The Federal Government's Proposed Budget for Fiscal Year 2019

(As of February 26, 2018)

On February 12, 2018, The White House published President Trump's fiscal year 2019 budget. Below are highlights of the budget proposal that impact real estate.

Business Issues

Consumer Financial Protection Bureau (CFPB)

- The Budget proposes to restructure the CFPB by limiting the Agency's mandatory funding it receives from the Federal Reserve System and transition to discretionary appropriations directed by Congress for funding beginning in 2020. Under this two-year transition, the CFPB's budget for 2019 would be capped at $485 million. For Fiscal Year 2018, the transfer cap from the Federal Reserve is $630 million and is set to rise with inflation. For the first quarter of 2018, Acting Director Mick Mulvaney requested $0 from the Federal Reserve.

  The proposal also restricts CFPB's enforcement authority over Federal consumer law in an effort to refocus agency efforts on enforcing existing consumer protection laws and prevent actions that unduly burden the financial industry and limit consumer choice.

  - NAR supports the existence of a federal agency, such as the CFPB, but maintaining the existing funding sources from the Federal Reserve to protect the agency's independence from Congressional appropriations. Such independence shields the agency from political pressures and bureaucratic impediments that may inhibit protection of consumer homeownership interests.

Department of Labor

- With the Administration's priority on increasing military spending without increasing the deficit, the budget proposes a 21 percent ($2.6 billion) decrease in Department of Labor (DOL) funding compared to the 2017 enacted level, requesting $9.4 billion for operations.

  The Budget provides $189.5 million funding for the Employee Benefits Security Administration (EBSA), which includes $2 million to develop policy and enforcement capacity to expand access to Association Health Plans (AHPs), in line with the Administrations 2017 executive order aimed at increasing health care options for Americans.

  - NAR supports the Department of Labor's efforts to create a framework that would allow trade associations to offer AHPs to their respective memberships.

- The Budget provides $230.1 million for the Wage and Hour Division to enforce laws that establish the minimum standards for wages and working conditions, such as the law governing classification of independent contractors. The Budget includes a funding increase of $4 million to modernize its approach to delivering useful and effective compliance tools for workforce laws.

  - NAR strongly supports the continued right of brokers to choose whether to classify agents as employees or independent contractors. NAR supports actions at the state level to strengthen the rights of brokers to make these determinations and will resist efforts at the federal level to weaken those rights.

Census and Data Production

NAR Research and Advocacy groups rely heavily on statistics provided by the Bureau of the Census. Insights from surveys generated from both the "*current*" and "*periodic*" programs support NAR's mission critical programs such as existing home sales (EHS), surveys, and policy analysis.

- The budget provides $3.548 billion for *periodic* programs, an increase of more than $2.3 billion from the $1.202 billion allocation for FY 2018. The *periodic* program supports the decennial census and American Community Survey (ACS), which NAR uses to benchmark its EHS statistics. While this is a nominal increase from 2018, this increase is less than the typical percentage increase during the buildup to a decennial census (e.g. 1999 vs 1998 and 2009 vs 2008). Inadequate funding could jeopardize the robustness of census statistics.
- The 2019 budget for the *current* program, which covers surveys that track the homeownership rate and household formation, is reduced by $6 million to $255 million from $261 million net of transfers in FY 2018.

Conventional Financing

Guarantee Fee Tax

- The budget would double the existing 10 basis point guarantee fee (g-fee) tax to 20 basis points for FY 2019 to 2021. Then it would set the guarantee fee tax at 20 basis points through 2023 rather than allowing the tax to sunset as scheduled in 2021. This guarantee fee tax was initially adopted to pay for a temporary tax cut during the Great Recession. The White House says the higher tax would be a way to make private-label RMBS more competitive with Fannie and Freddie.
    - NAR has fought efforts to expand or extend guarantee fee tax.

Housing Trust Funds Eliminated

- The budget proposes to eliminate the Fannie Mae and Freddie Mac contributions to the affordable housing and capital magnet trust funds. Congress established these trust funds, which Fannie and Freddie finance. However, the Federal Housing Finance Agency (FHFA) cut off funding during the financial crisis. Later, FHFA Director Mel Watt reversed that move. Now the White House wants the funding source eliminated.
    - NAR has supported appropriate funding for the housing trust funds.

Fannie Mae and Freddie Mac to Draw $5.1 Billion

- In the appendix to the budget, the White House predicts that Fannie Mae and Freddie Mac will draw $5.1 billion in 2018 to offset account-related write downs of deferred tax assets due to enactment of tax cut legislation in December 2017. The budget also assumes Fannie Mae and Freddie Mac will make an additional $184 billion in dividend payments to Treasury over the next 10 years.

Financial Deregulation

- In the section on the Treasury Department, the White House reiterates the President's commitment to rolling back the excesses in the Dodd-Frank Act. While the budget does cut funding for the Office of Financial Research, the document is mostly silent on other elements of financial reform. As expected, it references the Treasury Department's white papers on financial reform. There is no discussion of specific rules nor does it mention the U.S. Senate Banking Committee regulatory relief bill, which would remove financial regulations for many small financial institutions.
    - NAR currently does not have policy in this area, but a Community Bank Regulatory Relief Work Group has been created to analyze the legislation to determine if policy is needed in this area.

Student Lending

- The White House budget would require colleges that accept federal student aid to also share some of the financial risk of ensuring graduates can repay their loans. There are no details on how this would work. The budget also calls for consolidating the income-based loan repayment programs into a single program. Students would pay 12.5% of their income for 15 years. After that, undergraduate loans would be forgiven. For graduate loans, the repayment period is 30 years. The White House also supports reforming student lending through reauthorization of the Higher Education Act, but it does not endorse a specific plan or call for private student lenders to take over more of the market.
    - NAR has policy on streamlining student loan programs, but has concerns that one option for income-based repayment is too severe.

Environment and Energy Issues

Department of Agriculture

- The budget cuts agriculture programs by 16 percent from the level enacted for fiscal 2017.
- Eliminates the Conservation Stewardship Program (CSP), which encourages cover-cropping, reduced tillage and other measures. Savings would total $12 billion over 10 years.
- Eliminate the Regional Conservation Partnership Program, which includes incentives for nongovernmental money and private sector partnerships.
- The budget proposes the creation of a $1. 5 billion fund to help ensure that the costs of wildfire suppression are covered. The Forest Service has routinely exceeded the funds available to fight wildfires in recent years and had to borrow from other land management programs, the budget proposal says.

Department of Energy

- The budget cuts spending for the Energy Department's Office of Energy Efficiency and Renewable Energy (OEERE), from its current appropriation of around $2 billion to 696 million. The OEERE has many programs that support energy efficient buildings, including the voluntary Home Energy Performance Score and the Better Buildings Initiative.

Department of Interior

- The president's proposal would cut the Interior Department's budget for land acquisition — including the Bureau of Land Management, Fish and Wildlife Service, and National Park Service — to 5 percent of its current status, or down to $8.1 million in fiscal 2019 from its previous $154 million budget.

Environmental Protection Agency

- The budget provides EPA $6.15 billion in funds, a 23 percent decrease from funding levels enacted for 2017.
- The Trump administration is requesting 10 percent of the funding EPA normally receives for the Great Lakes Restoration Initiative and Chesapeake Bay Program. EPA is requesting $30 million for the Great Lakes Restoration Initiative and $7.3 million for the Chesapeake Bay Program.
- The budget eliminates funding for the six other geographic programs, including those for Puget Sound and Long Island Sound.
- The administration's budget proposal also states that EPA would support other Clean Water Act-related programs nationwide, including water quality criteria, total maximum daily loads, National Pollutant Discharge Elimination System permits, water infrastructure and core wetlands programs.
- As part of a broader reorganization, the proposed budget would abolish the "Clean Air and Global Climate Change" account, which is expected to receive $245 million in fiscal 2018. Instead, that money would be folded into two new accounts, dubbed "Core Mission" and "Rule of Law and Process."
- Together, those core programs are projected to receive $739 million in fiscal 2018; the two new accounts that would replace them are in line for $469 million in 2019, a reduction of almost 37 percent.

Federal Housing Issues

Multi-Family

- The FY19 HUD budget would eliminate the Housing Trust Fund, Community Development Block Grants, and the HOME Investments Partnership Program. These are all programs that NAR has supported. The budget would also cut operating funds for Public Housing Authorities, which administer many local assisted housing programs.
- The budget provides $18.2billion to renew tenant-based rental assistance contracts, which is more than $2b lower that the expected need. However, it provides $10.866 billion to renew project-based rental assistance (PBRA) contracts, nearly the amount provided by both the House and Senate bills for FY18. It also increases funding for the Section 202 Housing for the Elderly program, to $563 million.
- The budget would decrease funding for HUD's Office of Fair Housing and Equal Opportunity. Specifically, the Fair Housing Initiatives Program (FHIP) would be cut by $3 million. The FHIP provides assistance to people who believe they have been victims of

housing discrimination and funds initiatives that promote fair housing laws and equal housing opportunity awareness.

- NAR strongly supports the Fair Housing Act, and programs that protect against discrimination based on race, color, national origin, religion, sex, familial status or disability. NAR also supports equal opportunity on the basis of sexual orientation and gender identity and has incorporated that support into the REALTOR® Code of Ethics.

- The FY 19 USDA budget includes $1.37 billion for the Section 521 Rural Rental Assistance program, an increase over last year. However, it proposes the elimination of the Multifamily preservation and revitalization program, which has been successful in keeping rural multifamily units in the program. It also eliminates the 515 Rental Housing direct loan program.

Single Family

HUD – Total cuts of $8.8 billion

- The budget asks for $20 million to support upgrades to Single Family IT Fund. This will be supported by a $25 fee on each loan, which would expire in four years.
- The budget asks for $45 million for housing counseling, a cut of $18 million
- The budget asks for $145 for reducing lead-based paint and other health hazard exposure, maintaining FY17 levels

Rural Development – Total USDA cuts of $3.7 billion

- No funding provided for RHS Direct Loans which would effectively end the program
- The budget requests $24 billion for RHS Guaranteed Loans, however the program usually pays for itself through collected fees

VA – Total increase of $12 billion

- Loan Guarantee Program funding is stable. Most of the increase in the total budget is healthcare related, while cuts and money saving measures are related to cost-of-living calculations and a few other items.

Federal Tax

In the tax area, the Trump Administration's budget proposal for Fiscal Year 2019 is notable for what it does not contain – a set of detailed tax proposals set forth in what has become known as "The Green Book." This is understandable given the recent passage of the Administration-backed tax reform bill in late 2017. However, this is not to say that the budget proposal is totally devoid of tax proposals. Those included that are most relevant to real property and real estate professionals are:

- The budget seeks $11.1 billion for the Internal Revenue Service (IRS), which includes $2.3 billion for "tax filing and compliance IT applications and $110 million for IT modernization efforts." The budget explains that its investment in tax compliance and enforcement should "generate approximately $44 billion in additional revenue at a cost of $15 billion, yielding a net savings of $29 billion over 10 years." Treasury Secretary Steve Mnuchin said that the budget, combined with Treasury's Strategic Guidance Plan, will "direct resources efficiently to implement the most comprehensive tax reform legislation in more than 30 years." Another goal cited by Sec. Mnuchin is to "strengthen tax law enforcement."

- The Trump Administration is proposing a significant infrastructure investment initiative. A major component of this plan relies on an expansion of private activity bonds (PABs). Specifically, the budget "would expand flexibility and broaden eligibility for PABs. The PABs provided for this broadened definition of 'core public infrastructure projects' would not be subject to volume caps, but would require the projects to be available to the public and either government-owned or privately-owned but subject to regulatory or contractual control and approval." The budget requests $6 billion related to this expansion." According to the Administration's "Legislative Outline for Rebuilding Infrastructure in America" released separately today, the proposal would: "Require public attributes for [tax-exempt] public infrastructure projects"; "Eliminate the Alternative Minimum Tax preference on PABs"; "Remove State volume caps and transportation volume caps on PABs for public purpose infrastructure projects and expand eligibility to ports and airports"; "Provide change-of-use provisions to preserve the tax-exempt status of governmental bonds"; and "Provide change-of-use cures for private leasing of projects to ensure preservation of [the] tax exemption for infrastructure projects." These proposals would increase the deficit by $5.96 billion over 2019-2028.

Flood Insurance

- Requests major reductions and reforms to the National Flood Insurance Program (NFIP). NAR policy supports coupling a long-term reauthorization with meaningful reforms that strengthen the NFIP's sustainability and open the door to a private market for flood insurance.
- Reduces funding for flood mapping by $78 million. Currently, NFIP policyholders and taxpayers split the total cost roughly 50-50, but under this proposal, the taxpayer contribution would be slashed by 45 percent. NAR policy supports shared funding of the flood maps because both taxpayers and policyholders benefit from identifying the high-risk flood zones where not to build or to build higher.
- Proposes to eliminate flood insurance subsidies based on a property's location or date of construction. Instead, NFIP rates would increase to full-risk levels and a "means-tested affordability program" would be created and targeted only to the lower-income policyholders. NAR policy supports phasing-in full-risk rates gradually over time and preserving the practice of grandfathering for those property owners who build to code, regardless of their income or ability to pay.

Health Insurance Issues

Department of Health and Human Services

- The Administrations' budget proposal requests $68.4 billion, proposing $295 billion in mandatory savings. This is a 21 percent ($17.9 billion) decrease from the 2018 budget level. The budget proposal promises to strengthen Medicare, repeal and replace the Affordable Care Act (ACA), comprehensively reform Medicaid, and improve program integrity for all health programs.

The budget supports legislative efforts to repeal the ACA, followed by additional reforms to improve sustainability of Government health care spending, such as through block grants to states to provide financial support during the transitions while improving choice and competition in the health care marketplace.

- NAR supports a health care delivery system that provides cost effective, quality care in an efficient and timely manner in order to be affordable and sustainable for society. NAR is closely watching health care reform efforts and the potential impact on members.

Small Business Administration (SBA)

- The Budget requests $834 million for the SBA in 2019, a $53 million or 5.9% decrease from the 2017 level. This request is offset by changes to existing fee structures across SBA's business loan guarantee programs and the elimination of unspent funds from prior years, resulting in a net request of $629 million.
- The Budget supports $43 billion in business loans to help small businesses access affordable capital.
- The Budget proposes that the SBA adjust its fees across its business loan guarantee programs during times when the private market is providing loans to small businesses (i.e., the economy is doing well), allowing the SBA to cover its anticipated lending and operational costs, while leveling the field among its lender community and ensuring the SBA does not displace direct private lending.
- The 7(m) Direct Microloan Program: The Budget requests $25 million in technical assistance grant funds for the Microloan program, and $4 million in subsidy resources. The 7(m) Program supports low-interest financing for non-profit intermediaries that in turn provide loans of up to $50k to rising entrepreneurs.
- Small Business Development Centers: The Budget requests $110 million for the Small Business Development Center Program, which provides services to small businesses and prospective business owners across the country.
- SBA Disaster Loan Program: $1.1 billion in disaster relief lending to businesses, homeowners, renters and property owners for recovery in the wake of declared disasters. It requests $158.8 million in new budget authority for administrative expenses related to major disasters and $27.6 million for administrative expenses related to non-major disasters.
- SBA Office of Advocacy: Requests $9.1 million for the SBA Office of Advocacy.

Transportation Issues

- The transportation budget proposes an overall 19 percent decrease from the 2017 funding level. There are reforms to Amtrak for states to be an equal partner with the federal government. Two grant programs are eliminated or significantly reduced, Transportation Investment Generating Economic Recovery (TIGER) grants and the Capital Investment Grant program (New Starts). While the plan proposes to generate $1 trillion over the next decade, the proposal strengthens an existing loan program, Transportation Infrastructure Finance and Innovation Act (TIFIA), emphasizing the importance of providing loans to states or regions rather than discretionary spending grant programs. The Administration has proposed reducing the time of environmental reviews for infrastructure projects.

- NAR concerns include a lack of consistency in funding especially for transportation projects intended to use grant programs that the Administration proposes to eliminate. Further, the lack of proper environmental review periods may not adequately determine risks to communities. The concept of requiring more state or local involvement is not new, as the Highway Trust Fund has been insolvent for at least a decade. At least 31 states have approved measures to increase funding for transportation projects by creating toll roads or increasing the fuel tax.