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SUMMARY

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Elayne J. Heisler
Specialist in Health Services

Indian Health Service (IHS) FY2022 Budget Request and Funding History: In Brief

The Indian Health Service (IHS), within the Department of Health and Human Services (HHS), is the lead federal agency charged with improving the health of American Indians and Alaska Natives. IHS provides health care for approximately 2.6 million eligible American Indians/Alaska Natives through a system of programs and facilities located on or near Indian reservations, and through contractors in certain urban areas. IHS provides services to members of 574 federally recognized tribes. It provides services, either directly or through facilities and programs operated by Indian tribes or tribal organizations, through self-determination contracts and self-governance compacts authorized in the Indian Self-Determination and Education Assistance Act (ISDEAA).

The IHS has three major sources of funding: (1) discretionary appropriations, (2) collections, and (3) mandatory appropriations. In FY2020, IHS received additional funding through emergency-designated discretionary appropriations in multiple laws enacted in response to the Coronavirus Disease 2019 (COVID-19) pandemic. In FY2021, IHS received mandatory appropriations in the Consolidated Appropriations Act, 2021 (P.L. 116-260), and the American Rescue Plan Act (ARPA, P.L. 117-2) for COVID-19 response. In addition, IHS received $3.5 billion in emergency-designated discretionary funding the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) to support sanitation facility construction. The first $700 million is provided in FY2022, with the same amount provided annually through FY2026.

Unlike most agencies within HHS, which receive appropriations through the Labor, Health and Human Services, and Education Appropriations Act, IHS receives its discretionary appropriations through the Interior/Environment Appropriations Act. IHS's discretionary appropriations are divided into three accounts: (1) Indian Health Services, (2) Contract Support Costs, and (3) Indian Health Facilities.

IHS collects payments for the health services it provides. Unlike other federal agencies, IHS has the authority to receive payments from other federal programs, such as Medicaid, Medicare, and the Department of Veterans Affairs, for the health services it provides to IHS beneficiaries who are enrolled in those programs. IHS also receives payments from state programs (such as workers' compensation) and from private insurance. In addition to these payments, IHS collects rent from the facilities it owns.

In each fiscal year since FY1998, IHS has received a mandatory appropriation to support the Special Diabetes Program for Indians. This funding source was most recently extended in the Consolidated Appropriations Act, 2021 (P.L. 116-260), which provided funding through FY2023.

This report focuses on the funding that IHS received between FY2016 and FY2021, and the funding that President Biden has proposed for FY2022.

The FY2022 budget request would increase IHS discretionary appropriations by more than $2 billion over the FY2021-enacted level. Much of that increase ($1.3 billion) would be for IHS's largest budget item—clinical services—which is used to support most of IHS's clinical activities. In addition, the budget request would increase funding to IHS's facilities account by $585 million. Other proposals include funding for electronic health records, which IHS is in a multiyear process of updating ($284.5 million, an increase from the $34.5 million provided in FY2021), and the creation of a new budget account, similar to Contract Support Costs, that would pay for the lease costs when Indian tribes or tribal organizations use their facility for ISDEAA programs.

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IHS Overview

The Indian Health Service (IHS), within the Department of Health and Human Services (HHS), is the lead federal agency charged with improving the health of American Indians and Alaska Natives.[1] IHS provides health care for approximately 2.6 million eligible American Indians/Alaska Natives through a system of programs and facilities located on or near Indian reservations, and through contractors in certain urban areas.[2] IHS provides services to members of 574 federally recognized tribes.[3] It provides services, either directly or through facilities and programs operated by Indian tribes or tribal organizations, through self-determination contracts and self-governance compacts authorized in the Indian Self-Determination and Education Assistance Act (ISDEAA).[4] IHS also awards grants to 41 Urban Indian Organizations (UIOs), which operate programs in urban areas.[5]

The Snyder Act of 1921[6] provides general statutory authority for IHS.[7] In addition, specific IHS programs are authorized by two acts: the Indian Sanitation Facilities Act of 1959[8] and the Indian Health Care Improvement Act (IHCIA).[9] The Indian Sanitation Facilities Act authorizes IHS to construct sanitation facilities for Indian communities and homes (e.g., providing water to American Indian/Alaska Native Homes). IHCIA authorizes programs such as urban health, health professions recruitment, and substance abuse and mental health treatment, and permits IHS to receive reimbursements from Medicare, Medicaid, the State Children's Health Insurance Program (CHIP), the Department of Veterans Affairs (VA), and third-party insurers. Also, the Public Health Service Act provides funds for the Special Diabetes Program for Indians grants administered by IHS.

Funding Sources

In general, IHS has three major sources of funding, described here in order of magnitude: (1) discretionary appropriations,[10] (2) collections, and (3) mandatory appropriations. In FY2020, IHS

[1] The Indian Health Service (IHS) does not provide care to Native Hawaiians. They instead may receive services through the Native Hawaiian Health Care Program administered by the Health Resources and Services Administration (HRSA) at the Department of Health and Human Services (HHS). See HHS, HRSA, "Justification of Estimates for Appropriations Committees, FY2022," https://www.hrsa.gov/sites/default/files/hrsa/about/budget/budget-justification-fy2022.pdfhttps://www.hrsa.gov/sites/default/files/hrsa/about/budget/budget-justification-fy2022.pdf, p. 66.

[2] For more information about IHS, see CRS Report R43330, *The Indian Health Service (IHS): An Overview*.

[3] HHS, IHS, "Justification of Estimates for Appropriations Committees, FY2022 https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY_2022.pdfhttps://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY_2022.pdf (hereinafter, FY2022 CJ).

[4] P.L. 93-638; 25 U.S.C. §§450 et seq.

[5] IHS, "IHS Profile," https://www.ihs.gov/newsroom/factsheets/ihsprofile/https://www.ihs.gov/newsroom/factsheets/ihsprofile/.

[6] P.L. 67-85, as amended; 25 U.S.C. §13.

[7] The Snyder Act established this authority as part of the Bureau of Indian Affairs within the Department of the Interior. The Transfer Act of 1954 (P.L. 83-568) transferred this authority to the U.S. Surgeon General within the Department of Health, Education, and Welfare (now the Department of Health and Human Services).

[8] P.L. 86-121; 42 U.S.C. §2004a.

[9] P.L. 94-437, as amended; 25 U.S.C. §§1601 et seq.; and 42 U.S.C. §§1395qq and 1396j (and amending other sections). This act was permanently reauthorized as part of the Patient Protection and Affordable Care Act (ACA; P.L. 111-148). See CRS Report R41630, *The Indian Health Care Improvement Act Reauthorization and Extension as Enacted by the ACA: Detailed Summary and Timeline*.

[10] Because IHS's main funding source is annual discretionary appropriations, the agency is affected by lapses in

received additional funding through emergency-designated discretionary appropriations in response to the Coronavirus Disease 2019 (COVID-19) pandemic. In addition, these laws also provided funds to Indian tribes, tribal organization, and UIOs directly. (Because these funds were not appropriated or transferred to IHS, they are not discussed in this report.)[11] In FY2021, IHS received emergency-designated discretionary appropriations in the Consolidated Appropriations Act, 2021 (P.L. 116-260); these funds were appropriated to other HHS accounts but were transferred to IHS (see **Table 1**). In FY2021, IHS also received mandatory appropriations in the American Rescue Plan Act (ARPA, P.L. 117-2), another COVID-19 response measure.[12] For FY2022-FY2026, IHS will receive $700 million in emergency-designated discretionary funding each fiscal year, for a total of $3.5 billion for sanitation facility construction in the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58).

Unlike most agencies within HHS, which receive their appropriations through the Labor, Health and Human Services, and Education Appropriations Act, IHS receives its discretionary appropriations through the Interior/Environment Appropriations Act.[13] IHS's discretionary appropriations are divided into three accounts: (1) Indian Health Services, (2) Contract Support Costs, and (3) Indian Health Facilities.

In addition to funds appropriated to the agency, IHS collects and expends funds received as payment for health services provided. IHS has the authority to receive payments from other federal programs such as Medicaid, Medicare, CHIP, and the VA. IHS also receives payments from state programs (such as workers' compensation) and from private insurance. Under its IHCIA collection authority, IHS can retain these payments to increase services available to its beneficiaries. In addition to these collections, IHS collects rent from the facilities it owns.

In most years, the smallest source of IHS funding is a mandatory annual appropriation of $150 million to support the Special Diabetes Program for Indians.[14] The Consolidated Appropriations Act, 2021 (P.L. 116-260) provided $150 million for each of FY2021 through FY2023 for this program. For FY2020, emergency discretionary appropriations provided in response to COVID-19 were $2.846 billion, including funds that were appropriated directly or transferred to IHS, making these funds a significant source of agency funding in FY2020. In FY2021, the ARPA funds totaled $6.094 billion, approximately 70% of the budget authority requested for the agency in FY2022 ($8.47 billion).

FY2022 Budget Request and Funding History

Table 1 presents IHS's funding from FY2016 through the President's proposed FY2022 budget submission. (Note that the FY2020 and FY2021 emergency supplemental discretionary appropriations for COVID-19 response and FY2021 mandatory ARPA funds are displayed in the

appropriations, which some have raised as an issue. The FY2022 IHS Budget request includes a legislative proposal for advance appropriations. See FY2022 CJ, p. 265. The House Appropriations Committee rejected this request, requiring more information, among other things. See H.Rept. 117-83, p. 123. For further discussion of advance appropriations, see CRS Report R46265, *Advance Appropriations for the Indian Health Service: Issues and Options for Congress*.

[11] For information about funding made available to the Indian Health Service, Indian tribes, tribal organizations, and UIOs in response to COVID-19, see CRS Insight IN11333, *COVID-19 and the Indian Health Service*, and CRS Report R46711, *U.S. Public Health Service: COVID-19 Supplemental Appropriations in the 116th Congress*.

[12] CRS Report R46834, *American Rescue Plan Act of 2021 (P.L. 117-2): Public Health, Medical Supply Chain, Health Services, and Related Provisions*.

[13] For more information, see CRS Report R44934, *Interior, Environment, and Related Agencies: Overview of FY2019 Appropriations*, and CRS Report R45083, *Labor, Health and Human Services, and Education: FY2018 Appropriations*.

[14] U.S. Department of Health and Human Services, Indian Health Service, "Special Diabetes Program for Indians," October 2016, http://www.ihs.gov/newsroom/factsheets/diabetes/http://www.ihs.gov/newsroom/factsheets/diabetes/.

Coronavirus Testing, Treatment and Related Services row of the table.) The table shows that during that time period, both discretionary appropriated funds and funds collected by IHS increased, whereas the mandatory appropriations generally remained level. The table presents IHS's three budget accounts—Indian Health Services, Contract Support Costs, and Indian Health Facilities—and the funds collected and allocated to programs under these accounts. To show regular discretionary budget authority only, collections and proposed and actual mandatory funding are subtracted from program-level funding. The FY2020 emergency supplemental discretionary appropriations for COVID-19 response and FY2021 ARPA funds are also subtracted.

Regular discretionary appropriations for IHS have increased over time, with the largest funding increase relative to the prior year being in FY2018. In particular, FY2018 funding included increases for a number of programs funded under the Indian Health Facilities account, which includes maintenance and improvement and construction of new facilities. In addition, the FY2018 appropriation increased funding for mental health and alcohol and substance abuse services, and provided new funding for the Indian Health Care Improvement Fund, which distributes funds to facilities that have low funding levels relative to the populations they serve.[15] These increases generally were sustained in FY2019, FY2020, and FY2021. The FY2022 budget request would increase IHS regular discretionary appropriations by more than $2 billion over the FY2021-enacted level. Much of that increase ($1.32 billion) would be for IHS's largest budget item—clinical services—which is used to support most of IHS's clinical activities. The budget request would also increase funding to IHS's facilities (this account also will receive $700 million under the IIJA in FY2022). Other items proposed for increased funding include Indian Health Professions, which supports scholarship and loan repayment for health professionals in exchange for providing care at IHS-funded facilities. The agency has long-standing staffing challenges and high vacancy rates for certain positions and in certain geographic areas.[16]

The President's FY2022 budget request includes funding for two new line items. First, it proposes funding for electronic health records, which IHS is in a multiyear process of updating.[17] The President's budget would provide $284.5 million for this activity, an increase from the $34.5 million provided in FY2021. The second budget item is a legislative proposal for a new indefinite appropriation that would be similar in structure to the Contract Support Costs account; however, in this instance, the appropriation would be for tribal leases. As it does with the Contract Support Costs account, IHS has a legal obligation to pay for these lease costs pursuant to a 2016 court decision, *Maniilaq Association v. Burwell*,[18] which requires IHS to reimburse "the Tribe or Tribal

[15] HHS, IHS, "Indian Health Care Improvement Fund," https://www.ihs.gov/ihcif/https://www.ihs.gov/ihcif/.

[16] U.S. Government Accountability Office, *Indian Health Service: Agency Faces Ongoing Challenges Filling Provider Vacancies*, 18-580, August 15, 2018, https://www.gao.gov/products/gao-18-580https://www.gao.gov/products/gao-18-580.

[17] FY2021 CJ, pp. 101-103.

[18] 170 F. Supp. 3d 243 (D.D.C. 2016). To carry out ISDEAA programs to deliver services on behalf of IHS, Indian tribes or tribal organizations may "lease" their facilities to IHS. These leases are entered into under the authority of Section 105(l) of ISDEAA (and are also referred to as Section 105(l) leases). A 2016 court decision, Maniilaq Association v. Burwell, required that IHS enter into a "lease," upon request, with any tribe or tribal organization furnishing a facility that supports ISDEAA programs, and that under any such lease, IHS reimburse "the Tribe or Tribal Organization for its reasonable facility expenses." This holding could extend to other instances when an Indian tribe or tribal organization furnishes a tribally leased or owned facility in support of the programs, services, functions, and activities carried out under its ISDEAA contract or compact. In other words, if an Indian tribe or tribal organization provides the facility for an ISDEAA program, IHS may be responsible for paying reasonable facility costs under these leases. Based on IHS's interpretation of the decision, it is responsible for these costs and has been paying them since FY2018. In FY2021 appropriations, these funds were provided separately for the first time. See P.L. 116-260 and

Organization for its reasonable facility expenses" when IHS enters into a "lease," upon request, with any tribe or tribal organization that is furnishing a facility that supports ISDEAA programs.[19] In other words, since FY2018, IHS has been paying lease costs in instances when an Indian tribe or tribal organization provides the facility for an ISDEAA program. Lease costs have increased from $6 million in FY2018 to an estimated $123 million in FY2021 (according to the FY2022 President's budget).[20] In **Table 1**, the lease costs amounts for FY2018-FY2020 are not delineated separately; instead, they are included within the Indian Health Services account. In FY2021 appropriations, payments for tribal leases were provided in a separate account and received an appropriation of "such sums as may be necessary." (At that time, the FY2021 budgetary costs were estimated to be $101 million, as reflected in the table.)[21] The FY2022 President's budget would provide $150 million for these leases, continuing the practice of funding them as a "such sums" appropriation in a separate discretionary account.[22]

Table 1. IHS Budget FY2016-FY2022 (Request)

(Dollars in Millions)

Program or Activity	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022 (Request)
Coronavirus Testing, Treatment and Related Services[a]	—	—	—	—	1,846[b]	7,094[c]	—
Indian Health Services Account	**4,908**	**5,035**	**5,296**	**5,447**	**5,553**	**5,536**	**6,952**
Clinical Services	*4,430*	*4,553*	*4,800*	*4,934*	*4,942*	*4,986*	*6,303*
Hospitals and Health Clinics	*1,857*	*1,935*	*2,055*	*2,147*	*2,178*	*2,238*	*2,704*
Electronic Health Records	—	—	—	—	*8*	*35*	*285*
Dental Services	*178*	*183*	*193*	*205*	*211*	*215*	*287*
Purchased/ Referred Care	*914*	*929*	*963*	*965*	*965*	*976*	*1,192*
Collection for Health Services Provided[d]	*1,194*	*1,194*	*1,194*	*1,194*	*1,084*	*1,084*	*1,127*
Mental Health/Alcohol and Substance Abuse	*287*	*312*	*323*	*351*	*355*	*367*	*392*
Indian Health Care Improvement Fund	—	—	*72*	*72*	*72*	*72*	*317*
Preventive Health	156	160	160	167	178	179	193

discussion in FY2022 CJ, pp. 254-256.

[19] Language drawn from Letter from Michael D. Weahkee, Assistant Surgeon General, United States Public Health Service, and Acting Director, Indian Health Service to Tribal Leaders and Urban Organization Leader, July 18, 2018, https://www.ihs.gov/newsroom/includes/themes/responsive2017/display_objects/documents/2018_Letters/DTLL_DUIOLL_07102018.pdfhttps://www.ihs.gov/newsroom/includes/themes/responsive2017/display_objects/documents/2018_Letters/DTLL_DUIOLL_07102018.pdf.

[20] See IHS FY2022 Budget Justification, pp. 255-256

[21] See IHS, "Indian Health Service, Operating Plan for FY2021," https://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY2021_OperatingPlan.pdfhttps://www.ihs.gov/sites/budgetformulation/themes/responsive2017/display_objects/documents/FY2021_OperatingPlan.pdf.

[22] See IHS FY2022 Budget Justification, pp.18 and 255-256.

Program or Activity	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022 (Request)
Special Diabetes Program for Indians	150	147	147	150	150	150	147
Other Health Services	**172**	**175**	**179**	**188**	**204**	**221**	**309**
Urban Health Projects	44	48	49	51	59	63	100
Indian Health Professions	48	49	49	57	65	67	93
Tribal Management/Self-Governance	8	8	8	8	8	8	8
Direct Operations	72	70	72	72	72	82	108
Contract Support Costs Account	**718**	**800**	**763**	**822**	**820**	**916**	**1,142**
Payment for Tribal Leases	—	—	—	—	—	101	150
Indian Health Facilities Account	**532**	**554**	**876**	**887**	**920**	**927**	**2,212**
Maintenance and Improvement (includes rentals of staff quarters)[e]	82	84	176	176	177	179	234
Sanitation Facilities Construction	99	102	192	192	194	197	1051[f]
Health Care Facilities Construction	105	118	243	243	259	259	526
Facilities/Environmental Health Support	223	227	241	252	262	264	300
Medical Equipment	23	23	24	24	28	29	101
Total, Program Level	**6,158**	**6,389**	**6,935**	**7,156**	**10,985**	**14,574**	**10,456**
Less Funds from Other Sources							
Collections for Health Services Provided	1,194	1,194	1,194	1,194	1,084	1,084	1,127
Rental of Staff Quarters	9	9	9	9	9	10	12
Special Diabetes Program for Indians[g]	150	147	150	150	150	150	147
Covid-19 Response	—	—	—	—	1,846	7,094[c]	—
Infrastructure Funding	—	—	—	—	—	—	700[f]
Total, Regular Discretionary Budget Authority	**4,805**	**5,039**	**5,582**	**5,795**	**6,050**	**6,237**	**8,471**

Sources: Funding amounts are from HHS budget documents available at https://www.ihs.gov/budgetformulation/congressionaljustifications/https://www.ihs.gov/budgetformulation/congressionaljustifications/. Totals may not sum due to rounding. Amounts in italics indicate they are included in the bold italicized total above (i.e., they are included as part of the clinical services total). Amounts for FY2015, FY2016, FY2017, FY2018, FY2019, FY2020, FY2021, and FY2022 requests are from IHS's congressional justifications. The FY2020 and FY2021 amounts for Coronavirus Testing, Treatment and Related Services are from CRS analysis of FY2020 supplemental

appropriations acts in CRS Report R46711, *U.S. Public Health Service: COVID-19 Supplemental Appropriations in the 116th Congress*. American Rescue Plan Funding amounts are from CRS analysis of P.L. 117-2. Infrastructure Investment and Jobs Act amounts are from are from CRS analysis of P.L. 117-58. FY2022 funding for IHS has been provided under continuing resolutions; see CRS Report R46582, *Overview of Continuing Appropriations for FY2021 (P.L. 116-159)*, and P.L. 117-43.

a. Includes activities funded under both the Indian Health Services and Indian Health Facilities accounts.

b. Includes $1.096 billion directly appropriated to IHS in FY2020 and $750 million transferred to IHS from other HHS accounts in FY2020. See CRS Report R46711, *U.S. Public Health Service: COVID-19 Supplemental Appropriations in the 116th Congress*, Table 1.

c. This amount includes the $1 billion that was transferred to IHS under P.L. 116-260 and $6.094 billion appropriated to IHS in P.L. 117-2. See CRS Report R46834, *American Rescue Plan Act of 2021 (P.L. 117-2): Public Health, Medical Supply Chain, Health Services, and Related Provisions*, and CRS Report R46711, *U.S. Public Health Service: COVID-19 Supplemental Appropriations in the 116th Congress*, Table 1.

d. For information on IHS collections, see IHS budget requests, available at https://www.ihs.gov/budgetformulation/congressionaljustificationshttps://www.ihs.gov/budgetformulation/congressionaljustifications.

e. Rental of staff quarters is a form of collections used to supplement funds available to maintain facilities.

f. Reflects funding appropriated to IHS for FY2022 in P.L. 117-58.

g. PHSA Section 330C provides an annual appropriation of $150 million for this program; this amount was reduced in FY2017 by 2% because of budget sequestration in FY2017 and will be reduced by that amount in FY2022. See CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*.

Author Information

Elayne J. Heisler
Specialist in Health Services

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