



2120 L Street, NW, Suite 700
Washington, DC 20037

T 202.822.8282
F 202.296.8834

HOBBSSTRAUS.COM

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GENERAL MEMORANDUM 19-009

FY 2020 Indian Health Service Proposed Appropriations

In this Memorandum, we report on the Trump Administration's proposed FY 2020 appropriations for the Indian Health Service (IHS). The Administration's proposed FY 2020 appropriations levels are described in terms of above or below the FY 2019 Continuing Resolution which is generally the same as the FY 2018 enacted levels, not the FY 2019 enacted amounts. We reported on the FY 2019 enacted levels in our General Memorandum 19-006 of March 25, 2019, and in this Memorandum we use the FY 2019 enacted levels.

The reference "CJ" refers to the Administration's Congressional Budget Justification, and the term Current Services refers medical and non-medical inflation, pay costs, and population growth.

IHS OVERALL FUNDING

FY 2018 Enacted	\$5,537,764,000
FY 2019 Enacted	\$5,804,223,000
FY 2020 Admin. Request	\$5,944,567,000

The proposed budget for the IHS is \$140 million over the FY 2019 enacted level. The Budget Justification notes that the Administration's priorities are for direct services and staffing of newly constructed facilities. However, the Administration's funding proposals are described in relation to FY 2019 Continuing Resolution amounts which in reality are FY 2018 enacted levels.

Key items in the proposed FY 2020 budget are: 1) \$68.8 million to *partially fund current services (medical and non-medical inflation, pay costs; and population growth;* 2) \$97.5 million for staffing of new facilities as follows: \$78.5 million for Cherokee Regional Health Center; \$3.8 million for Yakutat Tlingit Health Center; \$7.4 million for Northern California Youth Regional Treatment Center; and \$7.8 million for Ysleta Del Sur Health Center; 3) \$25 million for Electronic Health Record System transition; 4) \$25 million to expand the Hepatitis C and HIV/AIDS Initiative; 5) \$20 million to begin transition of the Community Health Representatives (CHR) program to a National Community Health Aide Program (while reducing funding for the CHR program); 6) \$11.5 million for or newly recognized tribes; and 7) \$8 million for recruitment and retention efforts, including housing subsidies.

Funding for Contract Support Costs would continue at “such sums as may be necessary” and is estimated to be \$855 million. The Administration did not repeat its proposal of last year to change the funding for the Special Diabetes Program for Indians (SDPI) from a mandatory to a discretionary basis. Instead they proposed to continue funding it on a mandatory basis and to extend the authorization of the program for FYs 2020 and 2021 at the current level of \$150 million annually. The current SDPI program authorization expires September 30, 2019.

Funding is proposed to be significantly reduced for Health Facilities Construction; supplemental funding for village clinics, Community Health Representatives, and the Indian Health Professions programs. Funding is proposed to be eliminated for the Public Health Nursing and the Health Education programs.

CONTRACT SUPPORT COSTS

FY 2018 Enacted	Such sums as may be necessary
FY 2019 Enacted	Such sums as may be necessary
FY 2020 Admin. Request	Such sums as may be necessary

Contract Support Costs (CSC) is proposed to remain as a separate appropriation account with an indefinite amount—“such sums as may be necessary.” The FY 2020 estimate is \$855,000,000 which compares to the FY 2019 estimate of \$822,227,000.

Once again, the Trump Administration proposes two provisions from the FY 2016 Appropriations Act for IHS which are contrary to the Indian Self-Determination and Education Assistance Act (ISDEAA) with regard to CSC. The first is the “carryover” clause that could be read to deny the CSC carryover authority granted by the ISDEAA; the second is the “notwithstanding” clause used by IHS to deny contract support costs for their grant programs – Domestic Violence Prevention; Substance Abuse and Suicide Prevention; Zero Suicide Initiative; after-care pilot projects at Youth Regional Treatment Centers; funding for the improvement of third party collections; accreditation emergencies; the housing subsidy authority for civilian employees, and a new pilot project for opioid prevention and treatment recovery. Added to the list in FY 2020 would be costs of the Electronic Records System, recruitment and retention of health care providers, and the Hepatitis C/HIV/AIDS Initiative. *Congress has not gone along with these two Administration proposals in the past.*

Continuation of Sections 405 and 406 of General Provisions. The Administration would continue sections 405 and 406 of the FY 2015 Appropriations Act. These provisions prohibit BIA and IHS from using FY 2020 CSC funds to pay past-year CSC claims or to repay the Judgment Fund for judgments or settlements related to past-year CSC claims. They do not preclude tribes from recovering such judgments or settlements from the Judgment Fund. The following is from Division G, Title IV of the Act:

Contract Support Costs, Prior Year Limitation. Sec. 405. Sections 405 and 406 of division F of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235) shall continue in effect in fiscal year 2020.

Contract Support Costs, Fiscal Year 2020 Limitation. Sec. 406. Amounts provided by this Act for fiscal year 2020 under headings "Department of Health and Human Services, Indian Health Service, Contract Support Costs" and "Department of the Interior, Bureau of Indian Affairs and Bureau of Indian Education, Contract Support Costs" are the only amounts available for contract support costs arising out of self-determination or self-governance contracts, grants, compacts, or annual funding agreements for fiscal year 2019 with the Bureau of Indian Affairs or the Indian Health Service: Provided, That such amounts provided by this Act are not available for payment of claims for contract support costs for prior years, or for repayment of payments for settlement or judgments awarding contract support costs for prior years.

INDIAN HEALTH SERVICES

FY 2018 Enacted	\$3,952,290,000
FY 2019 Enacted	\$4,103,190,000
FY 2020 Admin Request	\$4,286,541,000

HOSPITALS AND CLINICS

FY 2018 Enacted	\$2,045,128,000
FY 2019 Enacted	\$2,147,343,000
FY 2020 Admin Request	\$2,363,278,000

Current Services/Staffing. Proposed is funding to partially meet current services: \$2.1 million for pay costs; \$15.8 million for inflation; and \$25 million for population growth. Staffing of new facilities is requested at \$71.7 million.

Tribal Clinic Leases. The Administration proposes only \$11 million in supplemental funds for tribal clinic leases, down from \$36 million enacted for FY 2019. The FY 2019 increase was in response to a legal mandate to fully fund section 105(l) ISDEAA leases of tribal facilities used to carry out ISDEAA agreements.

Accreditation Emergencies. Proposed is "not less than" \$58 million for hospital accreditation emergencies. FY 2019 funding for this purpose was \$58 million. New language clarifies that funds may be used for related facilities activities.

Ending Hepatitis C and HIV/AIDS. \$25 million is proposed as part of a national federal effort to end Hepatitis C and HIV/AIDS. Of that amount \$7 million would focus on strategies

including diagnosing, treating, protecting and responding to the epidemic. In addition, \$18 million would be for the prevention of HCF “which will be modeled after the successful outcomes-driven work done by the Cherokee Nation and the Northwest Portland Area Tribes.”

New Tribes Funding. Proposed is \$11.5 million for six tribes federally recognized on January 30, 2018: Chickahominy Indian Tribe; Chickahominy Indian Tribe – Eastern Division; Monacan Indian Nation; Nansemond Indian Tribe; Upper Mattaponi Tribe; Rappahannock Tribe.

National Community Health Aide Program (CHAP). \$20 million is proposed to establish a National CHAP program outside of Alaska, while at the same time phasing out the Community Health Representative (CHR) program. Of the \$20 million, \$5 million would be for a training center network partnership with tribal colleges; \$5 million would be for management of certification boards and compliance; and \$10 million or funding to support expansion of CHAP for tribes who have received training and certification for the National CHAP program. (CJ-67).

ELECTRONIC RECORDS SYSTEM

New funding of \$25 million would be used to “lay the groundwork” to modernize the Electronic Health Record system. The budget justification notes that the current Resource and Patient Management System has been identified by the Government Accountability Office as one of IHS’ top three systems most in need of modernization. The funds “would be used at the discretion of the IHS Director, and available until expended.”

DENTAL SERVICES

FY 2018 Enacted	\$195,283,000
FY 2019 Enacted	\$204,672,000
FY 2020 Admin. Request	\$212,370,000

Current Services/Staffing. The proposal includes \$4.8 million for staffing of new facilities and \$3.5 million for current services.

MENTAL HEALTH

FY 2018 Enacted	\$ 99,900,000
FY 2019 Enacted	\$105,281,000
FY 2020 Admin. Request	\$109,825,000

Current Services/Staffing. The proposal includes \$2.8 million is for staffing of new facilities and \$1.8 million for current services.

ALCOHOL AND SUBSTANCE ABUSE

FY 2018 Enacted	\$227,788,000
FY 2019 Enacted	\$245,566,000

FY 2020 Admin. Request \$246,034,000

Current Services/Staffing. The proposal includes \$7.6 million for staffing of new facilities and \$4.3 million for current services. Not taken into account is the FY 2019 increase of \$10 million for an opioid pilot program.

PURCHASED/REFERRED CARE

FY 2018 Enacted \$962,695,000
 FY 2019 Enacted \$964,819,000
 FY 2020 Admin. Request \$968,177,000

Current Services/CHEF. Included in the total is \$51.5 million for the Catastrophic Health Emergency Fund which is \$1.5 million below the FY 2019 enacted level, and \$4.7 million for current services.

INDIAN HEALTH CARE IMPROVEMENT FUND

FY 2018 Enacted \$72,280,000
 FY 2019 Enacted \$72,280,000
 FY 2020 Admin. Request \$72,280,000

Unlike the FY 2019 Act, funding for this program is not included in the proposed bill language, but it is included in the budget justification chart.

PUBLIC HEALTH NURSING

FY 2018 Enacted \$85,043,000
 FY 2019 Enacted \$89,159,000
 FY 2020 Admin. Request \$92,084,000

Current Services/Staffing. The proposal includes \$3.4 million for staffing of new facilities and \$1.5 million for current services.

HEALTH EDUCATION

FY 2018 Enacted \$19,871,000
 FY 2019 Enacted \$20,568,000
 FY 2020 Admin. Request -0-

The Budget Justification notes that elimination of the funding “would discontinue the program at federal sites and discontinue the funding transferred to Tribes as part of their annual contracts and compacts; however, Tribes may choose to use their own resources to support similar functions.” (CJ-130).

COMMUNITY HEALTH REPRESENTATIVES

FY 2018 Enacted	\$62,888,000
FY 2019 Enacted	\$62,888,000
FY 2020 Admin. Request	\$24,000,000

The Budget Justification notes that the proposed reduction “begin phase out of the CHR program in FY 2020 and will replace the program with a new national Community Health Aide Program (CHAP). The requested funding will allow for a seamless transition to the new National CHAP.” (CJ-133). See the Hospitals and Clinics portion of this memorandum regarding the request of \$20 million for a National CHAP program.

HEPATITIS B and HAEMOPHILUS
IMMUNIZATION (Hib) PROGRAMS IN ALASKA

FY 2018 Enacted	\$2,127,000
FY 2019 Enacted	\$2,127,000
FY 2020 Admin. Request	\$2,173,000

The proposal includes \$39,000 for current services.

URBAN INDIAN HEALTH

FY 2018 Enacted	\$49,315,000
FY 2019 Enacted	\$51,315,000
FY 2020 Admin. Request	\$48,771,000

The proposal includes \$876,000 for current services.

INDIAN HEALTH PROFESSIONS

FY 2018 Enacted	\$49,363,000
FY 2019 Enacted	\$57,363,000
FY 2020 Admin. Request	\$43,612,000

Programs funded under Indian Health Professions are: Health Professions Preparatory and Pre-Graduate Scholarships; Health Professions Scholarships; Extern Program; Loan Repayment Program; Quentin N. Burdick American Indians Into Nursing Program; Indians into Medicine Program; and American Indians into Psychology Program.

The proposal includes \$433,000 for current services and \$36 million for the loan repayment program (compares to \$44 million in FY 2019).

TRIBAL MANAGEMENT

FY 2018 Enacted	\$2,465,000
FY 2019 Enacted	\$2,465,000
FY 2020 Admin. Request	-0-

The Tribal Management grant program, authorized in 1975 under the authority of the Indian Self-Determination and Education Assistance Act, provides competitive grant funding for new and continuation grants for the purpose of evaluating the feasibility of contracting IHS programs, developing tribal management capabilities, and evaluating health services.

The Administration proposes to eliminate funding for this program, stating “the budget prioritizes direct health care services and staffing of newly constructed facilities.” (CJ-153).

DIRECT OPERATIONS

FY 2018 Enacted	\$72,338,000
FY 2019 Enacted	\$71,538,000
FY 2020 Admin. Request	\$74,131,000

IHS estimates that 75 percent of the Direct Operations would go to Headquarters and 26.5 percent to the 12 Area Offices. This is a significant increase in the Headquarters share because of the expanded administrative oversight of national functions. (CJ-158).

SELF-GOVERNANCE

FY 2018 Enacted	\$5,806,000
FY 2019 Enacted	\$5,806,000
FY 2020 Admin. Request	\$4,807,000

The Self-Governance budget supports implementation of the IHS Tribal Self-Governance Program including funding required for Tribal Shares; oversight of the IHS Director's Agency Lead Negotiators; technical assistance on tribal consultation activities; analysis of Indian Health Care Improvement Act new authorities; and funding to support the activities of the IHS Director's Tribal Self-Governance Advisory Committee.

The IHS notes in its FY 2020 budget justification that in FY 2018, approximately \$2.3 billion was transferred to tribes to support 101 ISDEAA Title V compacts and 127 funding agreements.

INDIAN HEALTH FACILITIES

FY 2018 Enacted	\$867,504,000
FY 2019 Enacted	\$878,806,000
FY 2020 Admin. Request	\$803,026,000

MAINTENANCE AND IMPROVEMENT

FY 2018 Enacted	\$167,527,000
FY 2019 Enacted	\$167,527,000
FY 2020 Admin. Request	\$168,568,000

As of October 1, 2018, the Backlog of Essential Maintenance, Alteration, and Repair is \$648.9 million. Maintenance and Improvement (M&I) funds are provided to Area Offices for distribution to projects in their regions. The October 2016 backlog was estimated at \$515.4 million.

Demolition Fund. The IHS appropriations Act has for many years included a provision providing that “not to exceed \$500,000” may be placed in a Demolition Fund to be used until expended for demolition of Federal buildings. This bill language limitation is proposed to be eliminated because of the significant backlog of structures which require demolition, apparently meaning that the amount for demolition may be increased (CJ-19).

FACILITIES AND ENVIRONMENTAL HEALTH SUPPORT

FY 2018 Enacted	\$240,758,000
FY 2019 Enacted	\$252,060,000
FY 2020 Admin. Request	\$251,413,000

Included is \$4.2 million for current services and \$7 million for staffing of new facilities.

MEDICAL EQUIPMENT

FY 2018 Enacted	\$23,706,000
FY 2019 Enacted	\$23,706,000
FY 2020 Admin. Request	\$23,983,000

Proposed is \$381,000 for current services; \$500,000 for the TRANSAM program; \$18.5 million for new and replacement equipment in federally- and tribally operated facilities; and \$5 million for new equipment in tribally-constructed facilities. No funding is requested for purchase of ambulances as IHS explains that they no longer purchase ambulances from GSA but rather provide a price subsidy (CJ-19).

CONSTRUCTIONConstruction of Sanitation Facilities

FY 2018 Enacted	\$192,033,000
FY 2019 Enacted	\$192,033,000
FY 2020 Admin. Request	\$193,252,000

The sanitation facilities construction program provides funding for sanitation projects to serve new or like-new housing, existing homes, emergency projects, and studies and training related to sanitation facilities construction projects. The funds cannot be used to provide sanitation facilities for Department of Housing and Urban Development-built homes.

Construction of Health Care Facilities

FY 2018 Enacted	\$243,480,000
FY 2019 Enacted	\$243,480,000
FY 2020 Admin. Request	\$165,810,000

Proposed is \$60.2 million for Boda Gap Health Center quarters; \$51.4 million for the Albuquerque West Health Center; \$44.2 million for the Albuquerque Central Health Center; and \$10 million for new and replacement staff quarters which would be distributed to Area Offices based on their internal priority lists.

CONTINUING BILL LANGUAGE

The Act continues language from previously enacted bills, including the following:

IDEA Data Collection Language. Continues the BIA authorization to collect data from the IHS and tribes regarding disabled children in order to assist with the implementation of the Individuals with Disabilities Education Act (IDEA). The provision is:

Provided further, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act. (20 U.S.C. 1400, et. seq.)

Prohibition on Implementing Eligibility Regulations. Continues the prohibition on the implementation of the eligibility regulations, published September 16, 1987.

Services for Non-Indians. Continues the provision that allows the IHS and tribal facilities to extend health care services to non-Indians, subject to charges. The provision states:

Provided, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation.

Assessments by HHS. Continues the provision which provides that no IHS funds may be used for any assessments or charges by the Department of Health and Human Services "unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process."

Limitation on No-Bid Contracts. Continues the provision regarding the use of no-bid contracts. The provision specifically exempts Indian Self-Determination agreements:

Sec. 411. None of the funds appropriated or otherwise made available by this Act to executive branch agencies may be used to enter into any Federal contract unless such contract is entered into in accordance with the requirements of Chapter 33 of title 41 United States Code or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulations, unless:

- (1) Federal law specifically authorizes a contract to be entered into without regard for these requirements, including formula grants for States, or federally recognized Indian tribes; or
- (2) Such contract is authorized by the Indian Self-Determination and Education and Assistance Act (Public Law 93-638, 25 U.S.C. 450 et seq.) or by any other Federal laws that specifically authorize a contract within an Indian tribe as defined in section 4(e) of that Act (25 U.S.C. 450b(e)); or
- (3) Such contract was awarded prior to the date of enactment of this Act.

Use of Defaulted Funds. Continues the provision that allows funds collected on defaults from the Loan Repayment and Health Professions Scholarship programs to be used to make new awards under the Loan Repayment and Scholarships.

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Bill language not included. Not included in FY 2020 proposed bill language are provisions from FY 2019 language with regard to IHS providing civilian medical personnel serving in IHS-operated hospitals housing allowances equivalent to those that would be provided to the Commissioned Corps personnel serving in similar positions at such hospitals; and language regarding required advance notification to Appropriations Committees if the IHS appropriations structure is changed.

Please let us know if we may provide additional information regarding FY 2020 Indian Health Service appropriations matters.

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Inquiries may be directed to:
Karen Funk (kfunk@hobbsstrauss.com)