

August 13, 2021

The Bureau of Indian Affairs: FY2022 Appropriations

The Bureau of Indian Affairs (BIA), in the U.S. Department of the Interior (DOI), administers programs for tribal government, social services, law enforcement, infrastructure, and trust land and natural resources in Indian Country. BIA plays a leading role in carrying out federal trust, treaty, and other responsibilities to American Indians, Alaska Natives, and federally recognized tribes.

This In Focus compares President Biden’s request for FY2022 discretionary appropriations with enacted BIA FY2020 and FY2021 discretionary appropriations. Supplemental, mandatory, and Bureau of Indian Education (BIE) appropriations are not included. Issues for Congress include determining the amount of discretionary funding to provide BIA, the distribution of such funding across programs and activities, and the terms and conditions of such funding. Congress also may consider whether to adopt BIA’s proposal for a new appropriations account.

Discretionary Appropriations Accounts

Congress and the Administration generally provide discretionary appropriations to BIA in annual appropriations laws for the Department of the Interior, Environment, and Related Agencies. BIA requested \$2.618 billion in discretionary funding in FY2022, an increase of 26.0% from \$2.078 billion enacted in FY2020 and 21.3% from \$2.159 billion enacted in FY2021. (See **Table 1**.)

Table 1. Bureau of Indian Affairs (BIA) Discretionary Appropriations, by Account (dollars in millions)

Account	FY2020 Enacted	FY2021 Enacted	FY2022 Requested
Operation of Indian Programs	\$1,577.1	\$1,616.5	\$1,916.1
Contract Support Costs ^a	\$316.6	\$335.0	\$240.0
Payments for Tribal Leases ^b	—	\$21.6	\$36.6
Indian Land Consolidation ^c	—	—	\$150.0
Construction	\$126.6	\$128.8	\$188.0
Settlements	\$45.6	\$45.6	\$75.8
Loan Program	\$11.8	\$11.8	\$11.8
Total	\$2,077.8	\$2,159.3	\$2,618.3

Source: Prepared by CRS with data from House Appropriations Committee, 2021 (H.Rept. 117-83), and the FY2022 BIA request.

- a. Contract Support Costs are based on such sums as necessary; the value for FY2022 requested is based on information to date. The value for FY2020 enacted appropriations reflects actual

amounts spent in FY2020 as reported in the FY2022 BIA request.

- b. BIA proposed this as a new account in the FY2021 request.
c. BIA proposed this as a new account in the FY2022 request.

BIA discretionary appropriations are provided through several accounts. Operation of Indian Programs (OIP) is BIA’s largest account. Other accounts include Contract Support Costs, Payments for Tribal Leases, Construction, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians (Settlements), and the Indian Guaranteed Loan Program (Loan Program). BIA’s FY2022 request would increase funding for most accounts relative to FY2020 and FY2021. BIA also proposed a new account for FY2022—Indian Land Consolidation.

Operation of Indian Programs

The requested level for OIP in FY2022 is \$1.916 billion, an increase of 21.5% from \$1.577 billion in FY2020 enacted and an increase of 18.5% from \$1.616 billion in FY2021 enacted. **Table 2** shows FY2020 enacted, FY2021 enacted, and FY2022 requested appropriations for each OIP activity, several of which are discussed below. Of the OIP total, the FY2022 request includes \$788.9 million for tribal priority allocations (TPA). TPA is a BIA budgetary tool that allows direct involvement by tribes in setting priorities for their operating programs. TPA includes funds across multiple activities as “guaranteed” base funding for tribes.

Tribal Government (TG). The requested level for TG in FY2022 is \$356.4 million, an increase of 6.7% from \$334.2 million enacted in FY2020 and an increase of 4.5% from \$341.0 million enacted in FY2021. TG assists tribes in strengthening government structures, such as funding for newly recognized tribes, and supports self-governance through contracting and compacting of federal programs by tribes under the Indian Self-Determination and Education Assistance Act (ISDEAA; 25 U.S.C. §§5301 et seq.). TG includes funding for BIA road maintenance on tribal lands.

Human Services (HS). The FY2022 requested level for HS is \$175.3 million, an increase of 12.6% from \$155.7 million enacted in FY2020 and an increase of 8.7% from \$161.2 million enacted in FY2021. HS supports social programs, such as Social Services, Welfare Assistance, and Indian Child Welfare Act programs.

Trust-Natural Resources Management (TNRM). The requested level for TNRM in FY2022 is \$395.8 million, an increase of 74.5% from \$226.8 million enacted in FY2020 and an increase of 52.9% from \$258.8 million enacted in FY2021. TNRM assists tribes with managing, developing, and protecting trust lands and natural resources. Requested funding for Tribal Climate Resilience is \$61.0 million, a \$46.0 million (307.7%) increase over the FY2020 enacted

level and a \$44.0 million (259.6%) increase over FY2021 enacted level. FY2021 enacted appropriations transferred the Minerals and Mining sub-activity from the Community and Economic Development activity to TNRM. FY2022 requested funding for Minerals and Mining is \$67.0 million, a \$40.5 million (152.5%) increase over FY2020 enacted appropriations and a \$40.3 million (150.9%) increase over FY2021 enacted appropriations.

Trust-Real Estate Services (TRES). The requested level for TRES in FY2022 is \$169.9 million, an increase of 23.0% from \$138.1 million enacted in FY2020 and an increase of 20.8% from \$140.7 million enacted in FY2021. TRES addresses BIA's responsibilities to tribes in trust services, probate, and land titles and records.

Public Safety and Justice (PSJ). The FY2022 requested level for PSJ is \$507.1 million, an increase of 16.8% from \$434.3 million enacted in FY2020 and an increase of 13.0% from \$448.7 million enacted in FY2021. PSJ funds programs on police services, detention/correctional facilities, and tribal courts. The FY2022 request proposed increases for several PSJ activities, including law enforcement special initiatives to address missing and murdered indigenous peoples and implementation of public safety changes resulting from the Supreme Court's decision in *McGirt v. Oklahoma* (for more information on this case, see CRS Legal Sidebar LSB10527, *This Land Is Whose Land? The McGirt v. Oklahoma Decision and Considerations for Congress*, by Mainon A. Schwartz).

Community and Economic Development (CED). The FY2022 requested level for CED is \$42.9 million, a decrease of 18.4% from \$52.5 million enacted in FY2020 and an increase of 75.1% from \$24.5 million enacted in FY2021. The decrease from the FY2020 enacted level is in large part due to the transfer of Minerals and Mining to the TNRM activity. CED activities seek to foster job placement and economic growth in Indian Country. The FY2022 request proposed increased funding for training programs focused on clean energy jobs.

Table 2. BIA Operation of Indian Programs Subaccount Activities (dollars in millions)

Subaccount	FY2020 Enacted	FY2021 Enacted	FY2022 Requested
Tribal Government	\$334.2	\$341.0	\$356.4
Human Services	\$155.7	\$161.2	\$175.3
Trust – Natural Resources Management	\$226.8	\$258.8	\$395.8
Trust – Real Estate Services	\$138.1	\$140.7	\$169.9
Public Safety & Justice	\$434.3	\$448.7	\$507.1
Community & Economic Development	\$52.5	\$24.5	\$42.9
Executive Direction	\$235.5	\$241.6	\$268.7
Total	\$1,577.1	\$1,616.5	\$1,916.1

Source: Prepared by CRS with data from House Appropriations Committee, 2021 (H.Rept. 117-83), and the FY2022 BIA request.

Payments for Tribal Leases

Under Section 105(l) of ISDEAA, the Secretary of the Interior is required to enter into a lease with a tribe, upon the tribe's request, for a facility the tribe uses to carry out the tribe's responsibilities under a contract or compact, commonly referred to as a *105(l) lease*. In FY2021, Congress funded a new appropriations account, Payments for Tribal Leases, to consolidate BIA and BIE 105(l) leasing costs, which were funded under other BIA and BIE accounts in prior fiscal years. Requested funding for this account in FY2022 is \$36.6 million, a \$15.0 million (69.5%) increase from FY2021 enacted appropriations. The FY2022 request proposed to reclassify this account from a discretionary to a mandatory appropriations account beginning in FY2023.

Other Appropriations Accounts

Requested funding for Contract Support Costs (i.e., the indirect costs of tribes administering federal programs under ISDEAA) in FY2022 is \$240.0 million (see **Table 1**). FY2022 requested funding for the Construction account is \$188.0 million, an increase of 48.5% from \$126.6 enacted in FY2020 and an increase of 45.9% from \$128.8 million enacted in FY2021. Requested funding for Settlements in FY2022 is \$75.8 million, an increase of 66.2% from \$45.6 million in both FY2020 and FY2021 enacted levels. The FY2022 request essentially maintains (< 1% increase) the FY2020 and FY2021 enacted levels for the Loan Program.

New Appropriations Account

In FY2022, DOI proposed a new appropriations account—Indian Land Consolidation—with \$150.0 million for reestablishing the Indian Land Consolidation Program (ILCP). DOI indicates the ILCP would be a modified version of the land consolidation program that existed prior to the current Land Buy-Back Program (LBBP). The LBBP's establishment stems from the 2009 settlement of *Cobell v. Salazar*, a lawsuit against DOI involving alleged claims of mismanaged trust assets of tribal members. The settlement authorized the LBBP to acquire fractionated interests (i.e., numerous individuals owning an interest in the same parcel of land) in tribal lands. The LBBP is scheduled to expire in November 2022. DOI states that the ILCP would continue consolidating fractionated interests.

Tiwahe Initiative

Launched in 2014, the Tiwahe Initiative, funded under the HS, PSJ, and CED activities, expanded social services and similar programs to address child and family welfare, job training, and incarceration issues. To address concerns about documentation of funding, in FY2021, Congress directed BIA to produce one report on funding levels and distribution of funding to tribes and another report on guidelines for tribes to implement the Tiwahe Initiative using TPA funding. In FY2022, DOI proposed funding to execute the reports requested by Congress and to add two new Tiwahe sites.

Tana Fitzpatrick, Specialist in Natural Resources Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.