



# NATIONAL CONGRESS OF AMERICAN INDIANS

## NCAI TESTIMONY ON THE ADMINISTRATION'S FISCAL YEAR 2008 BUDGET REQUEST FOR INDIAN PROGRAMS

*Senate Committee on Indian Affairs  
February 15, 2007*

On behalf of the tribal nations of the National Congress of American Indians, we are pleased to present testimony on the Administration's Fiscal Year 2008 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.

Last week, President Bush presented his moral choices for the country in his \$2.9 trillion budget proposal. Tribal leaders, through consultation with various agencies and through NCAI convenings, have identified the following areas for meaningful federal investment in Indian Country: public safety and justice, health care, education, and natural resources. However, NCAI would like to emphasize that, although tribal leaders have developed the above priority areas for FY 2008, the unconditional underpinnings for all of the funding recommendations in this testimony are tribal self-determination and self-governance. NCAI's support for areas in the federal budget that support self-determination and self-governance is uncompromising.

Although tribal people in the United States have inherited the challenges stemming from centuries of unjust policies and broken agreements, a promising resurgence in self-government and self-determination has allowed tribes to flourish in ways unimaginable 50 years ago. When tribes are able to operate as governments responsible for their own people and resources, which is the essence of tribal sovereignty, the resulting achievements have led to reversing the poor conditions created by centuries of injustice. Accordingly, before addressing our various programmatic funding recommendations, we would like to call attention to the very alarming proposal for reductions to the very category at the Bureau of Indian Affairs (BIA) that directly supports tribal self-determination and represents the federal trust responsibility to tribes: Tribal Priority Allocations (TPA).

NCAI understands that the Administration and Congress must make difficult budget decisions this year and must support the most efficient and worthy programs in the federal budget while taking into account efforts to reduce the national deficit. While tribes will advance the priorities detailed in this testimony, the priority initiatives cannot come at the expense of Tribal Priority Allocations. In the Bureau of Indian Affairs budget request, TPA would be reduced by \$20.5 million from the FY07 CR amount, which constitutes the majority of the cuts proposed to the BIA Operation of Indian Programs. TPA has long been one of the most important funding areas for tribal governments, as they have the flexibility to use these funds to meet the unique needs of individual tribal communities, making TPA the main resource for tribes to exercise their powers of self-governance. The current proposed reductions undermine the very self-determination policy that has driven Indian Country's success in addressing the long enduring socio-economic disparities.

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## **Trust Responsibility**

The federal government's trust responsibility to tribes is one of immense moral and legal force, the result of treaties, solemn agreements, executive orders, and statutes and constitutes one of the most important doctrines of Indian law. When vast tracts of land under the care of sovereign tribes were taken, by exchange or force, the US gave its solemn promise to protect the rights of tribes to govern themselves on their remaining land and to provide for the health, education, and well-being of tribes. This commitment is not a hand-out but a contract. We ask that the President and Congress defend the honor and integrity of this nation and seek justice in the US treaty and trust responsibilities to tribes.

NCAI urges Congress to honor its commitments to Indian Nations and provide tribes with the necessary tools for continued progress through the promise of strong tribal self-government. We ask that these recommendations be taken closely to heart as the FY08 budget advances.

**First**, tribal leaders have identified **public safety and justice** as key concerns in the FY 2008 budget. A primary role of tribal government is to ensure the security and safety of Indian communities and families, tribal lands and resources, and the United States through law enforcement, detention, and strong judicial systems.

**Second**, poor health continues to inhibit the economic, educational and social development of all of Indian Country. American Indians and Alaska Natives receive life or limb service under current conditions, meaning funds are only available to treat the most life threatening illnesses. NCAI urges Congress to fund IHS at a level to at least maintain existing health services and restore loss of buying power. We also oppose the zeroing out of the Urban Indian Health Program. Urban Indian health provides a critical link in the health care chain that cannot afford to be broken and cannot be replaced by other health services.

**Third**, NCAI encourages this committee to invest in **Indian education** through support of Native languages, Indian Head Start, tribal colleges, and restoring the Johnson O'Malley program in BIA.

**Fourth**, tribal leaders have identified natural resources as a significant area for investment in FY 2008.

This testimony will assess the President's proposed FY 2008 budget for Indian programs by key areas of concern, starting with public safety and justice. Certain issues cross departments and NCAI's testimony will address these by topic rather than agency, such as with public safety and education.

## **PUBLIC SAFETY AND JUSTICE**

A primary role of tribal government is to ensure the security and safety of Indian communities and families, tribal lands and resources, and the United States through law enforcement, detention, and strong judicial systems. Tribal governments serve as the primary instrument of law enforcement for the more than fifty million acres of land that comprise Indian country. The methamphetamine crisis in Indian Country and throughout the country highlights the role tribes play as a critical link in the strength and security of the entire United States.

### *Law Enforcement*

Current funding for tribal law enforcement and first responders lags well behind that for non-tribal law enforcement. 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 2 officers per 1,000 residents. More than 200 police departments, ranging from small departments with only two officers to those with more than 200 officers, help to maintain public safety in Indian Country. According to a Justice Department study<sup>6</sup>, the typical Indian Country police department has no more than three and as few as one officer patrolling an area the size of Delaware. According to the Bureau of Justice Statistics 2004 report, violent crime committed against American Indians is more than twice the national average and more likely committed by a perpetrator of a different race.

According to a gap analysis the BIA performed in 2006, Indian Country has 2,555 law enforcement officers, yet needs a total of 4,409, resulting in a gap of 1,854 officers, or a 42% unmet staffing need. This gap in police to service population is based on the FBI's 2004 Uniform Crime Report (UCR) and recent BIA/ Office of Law Enforcement Services (OLES) preliminary data. Excluding tribal policing, BIA/OLES has 358 officers overall, yet needs 1,153, resulting in a gap of 795 officers, or a 69% unmet staffing need. This gap is based on the UCR rate of 3.3 officers/1,000 inhabitants for rural areas under 10,000. The current police force of 358 officers provides 0.9 officers/1,000 inhabitants.

The Community Oriented Policing Services grants program has proven to be an excellent method for successful law enforcement in Indian Country, which provides direct funding to tribes on a government-to-government basis. COPS grants have helped Native communities hire 1,800 new police officers since 1999. But a total of 759 law enforcement positions will have expired between 2004 and 2006. The long-term benefits of the program are dependent on permanent funding to sustain these positions.

#### Tribal Courts

Tribal judicial systems are the primary and most appropriate institutions for maintaining order in tribal communities. However, tribal court systems frequently are overburdened due to lack of federal funding. A recent Wall Street Journal article highlighted some of the issues resulting from inadequate resources.<sup>1</sup> The front page article illustrated how the laws that protect the rights of Indian people cannot be effectively enforced due to lack of funding. The Wall Street Journal article included an example from the Tohono O'odham Nation. After the attacks of Sept. 11, 2001, the federal government clamped down on illegal immigration in the urban areas of the Mexican border. As a result, the Tohono O'odham reservation saw a huge increase in illegal immigration, drug smuggling, and related crime. Tribes, including the Tohono O'odham Nation, have repeatedly asked for additional federal resources to help them govern their international borders. Yet, Indian tribes are not eligible to directly receive any of the billions that the federal government distributes to state governments to help them patrol the borders and combat drug-trafficking. Thus, these tribes are forced to allocate their scarce resources among many competing priorities. Any discussion of public safety in Indian Country is inextricably tied to the strength of tribal courts to maintain order in tribal communities.

#### Detention Facilities

In September 2004, the U.S. Department of Interior Inspector General's Office issued a report, "Neither Safe Nor Secure": An Assessment of Indian Detention Facilities," which outlined the deplorable and life-threatening conditions of Indian jails. The report noted that: 79% of facilities fall below minimum staffing levels on a regular basis; poorly maintained facilities that provide ample opportunity for escape; unusually high rates of suicide, a trend that generally correlates with reduced

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<sup>1</sup> "Native Americans on Trial Often Go Without Counsel," Wall Street Journal, February 1, 2007

staff supervision and the influence of drugs and alcohol; and jails dilapidated to the point of condemnation.

In the Southwest, serious problems have arisen due to the closing of tribal detention centers. In September 2005, the BIA closed the Peach Springs jail. The Hualapai Tribal Police Officers then had to transport adult arrestees to either Flagstaff, a 270 mile round trip, or Gallup, New Mexico, a 600 mile round trip. Depending on availability, juveniles may be taken to Gallup, or to Towaoc, Colorado, an 880 mile round trip. Due to police officer shortages to transport the prisoners such distances, many are not arrested.

In summary, the problems that arise due to insufficient funding are --

- 1) Reduced ability to detain criminals: Some tribes have attempted to place criminal offenders in county or other off-reservation detention facilities. However, in an increasing number of cases, these facilities are refusing Indians due to the BIA's negligence in paying for past inmates (these facilities directly bill the BIA). In other instances, there is simply not the manpower of facilities available to detain arrested individuals and the police have no other option than to let them go; and
- 2) Severe impact on tribal law enforcement organizations: Tribal law enforcement officers are currently transporting prisoners great distances, often hundreds of miles, to the few BIA detention facilities in other locations. Transporting prisoners severely impacts tribal police departments that are already short-staffed and removes officers from other policing duties on the reservations. In addition, many Tribal law enforcement officers are suffering from fatigue due to the extra time and effort required to transport prisoners. Morale is very low and many law enforcement officers are leaving their respective tribal police departments; and
- 3) Deplorable conditions and lack of rehabilitative services: Existing BIA detention facilities are overcrowded, understaffed, and under funded. A report by the U.S. Department of Interior General (An Assessment of Indian Detention Facilities, September 2004) found many of these facilities "egregiously unsafe, unsanitary, and a hazard to both inmates and staff alike." The BIA detention facilities are for "lock-up" only and make very little effort towards rehabilitating inmates by addressing antisocial behavior and other clinical problems (substance abuse, violence, gang activity, etc.). Most of the crimes on Indian reservations are committed by repeat offenders; and
- 4) Increased costs to tribal governments: The cost of transporting prisoners and alternative detention measures has far exceeded many Tribal budgets and absorbed funds that would normally be used for crime prevention (in most cases, the BIA has refused to reimburse Tribes for the cost incurred from transporting prisoners). This is occurring in spite of the fact that under its trust obligation, the BIA is responsible for detention costs in Indian Country and receives Congressional appropriations for such purposes; and
- 5) Increase in criminal activity in Indian Country: The lack of law-enforcement presence on the reservations and the lack of other crime prevention measures have lead to more criminal activity, which in-turn has created a greater need for effective detention services.

### **Funding Recommendations**

NCAI commends the Secretary of Interior's departmental Safe Indian Communities Initiative to "help Indian Country reduce methamphetamine crime and the afflictions it has brought to many Tribes," which includes a \$16 million increase for public safety programs at BIA. This initiative is congruent with the tribal leaders' priority to strengthen public safety and justice in Indian Country. However, NCAI notes the decreases and reorganization at the Department of Justice for the tribal COPS, detention, tribal courts, and juvenile justice programs. NCAI urges Congress to ensure that tribal

governments are still able to take control of law enforcement locally to improve responsiveness, strengthen accountability, and tailor services to meet community needs.

*Through significant, but incremental increases over several years, Indian Country public safety programs can reach adequate funding levels to make a very positive difference for Native communities. NCAI supports sustained 10% annual increases in the Interior Department and Justice Department Indian Country public safety programs. NCAI supports a special funding initiative to build the next 15 Indian Country detention facilities. To address the DOJ-documented crisis in Indian Country detention facilities, at least 15 new facilities, including both tribal and BIA facilities is required.*

## **INDIAN HEALTH**

Poor health continues to inhibit the economic, educational and social development of all of Indian Country. A vast range of public health indicators show that American Indians continue to suffer disproportionately from a variety of illnesses and diseases. Indians have a shorter life expectancy and have higher rates of disease than the general population. They suffer significantly higher rates of diabetes, mental health disorders, cardiovascular disease, pneumonia, influenza, and injuries. The Indian Health Service is charged with the primary responsibility for eliminating these disparities. Once again, one of the most notable proposed recommendations for the IHS is the zeroing out of the Urban Indian Health Program. Following are NCAI's key recommendations for Indian health programs.

### **Fund the Urban Indian Health Program**

President Bush has proposed the elimination of the Urban Indian Health Program within the Indian Health Service. The 2000 Census showed that well over half of the Indian population resides in urban areas. Health problems associated with the Indian population can therefore only be successfully combated if significant funding is directed at the urban Indian population as well as the reservation population.

The urban Indian health programs enjoy a unique level of confidence with their clients due to their remarkable cultural sensitivity and crucial role in educating health care providers in the community about the needs and cultural conditioning of the urban Indian population. With its current funding level of \$32.744 million, the urban Indian health programs have been successfully treating 120,000 of the estimated one million eligible Indians residing in urban settings. For this positive trend to continue in the future and for programs to expand according to expressed needs, funding must increase. However, this will be an ongoing battle as the Administration already last year proposed to eliminate funding for the Urban Indian Health Program from the FY 2007 Budget. The chart highlights the real resource loss in funding (adjusted for inflation) for the Urban Indian Health Program since 1993.

*Rather than the President's proposal, NCAI recommends increased funding for Urban Indian Health Programs by 10%. This increase will elevate the Urban Indian Health Program funding from \$32,744,000 to \$36,018,000 and represents a necessary step towards closing the funding gap for urban programs. While this in no way addresses the total need, it will make a difference in access to and quality of care for American Indians/Alaska Natives living in urban areas.*

### **Increase IHS Funding by \$437 Million to Maintain Existing Services**

American Indians and Alaska Natives receive life or limb service under current conditions, meaning funds are only available to treat the most life threatening illnesses leaving other serious health needs

unaddressed. A \$437 million increase to IHS is necessary in FY 2008 just to maintain existing health services and restore loss of buying power.

*Increase Contract Health Services Funding By \$70 Million*

\$70 million increase is needed for Contract health funding. This level will allow those tribes who are not served by an IHS Hospital to provide health care services at the same level as those tribes who are served by an IHS Hospital.

Tribes and tribal members who are not located in an area served by an IHS Hospital are not able to access the same level of health care as those who are served by a combination of community based and hospital services. These Tribes and Tribal members experience a greater disparity of health care services than other poorly served populations.

In addition to hurting Native American patients, the lack of IHS funding has a severe impact on the broader Indian community, including the budgets of Tribal facilities and providers throughout the nation. Indians routinely are referred to many Tribal and non-tribal hospitals with the understanding that the Tribes will pay for the services.

*\$150 Million for Contract Support Costs*

On March 1, 2005, the United States Supreme Court issued a unanimous decision in *Cherokee Nation and Shoshone-Paiute Tribes v. Leavitt* lawsuit, which powerfully reaffirms the enforceability of government contracts between Indian Tribes and agencies such as IHS and BIA. The Court's ruling compels corrective action from Congress, where historically insufficient funds have been appropriated to pay government contracts with Tribes, while all other government contracts are fully paid (through supplemental appropriations, if necessary). Further, in enacting the Indian Self-Determination and Education Assistance Act and in all subsequent amendments, Congress has emphasized that funding under the Act is a mandatory, binding obligation of the federal government. Self-determination contracts and compacts are enforceable, just like other federal contracts for good and services.

*The National Congress of American Indians requests a \$150 million increase for IHS contract support costs for 100% funding.*

**INDIAN EDUCATION**

Effective and culturally relevant educational systems are critical for nurturing strong, prosperous tribal youth and lay the foundation for healthy communities. A dangerous pattern has developed in recent years where Indian programs receive smaller increases in years where overall funding is up and bigger cuts in years when overall funding is down, and the proposed budget for FY08 continues this trend in the Department of Education and Department of Interior. Although NCAI supports Interior Secretary Kempthorne's proposal to increase funding for the Bureau of Indian Education as part of an Indian Education Initiative, many of the education programs supported by tribal leaders were eliminated or reduced in the FY08 budget request, such as scholarships and adult education (reduced by \$5 million) and the Johnson O'Malley program (proposed to be eliminated).

*Johnson O'Malley Program*

The President proposes to completely eliminate the Johnson O'Malley program (JOM) in the Bureau of Indian Affairs in FY 2008. Enacted in 1934, the Johnson O'Malley program was the first attempt by the Federal government to fund programs for the education of Indian students on an institutional basis. Through the 1960s, the JOM program funded both the basic costs associated with academic programs and additional, supplemental services for Indian children attending public schools. By the

early 1970s, the Impact Aid program was paying for basic educational expenses, and the JOM program became a supplemental program for Indian students in public schools. Through this program, a range of academic remedial services, cultural programs and services were made available.

Once again, the Administration justifies eliminating JOM stating other government programs can provide this funding. JOM is not duplicative of Department of Education programs. The U.S. Department of Education oversees the Title VII Indian Education Act programs which the President considers 'a similar funding' source for Indian Education. The Title VII program is run directly through the school districts and is not subject to tribal control. The tribes have no actual authority over the design or implementation of the Title VII programs. The JOM program is the only federally funded program that allows for student, parent and community involvement in meeting their educational needs which is both academic and culturally based. *NCAI urges Congress to restore the funding for this critical Indian education program.*

#### Native Languages

On tribal lands across the country, Native language classes, including highly effective immersion programs, are turning the tide against the crisis of Native language loss and the threat this loss poses to Native cultures. Immersion schools yield two dramatically positive results: 1) the schools successfully teach Native language fluency to the next generation of tribal communities, thus preserving the languages; and 2) the tribal students in immersion programs perform substantially better academically, including on national tests, than Native students who have not gone through such programs.

The Esther Martinez Native American Languages Preservation Act of 2006 was signed into law this past December. The Act amends the Native American Programs Act of 1974 to allow the Administration for Native Americans in the Administration for Children and Families at the Department of Health and Human Services to award language restoration grants, language nest grants, and language survival school grants to tribes, tribal organizations, schools and universities.

*NCAI supports a \$10 million increase to \$54 million in FY 2008 for ANA, which should be allocated toward Native language immersion and restoration programs authorized by the Esther Martinez Native American Languages Preservation Act of 2006.*

#### Tribal Education Departments

Sovereign tribal governments play a significant role in the education of Indian children. Over one hundred Indian tribes have started Tribal Education Departments (TED), which develop and administer policies; gather and report data, and perform or receive critical research and analyses to help tribal students from early childhood through higher and adult education in all kinds of schools and school systems. TEDs bridge tribal history and our future in preserving and cherishing traditional languages and cultures while cultivating rising tribal leaders and our workforce. TEDs serve thousands of tribal students nationwide, in BIA, tribal, and public schools. They work on reservations, in urban areas, and in rural areas and deal with early childhood, K-12, higher, and adult education. *NCAI supports \$5 million in appropriations in FY 2008 for Tribal Education Departments so they can assume the responsibilities that Congress envisions for them.*

#### Even Start

The Even Start program provides participating families with an integrated program of early childhood education, adult basic skills training or secondary education, and parent education. The program's design is based on the notion that these components build on each other and that families need to

receive all three services, not just one or two, in order to effect lasting change and improve children's school success. This integrated approach is akin to the holistic learning styles of many Indian cultures, making Even Start especially effective in Native communities where literacy rates are often very low. When overall Even Start funding exceeds \$200 million, there is a 6% set-aside for programs focused on serving migrant and Native American communities. However, when it drops below \$200 million as it did in FY 2006, the set-aside drops to 5% meaning that these communities suffer even deeper funding cuts. In FY 2004, the Indian Even Start program was funded at \$4.94 million; by FY 2006 Indian Even Start funding had been drastically cut to \$1.49 million. *Restore funding for the Even Start Program to at least the FY 2004 levels.*

#### Impact Aid

The Impact Aid Program provides over \$500 million to public school districts with Indian lands out of a total program funding level of \$1,228,453,000. Approximately 95% of American Indian children are educated at these public schools. Due to level funding in recent years, the program enters the fiscal year 2008 funding cycle having lost 7% of its buying power since fiscal year 2005, even though student populations continue to grow. The National Association of Federally Impacted Schools estimates that in order to maintain a per student funding level equal to the fiscal year 2005 level, the program requires at a minimum a \$75 million increase. Additionally, the program will experience over the next four years an increase in eligible students as a result of Department of Defense restructuring activities that will add between 35,000 and 38,000 children to the program. Unless Impact Aid funding is increased, funding levels for all schools including those school districts educating children residing on Indian land will see their Impact Aid payments drop significantly. *NCAI supports an increase of \$85 million over the FY07 CR level, for a total of \$1.342 billion in FY 2008.*

#### NATURAL RESOURCES

Tribal communities maintain significant spiritual, economic, cultural, and material relationships with their natural environment. Natural resource programs are of immense importance to tribal cultures, including resource development, fish and wildlife, conservation, wetlands protection, and water resources. Protection of these resources form an integral part of the federal Indian trust responsibility.

#### ***BIA Natural Resources***

At the Bureau of Indian Affairs/Tribal Budget Advisory Council, tribal leaders and bureau representatives placed natural resources in the top four funding priorities for tribes and the BIA in FY08. However, a partial list of disinvestments from FY04 proposed in the President's FY08 budget include: a \$1.9 million cut, an 88% reduction, for *Endangered Species* from FY04 levels; a \$5.4 million cut, a 55% reduction, for *Tribal Management/Development*; \$2 million, a 52% reduction, for *Noxious Weed Eradication*; a \$6.2 million reduction for *Rights Protection Implementation*; and complete elimination of the *Wetlands and Waterfowl Management* program. Such diminishing resources leads to the dismantling of both the tribes' abilities to manage their natural resources and the Interior Secretary's trust responsibility to protect them. *Overall, BIA natural resources funding should be restored to at least their FY 2004 enacted levels.*

#### ***Environmental Protection***

Tribes are currently facing the direct impacts of environmental degradation, contamination, and climate change. In order to preserve and enhance the environmental quality in Indian Country, tribes warrant equitable funding for their environmental programs. As sovereign entities, tribes have the ability to set environmental quality standards, make environmental policy decisions, and manage



programs consistent with EPA standards and regulations and must be given an equal opportunity to do so.

Fund General Assistance Program at \$62.5 Million

Tribes use EPA General Assistance Program (GAP) funding to support assessment and basic environmental program development activities in pursuit of protecting human and environmental health through compliance assistance, incentives, and monitoring and enforcement. Tribes in the National Tribal Caucus of the EPA National Tribal Operations Committee have identified environmental tribal program capacity building as a number one priority, and GAP is a key to fulfilling this priority.

Fund Direct Implementation Tribal Cooperative Agreements (DITCA) at \$5.35 Million

In 2001, the EPA began the Direct Implementation Tribal Environmental Agreement (DITCA) initiative to enhance EPA's abilities in meeting their federal trust responsibility to tribes by partnering with tribal governments for the implementation of Federal environmental quality mandates in Indian Country. A high priority for tribes, DITCA provides a mechanism for tribes to meet the statutory responsibilities assigned to EPA. Additionally, DITCAs provide tribes with the flexibility and opportunity to develop staff capacity to manage environmental programs, to address specific tribal environmental needs and priorities that are within EPA's authority for direct implementation, and to determine the scope and pace of tribal involvement, all through a DITCA work plan.

Clean Water Act Programs

Various grants under the Clean Water Act (CWA), such as sections 106, 319, 518C, all support tribes' ability to protect their water. The Clean Water State Revolving Fund (CWSRF) helps tribes and states protect the nation's water resources by funding construction of drinking water and wastewater treatment facilities. EPA considers the CWSRF a national success in improving the quality of wastewater treatment since the 1970s. However, 73% of tribal water treatment facilities are considered inadequate.<sup>2</sup> According to the Indian Health Service, 31,000 Indian homes lack access to safe drinking water and 71,000 households lack access to basic sanitation.

Tribes receive a 1.5% set-aside from the overall CWSRF. In FY07 the President proposed \$678.5 million for the CWSRF, however, the Indian Health Service in FY05 that \$634 million would be required to meet the need in Indian Country for wastewater treatment facilities. *The EPA National Tribal Operations Committee documents an \$18 million need for the Indian Set-Aside in the CWSRF.*

Safe Drinking Water Act State Revolving Fund

Section 1452 of the Safe Drinking Water Act provides a tribal government allocation for public water system expenditures to facilitate compliance with the national primary drinking water regulations of 1.5%. *The EPA National Tribal Operations Committee documents a \$14.98 million need for tribal drinking water programs under this fund.*

Alaska Native Water and Wastewater Grants

The President proposed a 57% decrease for these grants in FY07, down to \$14.85 million from \$34.485 million enacted in FY06. *NCAI recommends at least \$42.8 million for this infrastructure assistance in FY08.*

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<sup>2</sup> Housing and Economic Development in Indian Country: produced by Rutgers University and published by the Fannie Mae Foundation in 2006

## ADDITIONAL RECOMMENDATIONS BY AGENCY

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

A successful start in life depends on safe, quality and affordable housing, which helps to prevent and alleviate other physical and social problems from occurring, including lack of educational achievement and poor health. These types of problems make it difficult to obtain and maintain employment, creating further economic hardship for Indian families. The Native American Housing and Self-Determination Act allows tribes to be more creative and resourceful in creating homes for their members. NAHASDA revolutionized how Native American housing funds are provided by recognizing tribes' authority to make their own business decisions. Tribes have increased capacity to address the disturbing housing and infrastructure conditions in Indian Country through managing their own programs and leveraging NAHASDA dollars with tribal dollars.

*Through NAHASDA, tribes are addressing the needs of their communities.* In 1995, 20% of tribal residents lacked complete plumbing. This number was reduced to 11.7% by 2000, although it is still far higher than the 1.2% for the general population. In 2000, 14.7% of tribal homes were overcrowded, a drop from 32.5% in 1990. Despite improvements, severe conditions still remain in some tribal homes, with as many as 25 - 30 people living in houses with as few as three bedrooms. Native Americans are becoming homeowners at an increasing rate, 39% more from 1997 to 2001. Fannie Mae's investment in mortgages increased exponentially, from \$30 million in 1997 to more than \$640 million in the most recent 5 year period.

Although tribes have the desire and potential to make headway in alleviating the dire housing and infrastructure needs of their communities, tribes' housing needs remain disproportionately high and disproportionately under-funded. Tribal housing entities, due to funding levels and population growth, are only able to maintain the status quo.

Disproportionate need in Indian Country remains. Roughly 16% are without telephones, compared to 6% of non-Native households. Approximately 40% of Indian housing is considered inadequate, compared to roughly 6% nation-wide. Less than half of homes on reservations are connected to a public sewer system.

*Fund the Native American Housing Block Grant (NAHGB) at \$748 Million.* The President proposed a slight increase for the Native American Housing Block Grant over FY 2006 with a level of \$627 million. The NAHGB provides needed funds to tribes and tribally designated housing entities (TDHE) for: housing development; construction; infrastructure; and, repair. Tribes and TDHEs that have used the Title VI loan guarantee program, where "the borrower leverages NAHGB funds to finance affordable housing activities today by pledging future grant funds as security for repayment of the guarantee obligation," could be in jeopardy of non-payment if the NAHGB is reduced. Any defaults under Title VI would obligate HUD, as the guarantor at 95%, to repay the loan. *NCAI recommends that the NAHGB be funded \$748 million.*

### DEPARTMENT OF INTERIOR

#### Contract Support Costs

NCAI commends the Administration's requested increase for Bureau of Indian Affairs indirect contract support costs for FY 2008. Failing to fully reimburse contract support costs effectively penalizes tribes for exercising their self-determination rights, forces cuts to tribal programs in order to

cover the shortfall, and leads to partial termination of the federal government's trust responsibility. As a matter of federal contracting principle, tribal contractors, like all other government contractors, should be promptly paid in full.

#### Indian Land Consolidation

Tribal leaders continue to stress that Indian land consolidation is critical for addressing the problem of fractionation, which creates an accounting nightmare for the federal government and enormous difficulties for Indian land owners in putting land to economic use. Land consolidation will improve federal administration and management, and saves substantial federal dollars that currently go to tracking tiny interests. The Administration proposed \$10 million for Indian land consolidation for FY 2008, \$24.5 million below the enacted amount for FY 2006. NCAI understands that the reduction to land consolidation may have been proposed at a time when *Cobell* settlement legislation, which included further measures to address fractionation, was anticipated to be passed during the 109<sup>th</sup> Congress. *Considering that the Cobell settlement legislation was not enacted, NCAI urges Congress to fund the Indian Land Consolidation program in the very least at the FY 2006 enacted level of \$34.5 million. However, NCAI would encourage Congress to fund ILCP at the level proposed by the Administration in FY 2007, \$59.5 million.* Our understanding is that the Land Consolidation Office can effectively utilize these funds without the need to scale up the size of the office, and that land transactions costs are decreasing as the new title system is implemented. This investment in land consolidation will do more to save on future trust administration costs than any other item in the trust budget.

#### Data Management

A persistent problem affecting all areas of Indian Country is the lack of efficient and effective data management and reporting. Tribes and federal agencies badly need to improve capacity to identify existing needs and deficiencies and NCAI urges Congress and the President to invest in improved data management for programs affecting American Indians.

For instance, in the Department of Interior, Indian Affairs programs do not maintain collected data in a ready access fashion for instant analysis and reporting, resulting in weeks or months to compile a report on standard program practices. The Bureau's lack of data management also leads to duplicate data calls, missed deadlines, and incomplete reporting. It appears that all programs collect standard program data on a regular basis, but fail to maintain it. Each time a call comes in from the Department, the Congress, or OMB, it goes out as a brand new data call.

*NCAI urges an increased investment in data management to more efficiently and effectively use program funding; improve justification for budget formulation, budget allocations, and fund distribution; enhance data credibility and analysis for use by decision makers in critical processes (including GPRA and PART).*

#### Housing Improvement Program

The President proposed complete elimination of the \$18.8 million that funds the Housing Improvement Program in Tribal Priority Allocations. HIP serves the poorest of the poor in Indian Country by reducing substandard housing and homelessness through providing housing repairs and renovations of existing homes, construction of a modest replacement home, or construction of a modest home. NCAI urges Congress to restore this critical program in the FY08 budget process.

**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.