



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** House Committee on Natural Resources Republican Members  
**From:** Indian and Insular Affairs Subcommittee Staff,  
Ken Degenfelder ([Ken.Degenfelder@mail.house.gov](mailto:Ken.Degenfelder@mail.house.gov)),  
Jocelyn Broman ([Jocelyn.Broman@mail.house.gov](mailto:Jocelyn.Broman@mail.house.gov)), Justin Rhee  
([Justin.Rhee@mail.house.gov](mailto:Justin.Rhee@mail.house.gov)), and Howard Hills  
([Howard.Hills@mail.house.gov](mailto:Howard.Hills@mail.house.gov)); ext. 6-9725  
**Date:** Thursday, May 25, 2023  
**Subject:** Oversight Budget Hearing: “*Examining the President’s FY 2024 Budget Request for the Bureau of Indian Affairs and Office of Insular Affairs*”

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The Subcommittee on Indian and Insular Affairs will hold an oversight budget hearing titled “*Examining the President’s FY 2024 Budget Request for the Bureau of Indian Affairs and Office of Insular Affairs*” **on Thursday, May 25, 2023, at 9:00 a.m., in Room 1324 Longworth House Office Building.**

Member offices are requested to notify Ransom Fox ([Ransom.Fox@mail.house.gov](mailto:Ransom.Fox@mail.house.gov)) by 4:30 p.m. on Wednesday, May 24, 2023, if their Member intends to participate in the hearing.

## **I. KEY MESSAGES**

- The Assistant Secretary – Indian Affairs and the Bureau of Indian Affairs (BIA) is responsible for a wide breadth of programs and policies that impact and support the wellbeing of American Indians and Alaska Natives (AI/ANs).
- The Biden Administration continues to focus on conservation and climate change programs related to adaptation and remediation fails to fully support tribes in self-governance and autonomy. The administration’s policies may result in limiting tribal access to their own opportunities for natural resource development on tribal lands in the name of broad and nebulously defined climate goals. Continued oversight is needed to ensure BIA supports tribes seeking economic development, particularly of natural resources.
- The Assistant Secretary for Insular and International Affairs and the Office of Insular Affairs (OIA) carry out the Secretary of the Interior’s responsibilities for the U.S. territories of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. Additionally, OIA administers and oversees federal assistance under the Compacts of Free Association (COFAs) with the Freely Associated States (FAS): the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau (Palau).

- With growing Chinese influence in the Pacific region, U.S. must remain focused on countering the People’s Republic of China’s (PRC) attempts to coerce U.S. territories and the Freely Associated States. OIA has an important role because it is responsible for administering and managing federal relations with the U.S. territories and FAS. OIA spending should be fiscally responsible and reflect U.S. interests.
- Republicans will continue oversight of federal funds spent at BIA and OIA, to advance economic opportunity for the 574 federally recognized tribes, the U.S. territories, and FAS to ensure that U.S. interests in the Pacific are preserved.

## II. WITNESSES

- **The Hon. Bryan Newland**, Assistant Secretary—Indian Affairs, U.S. Department of the Interior, Washington D.C.
- **The Hon. Carmen Cantor**, Assistant Secretary for Insular and International Affairs, Office of Insular Affairs, U.S. Department of the Interior, Washington D.C.

## III. BACKGROUND

### Bureau of Indian Affairs

<i>Budget Authority by Activity Agency / Sub-Agency</i>	<b>FY 2022 Actual</b>	<b>FY 2023 Enacted</b>	<b>FY 2024 Request</b>	<b>Change</b>
<i>Tribal Leases (105(l) Leases)</i>	\$24.07 million	\$55.43 million	\$82.5 million	+ \$27.07 million (48.8% increase)
<i>Contract Support Costs</i>	\$238 million	\$409 million	\$431.4 million	+ \$22.4 million (5.48% increase)
<i>Tribal Natural Resource Management</i>	\$302.9 million	\$333.1 million	\$385.9 million	+ \$52.74 million (15.8% increase)
<i>Land and Water Conservation Fund (LWCF) Tribal Land Acquisition</i>	\$0	\$0	\$12 million	+ \$12 million (new spending)
<i>Indian Land Consolidation</i>	\$7 million	\$8 million	\$30.5 million	+ \$22.5 million (281.3% increase)
<i>Public Safety and Justice</i>	\$546.1 million	\$579.7 million	\$641.8 million	+ \$62.06 million (10.7% increase)
<b>Bureau of Indian Affairs (BIA) (Total)<sup>1</sup></b>	\$5.16 billion	\$2.9 billion	\$3.59 billion	+ \$684.01 million (23.6% increase)

<sup>1</sup> Comparison Appendix from FY 2024 The Interior Budget in Brief March 2023. <https://www.doi.gov/sites/doi.gov/files/fy2024-bib-apx-a-comparison-from-2024-bib-508.pdf>.

<b><i>Bureau of Trust Funds Administration (BTFA) (Total)<sup>2</sup></i></b>	\$1.77 billion <sup>3</sup>	\$323.27 million	\$323.1 million	- \$174,000 (0.05% decrease)
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The Bureau of Indian Affairs (BIA) is the agency charged with honoring the United States’ treaty and trust responsibilities towards American Indians and Alaska Natives (AI/ANs) and the 574 federally recognized tribes in the United States. This responsibility is primarily seen in the BIA’s administration of 55 million surface acres and 57 million acres of subsurface minerals estates held in trust by the United States for AI/ANs and for tribes.<sup>4</sup>

The BIA provides both direct services and funding to tribes through the 638 compacting, or contracting, process, where tribes choose to compact or contract with the BIA to operate their own programs rather than have BIA run them. The BIA supports a wide range of programs for tribes, including programs that address community services (including public safety), manage water and resource rights, execute fiduciary trust responsibilities, support energy and mineral production on tribal lands, and encourage economic opportunity for native communities.<sup>5</sup>

The President’s Fiscal Year (FY) 2024 budget requests \$3.59 billion in discretionary funding for the BIA, an increase of \$684.01 million over FY 2023 enacted funding. This request includes infusions of federal funds from the Infrastructure Investment and Jobs Act (IIJA), as well as mandatory spending for water rights settlements.<sup>6</sup>

Over the past several years, Indian Country has seen substantial federal funding increases across agencies and programs that serve native communities. Congress should continue oversight of these funds to ensure agencies are implementing legislation as Congress intended, and so that programmatic changes can be made when needed.

*Payments for Tribal Leases and Tribal Contract Support Costs*

The Indian Self-Determination and Education Assistance Act (ISDEAA) provides that tribes and tribal organizations carrying out federal functions under a self-determination contract may enter into a lease agreement<sup>7</sup> with the BIA for the tribally owned or rented facility used to carry out those functions.<sup>8</sup> These costs are legally required to be paid under ISDEAA and *Salazar v. Ramah Navajo Chapter* and have, since 2012, been included in appropriations bills as ongoing, indefinite appropriations.<sup>9</sup>

<sup>2</sup> Id.

<sup>3</sup> Includes mandatory funding from the *Cobell* settlement that has been expended.

<sup>4</sup> “About Us” Bureau of Indian Affairs. <https://www.bia.gov/about-us>.

<sup>5</sup> “Programs and Services” Bureau of Indian Affairs. <https://www.bia.gov/programs-services>.

<sup>6</sup> Appendix A, “Comparison of 2022, 2023, and 2024 Budget Authority” at A-8. Available at: <https://www.doi.gov/sites/doi.gov/files/fy2024-bib-apx-a-comparison-from-2024-bib-508.pdf>. **NOTE:** Indian water right settlements are in the jurisdiction of the Water, Wildlife and Fisheries Subcommittee and are not further addressed in this memo.

<sup>7</sup> Tribal Leases are also known as Sec. 105(l) Leases.

<sup>8</sup> P.L. 93-638.

<sup>9</sup> 567 U.S. 182 (2012).

For FY 2023, Congress estimated that \$30 million would be used for tribal leases at BIA.<sup>10</sup> The President’s Budget for FY 2024 requested an increase of \$27 million above the FY 2023 enacted level of \$55.4 million, bringing the account up to an estimated \$82.5 million. For FY 2023, Congress estimated that \$328 million would be used for contract support costs at the BIA.<sup>11</sup> The President’s budget for FY 2024 requested an increase of \$22.3 million above the FY 2023 enacted level of \$404 million, bringing the account up to an estimated \$426.3 million. \$5 million from the Indian Self-Determination Fund is proposed to supplement contract support costs.<sup>12</sup>

Similar to the President’s FY 2024 budget request for the Indian Health Service (IHS), the BIA budget request continues to propose reclassifying both tribal leases and contract support costs payments as mandatory spending.<sup>13</sup> Mandatory funding, like permanent reauthorizations, reduces opportunities for Congressional oversight to review and reevaluate programs’ efficiency and efficacy. Continued discussion is needed on how the trust responsibility is carried out and what policy decisions should be made in the future. Regular reauthorizations and discretionary funding can help to encourage and facilitate this discussion.

### *Tribal Natural Resource Management*

The BIA administers 55 million surface acres and 57 million acres of subsurface minerals estates held in trust by the United States for AI/ANs and for tribes.<sup>14</sup> Services provided through BIA programs that manage and assist tribal management of natural resources held in trust to both develop mineral and energy resources for extraction, and conserve and protect tribal lands, provide important benefits to tribes, including revenue, jobs, and protection of cultural and spiritual spaces and resources.

However, the Biden Administration is preoccupied with climate change programs focused on adaptation and remediation and has failed to fully support tribes that seek to balance the development of natural resources, and conservation, on tribal lands. As tribes and tribal organizations have continuously proven, both resource development and conservation can coexist and promote long-term resource stewardship that can benefit both current and future generations.

The FY 2024 budget request for the BIA includes a \$12 million increase for the Minerals and Mining Projects Program and specifically mentions continued focus on clean energy programs, instead of supporting tribal self-determination through an all-of-the-above energy approach. The budget requests an increase in job placement and training by \$2 million which is earmarked to support only “training programs focused on clean energy,” once again limiting support for tribes and their ability to determine the kinds of training that best meets the needs of their community.<sup>15</sup> The FY 2024 budget also continues funding to the Tribal Climate Resilience

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<sup>10</sup> House of Representatives, Committee Print of the Committee on Appropriations, H.R. 2617 / P.L. 117-328 [Legislative Text and Explanatory Statement] Book 2 at 1553. Available at: <https://www.congress.gov/117/cprt/HPRT50348/CPRT-117HPRT50348.pdf>.

<sup>11</sup> *Id.* at 1552.

<sup>12</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-ST-3. Available at: [https://www.bia.gov/sites/default/files/dup/inline-files/bia\\_2024\\_greenbook.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/bia_2024_greenbook.pdf).

<sup>13</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-CSC-3 and IA-PTL-3.

<sup>14</sup> “About Us” Bureau of Indian Affairs. <https://www.bia.gov/about-us>.

<sup>15</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-CED-3. [https://www.bia.gov/sites/default/files/dup/inline-files/bia\\_2024\\_greenbook.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/bia_2024_greenbook.pdf).

Program, which primarily supports only climate adaptation activity planning and does nothing to promote or provide tools tribes may use to address environmental changes in their communities.<sup>16</sup>

### *LWCF Tribal Land Acquisition*

The FY 2024 budget request also includes \$12 million for the creation of a new loosely defined Tribal Land and Water Conservation Fund (LWCF) land acquisition program for conservation and recreation access aimed to further the administration's climate goals.<sup>17</sup> This creates a tribal set aside within the discretionary LWCF funds. Using LWCF funds to purchase lands limits the use of the lands, as the use must be consistent with the LWCF. This could limit future tribal decision making about lands and how they should be best used for the cultural, spiritual, and economic benefit of a tribal community.

The BIA also proposes to partner this new Tribal LWCF set aside with a \$10 million increase for land acquisition within the Division of Real Estate Services. This increase and other funding (totaling \$12 million) would focus on landless and land limited tribes for considerations beyond conservation, including economic development.

### *Indian Land Consolidation*

The BIA continues the Land Buy Back Program under a different name: the Indian Land Consolidation Program. The FY 2024 budget includes a proposal for a \$30.5 million for the land consolidation program with an emphasis on plans for adaptation to climate change.<sup>18</sup> This would be a \$22.5 million increase over FY 2023 enacted levels. The proposal contains metrics or requirements that the Department focus on consolidation of highly fractionated lands. Previous land consolidation efforts by the Obama administration did little to have an impact on land fractionation. The BIA should also consider how to prevent future land fractionation which continues to occur as undivided allotment interests are passed down to multiple heirs. However, this challenge is not addressed in the FY 2024 budget proposal.

### *Carcieri Fix Proposal*

The FY 2024 budget also continues to include a legislative proposal for the *Carcieri* "fix."<sup>19</sup> In 2009, the Supreme Court held in *Carcieri v. Salazar*<sup>20</sup> that the Secretary of the Interior may not acquire land for Indians pursuant to the Indian Reorganization Act<sup>21</sup> unless they are members of a tribe that was "under federal jurisdiction" in 1934. While there is support for tribes to have land in trust, there are concerns about how enactment of this provision could lead to more off-reservation gaming. Because of the outstanding concerns, any attempts to address *Carcieri* should be done through regular order in the appropriate authorizing committees of jurisdiction.

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<sup>16</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-TNR-26, stating the program supports communities "through the Relocation, Managed Retreat, and Protect-in-Place Awards programs."

<sup>17</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-LWCF-3, 4.

<sup>18</sup> Bureau of Indian Affairs FY 2024 budget justification at IA-ES-5.

<sup>19</sup> FY 2024 Budget Appendix at 689. [https://www.whitehouse.gov/wp-content/uploads/2023/03/int\\_fy2024.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/03/int_fy2024.pdf).

<sup>20</sup> *Carcieri v. Salazar*, 555 U.S. 379 (2009).

<sup>21</sup> Act of June 18, 1934, 48 Stat. 985 (25 U.S.C. 465), amended by P.L. 100-581, 102 Stat. 2941.

## *Public Safety*

The BIA's Office of Justice Services carries out law enforcement functions in Indian country. To carry out law enforcement activities, the BIA can either provide direct service with federal employee law enforcement officers, or it can contract or compact with a tribe to carry out the functions the BIA would otherwise provide, pursuant to the ISDEAA.

Native communities see a disproportionate amount of violence and missing person cases. In the United States, 84 percent of AI/AN women and 82 percent of AI/AN men reported experiencing violent victimizations in their lifetime.<sup>22</sup> In November 2021, of the 20,993 missing persons included in the National Missing and Unidentified Person System, 749 (3.6 percent) were identified as AI/AN, more than three times the AI/AN percentage of the U.S. population (0.9 percent).<sup>23</sup>

The President's FY 2024 budget proposes an increase of approximately \$62 million to primarily support criminal investigations and police services and tribal courts operated by self-governance tribes.

## **Bureau of Trust Funds Administration**

Within the BIA is the Bureau of Trust Funds Administration (BTFA), which provides banking and investment services to AI/AN beneficiaries earning royalty income and other monies from activities on federally managed land. The BTFA manages around \$5 billion and disburses more than \$1 billion annually.<sup>24</sup> It was created in 2020 to take over these responsibilities from the Office of the Special Trustee for American Indians (OST).<sup>25</sup> However, congressional appropriations committees continue to make appropriations for OST rather than for BTFA, and current statute requires that if the Department of the Interior (DOI) provides a report on OST reforms, then the termination process for OST begins.

The Government Accountability Office (GAO) recently published a report on their findings regarding the DOI's transfer of responsibilities from OST to BTFA. GAO found that DOI generally followed some, but not all, of selected leading practices for agency reforms. For example, they found DOI was not conducting strategic workforce planning, which may have had an effect on beneficiary services.<sup>26</sup> GAO also recommended to Congress to consider amending the American Indian Trust Fund Management Reform Act to ensure that a report on the OST reforms does not trigger terminating OST.<sup>27</sup> Oversight of transfer of OST functions to BTFA should continue, as well as Congressional consideration of where these functions should be housed within DOI.

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<sup>22</sup> Department of Justice, National Institute of Justice, *Violence Against American Indian and Alaska Native Women and Men*, 2016, <https://www.ojp.gov/pdffiles1/nij/249822.pdf>. At 2.

<sup>23</sup> Congressional Research Service, *Missing and Murdered Indigenous People (MMIP): Overview of Recent Research, Legislation, and Selected Issues for Congress*. Jan. 10, 2022. At 1. Available at: <https://www.crs.gov/reports/pdf/R47010/R47010.pdf>

<sup>24</sup> "Bureau of Trust Funds Administration" Bureau of Indian Affairs. Available at: <https://www.bia.gov/btfa>.

<sup>25</sup> Congressional Research Service, *U.S. Department of the Interior: An Overview*, at 24, and 18-19. June 23, 2021. Available at: <https://www.crs.gov/reports/pdf/R45480/R45480.pdf>.

<sup>26</sup> Government Accountability Office, "Tribal Programs: Actions Needed to Improve Interior's Management of Trust Services" at 13. GAO-23-105356. Available at: <https://www.gao.gov/assets/gao-23-105356.pdf>.

<sup>27</sup> *Id.* at 31.



Staff Contact: Ken Degenfelder ([Ken.Degenfelder@mail.house.gov](mailto:Ken.Degenfelder@mail.house.gov)) & Jocelyn Broman ([Jocelyn.Broman@mail.house.gov](mailto:Jocelyn.Broman@mail.house.gov))

**Office of Insular Affairs Budget Request**

<i>Budget Authority by Activity Agency</i>	<b>FY 2022 Actual</b>	<b>FY 2023 Enacted</b>	<b>FY 2024 Request</b>	<b>Change</b>
Current Discretionary	\$94.2 million	\$101.1 million	\$94.54 million	- \$6.56 million (6.49% decrease)
Current Mandatory	\$27.72 million	\$27.72 million	\$27.72 million	\$0
Total Permanent Funding	\$539.76 million <sup>28</sup>	\$619.2 million	\$414.3 million	- \$204.89 million (32.94% decrease)
<b>Office of Insular Affairs (Total)<sup>29</sup></b>	\$661.7 million	\$748.02 million	\$536.56 million	- \$211.45 million (28.3% decrease)

The economic health of the U.S. territories is directly impacted by their relative level of geographic isolation. They rely heavily on the funding they receive from federal grants for their economic stability.<sup>30</sup> Tourism plays a major economic role in most of the U.S. territories and FAS, and a strong continued military presence in Guam helps strengthen the local economy.

OIA is charged with carrying out all duties and responsibilities of the Secretary of the Interior regarding all U.S. territories (except Puerto Rico), and the FAS. OIA’s budget is divided into two major categories of funding: current appropriations and permanent appropriations. Current appropriations are discretionary appropriations made by Congress in, or immediately prior to, the fiscal year or years during which it is available for obligation.<sup>31</sup> OIA has two types of current appropriations: current discretionary and current mandatory. Discretionary appropriations must receive formal approval by Congress and the President each fiscal year, whereas mandatory appropriations must be allocated as they are mandated by existing laws. OIA’s current appropriations for FY 2024 are primarily current discretionary funding. OIA only has one current mandatory appropriation, which is for the Capital Improvements Projects. Total permanent appropriations are “standing” appropriations which, once made, are always available for specified purposes and does not require repeated action by Congress to authorize its use.<sup>32</sup> All of OIA’s permanent appropriations are mandatory.

<sup>28</sup> This total includes \$15.9 million in supplemental funding as provided by the Inflation Reduction Act.

<sup>29</sup> Comparison Appendix from FY 2024 The Interior Budget in Brief March 2023. <https://www.doi.gov/sites/doi.gov/files/fy2024-bib-apx-a-comparison-from-2024-bib-508.pdf>.

<sup>30</sup> House Committee on Natural Resources Oversight Hearing, Fiscal Year 2021 Budget Request for Department of the Interior’s Office of Insular Affairs (Feb. 11, 2020), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg39743/pdf/CHRG-116hhrg39743.pdf> at 28.

<sup>31</sup> “Gao-16-464SP, Principles of Federal Appropriations Law: Fourth Edition.” U.S. Government Accountability Office. Accessed May 22, 2023. <https://www.gao.gov/assets/2019-11/675709.pdf>.

<sup>32</sup> Ibid.

The FY 2024 OIA budget request for current appropriations is \$122.25 million, a \$6.56 million decrease. Most of OIA's budget reflects mandatory commitments to U.S.-affiliated Insular Areas and is permanently appropriated. For FY 2024, these mandatory commitments are estimated at \$380.0 million for fiscal payments to Guam and the U.S. Virgin Islands and \$34.3 million for payments under the COFAs.

COVID-19 profoundly affected tourism in the territories, and while most travel restrictions on the islands have been lifted, businesses are still attempting to recover. Congress provided federal funds and expanded access to federal programs to the Insular areas in the Families First Coronavirus Response Act,<sup>33</sup> CARES Act,<sup>34</sup> and the Coronavirus Response and Relief Supplemental Appropriations Act.<sup>35</sup>

OIA discretionary funds are mostly assistance to the U.S. territories, with a smaller amount of funding for COFA related programs. The President's FY 2024 budget requests \$120.79 million for discretionary assistance to territories, which supports several different activities, including American Samoa Operations (\$28.12 million), Capital Improvement Projects (\$31.72 million), Office of Insular Affairs (\$10.75 million), General Technical Assistance (\$23.3 million), and Energizing Insular Communities (15.5 million).<sup>36</sup>

### *Capital Improvement Projects*

Capital Improvement Projects (CIP) program, which are part of OIA's current discretionary budget, is a critical budget account for the U.S. territories because it addresses a variety of critical infrastructure needs on the islands, including hospitals, schools, and wastewater and solid waste systems. Improvements to infrastructure benefit the current population and businesses and lay the groundwork to attract new investment in the territories and improve economic development.<sup>37</sup>

In 2005, the OIA implemented a competitive allocation system for CIP grants. Grant determinations for capital needs are now made on a basis of competitive criteria measuring the demonstrated ability of the governments to exercise prudent financial management practices and to meet federal grant requirements, including complying with generally accepted financial auditing practices and statutes and regulations regarding procurement practices and processes.<sup>38</sup>

Many of the U.S. territories believe the CIP program is one of the most successful federal programs for infrastructure projects and has had a significant impact on quality of life in the territories.<sup>39</sup> This may be the best way to fund infrastructure in the territories given the challenges of economic development and capital investment from other sources. However, further oversight of grant funds is still required. Republicans on the Natural Resources Committee have long advocated for increased accountability and transparency in how taxpayer

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<sup>33</sup> PL 116-123.

<sup>34</sup> PL 116-136.

<sup>35</sup> PL 116-260.

<sup>36</sup> FY 2024 OIA Budget Justification. At 5 <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf-508.pdf>.

<sup>37</sup> FY 2023 OIA Budget Justification. At 19 <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf-508.pdf>.

<sup>38</sup> Id. At 21.

<sup>39</sup> Testimony of Arnold Palacios, Lt. Gov., Commonwealth of the Northern Mariana Islands before the House Committee on Natural Resources (Feb. 11, 2020), <https://docs.house.gov/meetings/II/II00/20200211/110488/HHRG-116-II00-Wstate-PalaciosA-20200211.pdf>.



dollars are spent across the federal budget, and it is important to ensure all CIP grants comply with the current competitive criteria.

### *Energizing the Territories*

The President’s FY 2024 OIA budget request continues to pick winners and losers with respect to energy sources by promoting renewable energy projects rather than an all-of-the-above energy approach. While the Energizing Insular Communities (EIC) Program would remain at level funding for the FY 2024 request, the administration continues to prioritize “renewable energy and grid infrastructure.”<sup>40</sup> This program is similar to provisions found in H.R. 2780, the Insular Climate Act,<sup>41</sup> which mandates the use of solar, wind, hydroelectric, geothermal, and ocean energy in the Insular areas, rather than allowing U.S. territories the autonomy to choose the most reliable and affordable energy sources available to meet their energy needs.

The OIA’s EIC Program has and will continue to “adjust accordingly” to assist in the Biden Administration’s efforts to transition the territories to renewables, such as solar and battery power.<sup>42</sup> Unfortunately, this provision would also force Insular Areas to increase electricity generated from renewable sources while ignoring liquefied natural gas (LNG), nuclear, biomass, and other options that are more proven to be more reliable than intermittent renewable sources.<sup>43</sup> The OIA budget justification does not mention addressing energy security and reliability from baseload sources for Insular Areas that suffer from frequent outages. Addressing this is critically important as the territories are prone to severe weather and unstable electricity transmission infrastructure. Instead of mandating EIC program dollars supporting renewable only energy generation, OIA should have the EIC program include all forms of energy sources for electricity generation, ultimately supporting Insular Area self-determination.

In contrast to the Democrats’ strategy of increased spending and expansion of the federal bureaucracy, Republicans are focused on promoting territorial self-determination and decreasing duplicative and burdensome regulations. More work can be done to improve existing programs and functions that support resiliency in Insular areas to support the individual needs of each U.S. territory, promote innovation in their energy sectors, and embrace an all-of-the-above approach to meet their energy needs.

### *Compacts of Free Association*

The United States’ compact agreements with the FAS nations—the FSM, RMI, and Palau—gives the U.S. security and defense rights over these nations in exchange for U.S. economic assistance and defense guarantees.<sup>44</sup> These rights allow the U.S. to establish military facilities on the islands and exercise strategic denial, which allows the U.S. to deny foreign military access to FAS territory. The importance of these rights and relationships cannot be overstated as the FAS maritime space provides a critical buffer between China and the U.S. These compact agreements

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<sup>40</sup> Office of Insular Affairs FY 2024 budget justification at 55. <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf-508.pdf>.

<sup>41</sup> H.R. 2780 (117<sup>th</sup> Congress), <https://www.congress.gov/117/bills/hr2780/BILLS-117hr2780ih.pdf>.

<sup>42</sup> *Id.*

<sup>43</sup> Discussion Draft of “Insular Area Climate Change Act” (117<sup>th</sup> Congress), <https://www.govinfo.gov/content/pkg/CHRG-117hrg43630/pdf/CHRG-117hrg43630.pdf>.

<sup>44</sup> Bureau of Insular Affairs FY 2024 budget justification at GS-1. <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf>.

are integral to United States' ability to exercise peace through strength with our allies to counter increasing global threats. With the compacts with RMI and FSM due to expire in FY 2023 and Palau in FY 2024, the Biden administration is currently negotiating with all three FAS countries and is expected to submit a compact renewal proposal and legislation to Congress by summer 2023.

The current COFA mandatory funding request is \$1.46 million, which is a \$7 million decrease. This decrease reflects the fulfillment of tax and trade obligations with the Republic of the Marshall Islands and U.S. Postal Service being covered under the new COFA. The total permanent funding level for the OIA is \$414.3 million, which includes \$34.3 million in Compact of Free Association funding, distributed to the Marshall Islands, the Federated States of Micronesia, Compact Impact effects, and judicial training in the FAS.<sup>45</sup>

The decrease in COFA permanent funding reflects the expiration of the 2003 compact agreements with Marshall Islands and the Federated States of Micronesia. The FY 2024 funding levels will likely increase to reflect the newly negotiated permanent funding for COFA once negotiations are complete. However, Congress must approve the compacts before funding begins. As OIA is anticipated to be the lead federal agency to administer and oversee federal assistance that may be proposed under the revised COFA's, the committee will have a key role in the legislative process to determine what assistance may be included and determine how OIA will administer any programs.

The budget proposal for the renegotiated COFAs is expected to total \$7.1 billion. \$6.5 billion would be for economic assistance and \$634 million would be for services provided by the U.S. Postal Service to the FAS over the course of twenty years.<sup>46</sup> The cost of the compact has not yet been included within the OIA's FY 2024 budget request because compact negotiations are still underway.<sup>47</sup> The total cost of the compacts is anticipated to have impact on spending levels. As such, committee Republicans believe that compact spending must be fiscally responsible and reflective of U.S. security interests. While there may be spending implications, the importance of the COFA's role in deterring Chinese influence to ensure an open and free Indo-Pacific cannot be overstated given the U.S.'s presence in the region. Spending accountability, offsets, and transparency will be key as the committee and Congress review the compact proposal from the administration. Any spending proposals should be done responsibly, but the COFA's are important for the purposes of countering Chinese aggression in the Indo-Pacific.

For further information on the importance of the Indo-Pacific in relation to U.S. security interests, please see the hearing memo from the previous IIA oversight hearing on preserving U.S. Interests in the Indo-Pacific available [here](#).

Staff Contact: Ken Degenfelder ([Ken.Degenfelder@mail.house.gov](mailto:Ken.Degenfelder@mail.house.gov)), Justin Rhee ([Justin.Rhee@mail.house.gov](mailto:Justin.Rhee@mail.house.gov)), and Howard Hills ([Howard.Hills@mail.house.gov](mailto:Howard.Hills@mail.house.gov)).

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<sup>45</sup> FY 2024 OIA Budget Justification. At 5. <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf-508.pdf>

<sup>46</sup> Lee, Matthew, "Biden budget aims at China with billions for Pacific islands," AP News, March 9, 2023, <https://apnews.com/article/biden-budget-us-china-marshall-islands-micronesia-palau-9a3dd6c94b1287bdb015449af00cd654>.

<sup>47</sup> FY 2024 OIA Budget Justification GS-2. <https://www.doi.gov/sites/doi.gov/files/fy2024-oia-greenbook.pdf>.