



January 7, 2025

Dear Tribal Leader:

I am writing to announce the Indian Health Service (IHS) Fiscal Year (FY) 2025 allocation decisions for the \$700 million appropriated to the IHS in the Infrastructure Investment and Jobs Act (IIJA), 2021, Pub. L. No. 117-58, Title VI, 135 Stat. 1411 (Nov. 15, 2021).

The IIJA, or Bipartisan Infrastructure Legislation (BIL), appropriates \$700 million in each year from FY 2022 through FY 2026, for a total of \$3.5 billion for the IHS Sanitation Facilities Construction (SFC) program. These resources are available until expended. These funds are one-time, non-recurring, and can only be used for the purposes specified in the statute.

The statute provides up to three percent of these funds (\$21 million) for “salaries, expenses, and administration” each year. It also requires that one-half of one percent of these funds (\$3.5 million) be transferred to the United States (U.S.) Department of Health and Human Services (HHS) Office of Inspector General “for oversight of funding provided in the BIL.” The statute also directs the IHS to use up to \$2.2 billion for “projects that exceed the economical unit cost,” also referred to as “economically infeasible” projects.

Projects deemed economically infeasible are defined as projects that exceed a per-unit cost established for each IHS Area and three different regions within the Alaska Area IHS. While no statutory barrier to funding economically infeasible projects existed prior to enactment of the BIL, limited annual appropriations prevented the IHS from funding these types of projects.

The IHS tracks projects to address sanitation needs in American Indian and Alaska Native (AI/AN) communities through the Sanitation Deficiency System (SDS). On an annual basis, the Indian Health Care Improvement Act (IHCIA) requires the IHS to update the SDS to account for changes to the scope of a project, refine cost estimates, and identify any new needs.

As of November 19, 2024, there were 1,241 projects, totaling \$5.9 billion in eligible costs, and \$1.0 billion in ineligible costs. Of the 1,241 total projects, 663 were considered economically feasible, and 578 were considered economically infeasible. The IHS completed its most recent annual update of the SDS on November 19, 2024, which reflects the most updated, complete data set on projects and costs. Please see Appendix A, which summarizes the end-of-year (EOY) 2024 SDS projects and costs by IHS Area as of November 19, 2024.

Ineligible costs are the costs associated with serving commercial, industrial, or agricultural establishments, including nursing homes, health clinics, schools, hospitals, hospital quarters, and non-AI/AN homes. The Indian Sanitation Facilities Act (Public Law 86-121) and the IHCIA prevent the IHS from using its appropriations for these ineligible costs. However, the

IHS regularly partners with Tribes and other Federal agencies to identify alternative resources to successfully support these ineligible costs.

Tribal Consultation

The IHS did not hold a Tribal Consultation for FY 2025 BIL funding and will continue to use the recommendations gathered through Tribal Consultation for FY 2024 BIL funding. For FY 2024 BIL funds, Tribal Consultation was initiated to seek guidance and recommendations from Tribal Leaders on how the IHS should allocate FY 2024 BIL funding. The Tribal Consultation session was held on December 18, 2023, and common themes from the session recommended that the IHS should:

- Retain some funding at IHS Headquarters to cover project costs above budgeted amounts for design, construction document preparation, and construction;
- Prioritize funding projects with the BIL using the SDS list (Legacy) reported at the time the BIL was enacted by Congress (i.e., EOY December 2021);
- Prioritize funding of Tier 1 (ready to fund) projects, while also providing funds to complete needed design and construction document preparation to accelerate construction completion timeframes; and
- Provide funding to support planning, design, and construction document preparation for Tier 2 (engineering assessed) and Tier 3 (preliminary assessed) projects to transition the projects to Tier 1 status.

Based on review and consideration of input received through Tribal Consultation, the IHS decided to use current SDS data and the Agency's existing funding mechanisms to allocate these resources. This includes IHS direct service projects funded through Federal Acquisition Regulations contracts or Tribal procurement, and Indian Self-Determination and Education Assistance Act construction contracts (25 Code of Federal Regulations (CFR) 900 Subpart J, Title 42 CFR § 137, Subpart N).

These FY 2025 BIL allocation decisions align with recommendations received from Tribal Leaders to prioritize funding for projects that have completed the planning phase and can be immediately moved into the design and construction phase.

The following table and narrative describe the Agency decisions regarding allocation of funds received through the BIL.

FY 2025 Bipartisan Infrastructure Legislation Funding Allocation

(dollars in millions)

Activity	FY 2025 BIL
Tier 1 Projects Construction Costs	638.7
Tier 1 Design & Construction Documents	25.2
Project Shortfalls, Add'l Planning, Design, & Construction Documents	11.6
<i>subtotal, SFC Projects</i>	675.5
Salaries, Expenses, and Administration (3%) ^{/1}	21.0
HHS Office of the Inspector General (0.5%) ^{/2}	3.5
Total	700.0

^{1/} \$21 million in BIL funding is limited to federal activities only.

^{2/} BIL-directed transfer.

SDS Project Funding

The IHS will allocate FY 2025 BIL resources for SDS projects as follows:

Design, Construction Contract Document Preparation, and Construction Costs for Tier 1 Projects

The FY 2025 SFC spend plan funds construction costs for 67 Tier 1 Legacy projects tracked in the SDS. These Tier 1 Legacy projects total \$638.7 million, and the IHS will use the FY 2025 BIL funding for these costs. A table displaying the allocation of Tier 1 projects and funding amounts by Area can be found in Appendix B.

A Tier 1 project is considered ready to fund because planning is complete. However, design and construction contract document preparation activities are not yet complete for current Tier 1 projects. These steps must be finalized before a construction contract can be initiated through Federal or Tribal procurement methods. The IHS also allocates \$25.2 million to support contracts with Architecture & Engineering Firms to complete these activities for Tier 1 projects. The combined cost of Tier 1 design and construction contract document preparation and Tier 1 construction projects for the FY 2025 BIL spend plan is \$663.9 million (not including ineligible construction costs).

These Tier 1 projects span Deficiency Levels 2 through 5. Deficiency Levels are assigned in accordance with the IHCI A for each sanitation facilities project that has been identified as a need to support Indian Tribes and communities. The Deficiency Levels are explained in the table below.

Sanitation Deficiency Level		Sanitation Deficiency Levels [25 U.S.C. § 1632(g)(4)]
		Description
V	5	An Indian tribe or community that lacks a safe water supply and a sewage disposal system.
IV	4	An Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system.
III	3	An Indian tribe or community with a sanitation system which has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or has no solid waste disposal facility.
II	2	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities.
I	1	An Indian tribe or community with a sanitation system which complies with all applicable water supply and pollution control laws, and in which the deficiencies relate to routine replacement, repair, or maintenance needs.
0	0	No deficiencies to correct.

There are \$47 million in ineligible costs associated with these Tier 1 projects. The IHS works closely with other Federal agencies, Tribes, and other project participants to identify funding for the portions of projects that serve non-AI/AN homes, businesses, and public institutions. For example, the IHS partners with the United States (U.S.) Environmental Protection Agency (EPA), USDA Rural Development, the U.S. Department of Housing and Urban Development, the U.S. Department of Interior's Bureau of Reclamation, the National Tribal Water Center, the Rural Water Association, the Rural Community Assistance Partnership, the Denali Commission, the State of Alaska, and Tribal Consortia to secure resources for ineligible costs. The IHS also participates in the EPA-led Infrastructure Task Force, along with other Federal partners, which serves as a forum to discuss funding for ineligible costs associated with SFC projects. The IHS will continue to work with its Tribal and Federal partners to identify resources to fund these ineligible costs.

Within the \$663.9 million allocated for the 67 Tier 1 projects, \$584.6 million will support eligible costs for 31 economically infeasible Tier 1 projects.

Project Shortfalls, Additional Planning, Design, and Construction Contract Document Preparation

The FY 2025 BIL spend plan allocates \$11.6 million in FY 2025 BIL funding to address potential project shortfalls, and to support additional planning, design, and construction document preparation activities. Project shortfall funding is needed to support previously funded SFC projects that exceed the original project budget due to increasing construction costs driven by inflation and supply chain constraints.

Salaries, Expenses, and Administration

The FY 2025 BIL spend plan allocates \$21 million for program support activities such as salaries, expenses, and administration.

Fiscal Year 2025 BIL funds available for SFC project support activities can support the same activities that are typically funded through the Facilities and Environmental Health Support annual appropriation. However, these funds are limited to Federal activities only, due to the following provision:

Provided further, that no funds available to the Indian Health Service for salaries, expenses, administration, and oversight shall be available for contracts, grants, compacts, or cooperative agreements under the provisions of the Indian Self-Determination and Education Assistance Act as amended:

The IHS will use these funds to hire additional engineers, field technicians, inspectors, Geographic Information System analysts, and other critical roles that are necessary to support the planning, design, and construction of SFC projects.

The IHS will also use these funds to hire additional contract specialists, human resources specialists, and other necessary support roles to successfully recruit for the above-mentioned positions, and to manage the significant influx of construction contracting needs resulting from the BIL.

The IHS will continue to use multiple strategies and available authorities to support BIL recruitment and hiring. This includes the use of global job announcements to streamline the hiring of multiple candidates for jobs across the IHS system; establishing efficiencies with a Headquarters Agency centralized team to facilitate hiring on behalf of the IHS Areas as appropriate; developing a dedicated website, marketing materials, and increasing outreach by targeting engineering job fairs. This will include leveraging partnerships with the American Indian Science and Engineering Society (AISES) to increase awareness of engineering employment opportunities within the IHS.

The IHS will strategically utilize the authority granted by the Office of Personnel Management to waive the regulatory payment limitation to provide recruitment, relocation, or retention incentive options up to 50 percent above pay table amounts with a service agreement. This

authority will aid in the ability to recruit and retain Civil Service employees based on superior qualifications and locations that are hard to fill in the general engineer (0801), civil engineer (0810), and environmental engineer (0819) occupational series.

I sincerely value your input regarding allocation of FY 2025 BIL funding to make historic investments in SFC projects that will result in significant improvements to sanitation facilities infrastructure in AI/AN communities across the country. We will begin the distribution of the FY 2025 BIL appropriation as soon as possible.

Sincerely,

Roselyn Tso -S

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Roselyn Tso
Director

Enclosures: Appendix A - SDS Project Counts and Associated Costs
Appendix B - FY 2025 Tier 1 Legacy List - Projects Counts

Appendix A: SDS Project Counts and Associated Costs as of November 19, 2024

Area	Eligible Cost	Ineligible Cost	Total Cost	Project Count
Albuquerque (AL)	\$295,288,894	\$32,477,806	\$327,766,700	88
Alaska (AN)	\$2,374,131,787	\$254,714,758	\$2,628,846,545	293
Bemidji (BE)	\$93,420,684	\$31,133,770	\$124,554,454	71
Billings (BI)	\$50,628,874	\$21,803,250	\$72,432,124	38
California (CA)	\$234,658,619	\$107,395,128	\$342,053,747	84
Great Plains (GP)	\$365,746,324	\$43,584,256	\$409,330,580	97
Navajo (NA)	\$1,780,545,340	\$39,581,171	\$1,820,126,511	242
Nashville (NS)	\$77,112,737	\$7,119,333	\$84,232,070	19
Oklahoma City (OKC)	\$157,912,608	\$384,112,228	\$542,024,836	165
Phoenix (PH)	\$318,580,492	\$66,294,024	\$384,874,516	78
Portland (PO)	\$113,870,323	\$49,595,783	\$163,466,106	53
Tucson (TU)	\$17,842,496	\$1,752,504	\$19,595,000	13
Total	\$5,879,739,178	\$1,039,564,011	\$6,919,303,189	1241

Appendix B: FY 2025 Tier 1 Legacy List - Projects Counts

Area	Construction Eligible Cost	Construction Ineligible Cost	Design and Construction Document Cost	Project Count*
Albuquerque (AL)	\$45,707,120	\$1,687,380	\$3,159,500	9
Alaska (AN)	\$383,911,983	\$14,418,272	\$10,672,050	4
Bemidji (BE)	\$4,236,676	\$997,924	\$45,000	4
Billings (BI)	\$1,242,680	\$34,320	\$0	2
California (CA)	\$40,195,711	\$1,650,517	\$75,200	2
Great Plains (GP)	\$58,388,159	\$6,081,261	\$1,506,000	16
Navajo (NA)	\$3,370,700	\$0	\$181,000	2
Nashville (NS)	\$0	\$0	\$0	0
Oklahoma City (OKC)	\$4,069,000	\$6,749,173	\$29,550	9
Phoenix (PH)	\$76,210,220	\$3,293,780	\$5,971,320	11
Portland (PO)	\$21,309,257	\$11,983,402	\$3,597,000	7
Tucson (TU)	\$1,313,760	\$66,240	\$0	1
Total	\$639,955,266	\$46,962,269	\$25,236,620	67

*Tier 1 DL 2 - DL 5 Projects