IHS facilities have an average age of 32 years and medical equipment is used for twice the normal life span in IHS facilities as compared to general facilities.

According to the National Indian Health Board, in 2001, there was a \$900 million backlog in unmet needs for health facilities, impeding Indian access to care and contributing to the degenerating health conditions in Indian Country. About a quarter of IHS' budget for Clinical Services is dedicated to contracted care. The amount required to meet the needs of the Contract Health Service programs in Indian Country is estimated to be \$1 billion, but the request for Contract Health Services would provide only \$497 million for FY 2005, less than half the amount needed to run the program. NCAI recommends an increase to Contract Health Services of \$120 million in FY 2005.

Despite slight increases, IHS' real spending per American Indian has fallen over time, after adjusting for inflation and population growth. The IHS spends roughly \$1900 per person per year on comprehensive health services, far below expenditures per person by public and private health insurance plans, and 50 percent of what is spent for health care for *federal prisoners*. Even when IHS non-medical expenditures per person are accounted for, IHS spends less on its service users than the government spends on any other group receiving public health care.

While important gains have been made in funding for diabetes prevention and treatment efforts, progress toward the goal of eliminating health disparities for American Indians and Alaska Natives will require coordinated, concerted efforts—and increases across the board in the IHS budget.

PUBLIC SAFETY

More than 200 police departments, ranging from tiny departments with only two officers to those with more than 200 officers, help to maintain public safety in Indian Country. According to a recent Justice Department study¹, the typical Indian Country police department has no more than three and as few as one officer patrolling an area the size of Delaware.

The same DOJ study found that inadequate funding is “an important obstacle to good policing in Indian Country.” Because the violent crime rate in Indian Country is more than double the national average, the need for police coverage in Indian Country compares more directly with large urban areas with high violent crime rates. According to the Bureau of Justice Statistics, cities like Baltimore, Detroit, and Washington have police-to-citizen ratios of 3.9 to 6.6 officers per 1,000 residents. On the other hand, virtually no tribal police department has more than two officers per thousand residents. In Alaska, a third of the 226 Native Alaskan villages lack any form of law enforcement due to lack of funding. Of the population in Alaska receiving limited or no police protection, 80% are Native; whereas more than 80% of the population receiving full protection from state troopers are non-Native.

Given that the Justice Department itself published a study that justifies the need to increase resources for Indian Country law enforcement, it is disappointing that tribal law enforcement programs have either lost funding or at best retained level funding since FY 2002. The President's budget would cut \$4.7 million in essential tribal law enforcement funds allocated by the COPS program. We strongly oppose these cuts, and request an increase to FY 2002 funding levels at a minimum for Indian Country law enforcement programs.

Under the Administration's proposed budget, essential Department of Justice funding for Tribal Courts would be cut by \$7.6 million. Indian Country Prison grants would be cut by \$2.5 million. The amount of total

¹ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, *Policing on American Indian Reservations*, September 2001.

funding for Indian programs within the Department of Justice decreased by 14 percent between 2002 and 2003, and Office of Tribal Justice Program funding decreased by 43 percent. At a time when homeland security and public safety concerns most require concerted federal support for law enforcement in Indian Country, budget requests for 2005 further this troubling downward trend. A 50% increase in funding for tribal law enforcement is necessary to provide for basic public safety in Indian Country. Tribal Courts should be funded at a level of at least \$15 million per year to enable tribes to continue court operations and enhance tribal justice facilities.

HOMELAND SECURITY

Tribal leaders share the President's concern for homeland security. The President's budget proposed a 4.6 percent increase for DHS to an overall funding level of \$28.3 billion. Grants to large metropolitan areas for terrorist threats would be doubled to \$1.4 billion in FY 2005. Local government funding for law enforcement, fire departments, 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.

Under the Homeland Security Act of 2002, the responsibilities tribes bear for ensuring the security of lands has largely been overlooked, with tribes treated as local governments such as counties or municipalities in spite of their much broader public safety enforcement responsibilities. Legislation to amend the Homeland Security Act of 2002 has been proposed (S.587 and companion bill H.R. 2242) to ensure that tribes are treated in a manner more similar to state governments. We ask that a concerted effort be made to ensure that tribal areas have equal access to funding as FY2005 funds are directed toward Homeland Security.

ENVIRONMENTAL SAFETY AND INFRASTRUCTURE

The air we breathe, the water we drink, and the land on which we live are of the utmost importance to American Indian and Alaska Native culture and tradition, and are the bedrock on which we can thrive as healthy communities into the future.

NCAI appreciates the proposed elimination of the cap on EPA Non-Point Source Pollution grants that may be awarded to tribes. However, we are disappointed to see that the President's budget would cut Alaska Rural and Native Water Systems funding in the Department of Agriculture from \$28 million down to \$11.8 million for FY 2005. Overall, Rural Community Advancement Program grants to tribes would be reduced from \$24 million to \$13 million. Similarly, State and Tribal Assistance Grants within EPA that address drinking water and waste infrastructure needs of rural Alaska Native villages would be reduced from \$43 million to \$40 million. Rural Water Projects within the Bureau of Reclamation budget, also critical to ensuring safe water supply to tribes, would be cut by nearly \$7 million under the Administration's request.

The Department of Health and Human Services has reported that 8 percent of Indian homes lack running water, compared to less than one percent of the non-Indian population. Thirty-three percent of tribal homes, fully one-third, lack adequate solid waste management systems. In 2004, no American should be without access to clean water and sanitation facilities. These programs need increased funding—not cuts—to address these infrastructure needs that are so critical to public health.

General Assistance Program. Tribal environmental program managers rightly perceive the EPA's General Assistance Programs (GAP) as the primary federal mechanism available to protect our lands. GAP activities provide tribes with the resources needed to build capacity for EPA-delegated environmental programs. The

Administration has requested \$62.5 million for tribal GAP grants; but in order for tribes to continue to develop their environmental management infrastructure capability, a minimum level of \$67 million is needed.

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 and 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. We ask that these cuts be reversed.

TRIBALLY CONTROLLED COMMUNITY COLLEGES

NCAI welcomes investment in tribal colleges, as demonstrated in funding for the Native American Institutions Endowment Fund, which would be increased by \$3 million to \$12 million in the Department Agriculture. But the President's budget for BIA requested \$43.4 million for TCCCs, down from \$49.2 million enacted for FY 2004 (before across-the-board cuts to enacted levels). For a third year in a row, the budget recommends no funding for the United Tribes Technical College in North Dakota, an important tribal training institute which NCAI strongly supports.

ELDER CARE

The FY 2005 budget requests \$25.7 million for Grants to Indian tribes in the Administration on Aging. Funding for elders programs has decreased per elder since FY 1980 to FY 2000 from \$303 to \$137 due to population growth and inflation. NCAI supports the National Indian Council on Aging (NICOA) request that funding for Title VI of the Older Americans Act be increased to \$30 million. Funding to date for this program has never served the Title's mandate to provide services "comparable to those provided under Title III", which provides a wide range of social services to the elderly nationwide.

HEAD START

The Administration's FY 2005 budget proposal does not increase funding for Head Start programs sufficiently to meet the needs of Indian Country. Tribally operated Head Start programs are one of the most important ways that we are protecting the future of our people—yet we struggle with old and unsafe facilities, lack of facilities, lack of buses and buses that are no longer road-worthy, and unsafe playground equipment. Tribes **MUST** be consulted before sweeping reforms are implemented on a program that is so critical to our future, and it is absolutely essential that tribes maintain direct federal funding for tribal Head Start programs.

CONCLUSION

NCAI realizes Congress must make difficult budget choices this year. As elected officials, tribal leaders certainly understand the competing priorities that you must weigh over the coming months. However, the federal government's solemn responsibility to address the serious needs facing Indian Country remains unchanged, whatever the economic climate and competing priorities may be. We at NCAI urge you to make a strong, across-the-board commitment to meeting the federal trust obligation by fully funding those programs that are vital to the creation of vibrant Indian Nations. Such a commitment, coupled with continued efforts to strengthen tribal governments and to clarify the government-to-government relationship, truly will make a difference in helping us to create stable, diversified, and healthy economies in Indian Country.