

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2020

CONGRESSIONAL BUDGET JUSTIFICATION

Background

The Office of Navajo and Hopi Indian Relocation (ONHIR, Office), an independent entity within the Executive Branch, was created as a result of the passage of the Navajo-Hopi Settlement Act of 1974 (Act). This Act authorized the partition of disputed lands between the Navajo and Hopi tribes originally set aside by the federal government for a reservation in 1882. Members of one tribe who were living on land designated to the other tribe, were to be relocated and provided new homes and cash bonuses, in some cases.

ONHIR is responsible for the implementation of the Act and carries out the relocation of Navajo and Hopi Indians off land portioned to the other tribe. Over the years, Congress authorized ONHIR to carry out additional responsibilities including managing about 400,000 acres of lands taken into trust for the Navajo Nation, conducting maintenance, and enforcing leases and grazing. ONHIR's relocation efforts were originally scheduled to end by 1986 but for various reasons, including legal actions, activities continue today. Planning for the orderly closeout of the Office, however, has begun in coordination with the Department of the Interior (DOI) and other stakeholders including the Navajo Nation and Hopi Tribe.

Fiscal Year (FY) 2020 Request

The FY2020 budget request for ONHIR is \$7,500,000. The funds requested will support the Operation of the Office, Relocation Operations, and Discretionary Funding to facilitate and expedite resettlement activities, and bring about the closure of the Office, consistent with the provisions of PL 93-531 and its associated Amendments Act of 1980, PL 96-305, 1988, PL 100-666, and 1991, PL 102-180.

Component elements of the Budget Proposal include: (thousands)

• Operation of the Office	\$3,450
• Relocation Operations	1,000
• Incentive Bonuses	0
• Discretionary Funds	<u>3,050</u>
Total Budget Request	<u>\$7,500</u>

Performance and Closure

Summary of Progress in Achieving Objectives: An assessment of ONHIR's progress in achieving its relocation objectives is clearly quantifiable. There is a total relocation population of 3,840 families who have been certified as eligible for Relocation Benefits as of March 1, 2019. Of this amount, 3,701 families have been moved and 129 cases have been administratively closed due to the inaction on the part of the relocatee, or because of the death of a relocatee having no heirs. Of the current balance of 10 families, 6 have already signed relocation contracts. We are planning to sign the remaining 4 relocatees to contracts during FY 2019-FY2020.

For FY2020, the Office is requesting a budget for \$7.5 million, which would allow moving 5 additional families that might be certified during FY2019-2020, depending on the outcome of various appeals, as well as completing other projects deemed necessary. Based on the fact that there have only been seven families certified since FY2014, the Office feels safe estimating this low number of possible certifications over the next 18 months. Of course, if there is a “game-changing” Federal Court Administrative Procedure Act decision which adds significantly to this number, then there will need to be a re-evaluation of the timetable for completion of our work.

All Administrative Appeals have been heard, and only two decisions are pending from the Independent Hearing Officer. There are currently ten pending APA appeals to the Federal District Court that have been brought by the Navajo Nation. There are also six pending cases in the Court of Appeals for the 9th Circuit, of which five will be heard on May 17, 2019. There could potentially be APA appeals to the Federal District Courts for six years after the final agency action denying certification to any applicant. If any such appeals are filed after the Office is closed, the appropriate successor agency could replace the ONHIR counsel in working with the Department of Justice to handle these cases.

The current FTE level is 27. The Office anticipates requiring fewer FTEs in the future, once closure begins and core functions are transitioned to successor agencies.

Efforts Towards Closeout of the Office: ONHIR will continue to collaborate closely with DOI and other stakeholders, including the Navajo Nation and Hopi Tribe, on the development of a comprehensive and phased closure plan for the Office, since it has largely completed its mission.

In April 2018, the U.S. Government Accountability Office (GAO) released its report titled *Office of Navajo and Hopi Indian Relocation: Executive Branch and Legislative Action Needed for Closure and Transfer Activities* (GAO-18-266). The report highlighted the need to identify the appropriate successor agency (or agencies) to transition ONHIR's functions to, as part of the closure planning process. ONHIR functions that will likely need to transition to a successor agency once the Office completes all eligible relocations include homeowner training, processing of appeals cases, management of trust lands including the Padres Mesa Demonstration Ranch, and processing leases and rights of way applications for trust lands.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$4,888 from Base).

Authorization: P.L. 93-531; 88 Stat. 1712 Sec. 12; 25 U.S.C. 640d.

(dollar amounts in thousands)					
Program	FY2019	FY2018	FY2019	FY2020	Change
Element	Appropriation	Carryover	Base	Request	To Base
<hr/>					
Operation of the Office	\$3,970	\$4,368	\$8,338	\$3,450	(\$-4,888)
FTE	(27)		(27)	(27)	(0)

Base Program: The Operation of the Office of ONHIR includes all personnel costs, as well as other administrative expenses, and can be broken down into the following program areas:

A. OFFICE OF THE EXECUTIVE DIRECTOR

This office is responsible for setting Office policy as well as the development and implementation of program initiatives.

B. LEGAL

This area coordinates all legal services, such as certification, appeals, client conservatorship cases, document preparation and review, interface with Tribal and other federal attorneys, and interpretation of regulations.

C. HUMAN RESOURCES

This area is responsible for all personnel matters, including the human resources aspect of preparing for Office closure.

D. PADRES MESA DEMONSTRATION RANCH

This demonstration ranch serves as an educational resource to ranchers and relocatees. It will continue under the control of ONHIR until a successor agency or joint venture can be determined.

E. RELOCATIONS OPERATIONS

This area oversees the actual relocation of clients as well as all client support service, such as home maintenance training. The relocation operations department

provides ongoing consultation with the relocatee family from the beginning to the end of the process. This department also provides for a full range of real estate acquisition activities including new construction contracting, acquisition of new and resale dwellings, inspection of new and resale dwellings, and monitoring of any necessary warranty or housing repair issues. The primary mission of this unit is to insure that relocatee dwellings meet all applicable decent, safe, and sanitary standards, and that building sites offer families the best possible structural alternatives.

F. ADMINISTRATION

All necessary administrative and financial management services are provided to the agency within this area. This includes budget formulation and execution, all internal financial management programs and reports, all supply and equipment maintenance systems, vehicle fleet management, data and word processing, all procurement of goods and services, grant management, and management of agreements with other agencies.

On average, the Office undergoes an annual financial audit by an independent CPA firm in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year.

The Office has also been audited in FY2014 and FY2016 by the Office of the Inspector General of the Department of the Interior and in FY2017-18 by GAO. These reports have been published by DOI and GAO.

In FY2019, \$1.0M will be transferred to DOI, Office of the Inspector General, to perform program and financial audits of ONHIR prior to turnover of functions from ONHIR to DOI, and/or other identified successor agencies per the FY2019 Appropriations language.

No matters relating to personnel, programs, and operations have been referred to prosecuting authorities. Internal reviews of management controls indicate no weaknesses and no material non-conforming areas in our financial systems. Improvements in management and financial controls, however, are made as the need arises. The Office, therefore, has reasonable assurance that the agency as a whole complies with both the Federal Managers' Fiscal Integrity Act of 1982 and the Inspector General Act of 1988, as amended.

All payroll and employee benefits, as well as administrative costs, are included in the Operations request.

Total Operation of the Office Request	<u>\$3,450,000</u>
---------------------------------------	--------------------

Title of Activity: *Relocation Operations* (Decrease of \$1,750 from Base)

Authorization: P.L. 93-531, 88 Stat. 1712, Sec. 27; 25 U.S.C. 640d

(dollar amounts in thousands)

Program Element	FY2019 Appropriation	FY2018 Carryover	FY2019 Base	FY2020 Request	Change To Base
Relocation Operations	\$750	\$2,000	\$2,750	\$1,000	(\$-1,750)
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, and management of trust properties. The following subactivities provide additional information:

- A. HOUSING: In case there are any certifications of clients in FY2019-FY2020 through the court processes, the Office requests \$700,000, which would cover the cost of 5 houses at \$140,000 each. If legislation were approved, the Office could either build or purchase a home, or issue a payout to the relocatee if there is not enough time for the building of a home before agency closure.

Housing and related costs \$700,000

- B. PADRES MESA DEMONSTRATION RANCH: The Padres Mesa Demonstration Ranch project is a working ranch setup by ONHIR on the New Lands in FY2009, with the main emphasis being the education of relocatees in proper and profitable ranching and cattle-raising techniques. Even though it makes use of federal assets, the ranch is funding itself at this time (the ranch manager's salary is included in the Operations line item), so no funding for its operation is being requested.

Padres Mesa Demonstration Ranch 0

- C. MANAGEMENT OF TRUST PROPERTIES: ONHIR manages certain trust properties on the New Lands, such as the Nahata Dziil Senior Citizen Center, the Fort Defiance Indian Hospital Nahata Dziil Clinic, the Nahata Dziil Chapter building, and an I.H.S. Clinic (which is currently vacant). For these activities, ONHIR requests \$300,000 in FY2020. After the Office closes, this management responsibility and associated funding requirements will be assumed by the successor agency.

Management of Trust Properties \$300,000

The following is a summary of Relocation Operations funds requested for FY2020:

Estimated costs:

Housing & Related Costs	\$ 700,000
Padres Mesa Demonstration Ranch	0
Management of Trust Properties	<u>300,000</u>

Total Relocation Operations Request \$1,000,000

Title of Activity: Incentive Bonus Payment (No change in Base)

Authorization: P.L. 93-531, 88 Stat. 1712, Sec. 27; 25 U.S.C. 640d

(dollar amounts in thousands)

Program Element	FY2019 Appropriation	FY2018 Carryover	FY2019 Base	FY2020 Request	Change To Base
--------------------	-------------------------	---------------------	----------------	-------------------	-------------------

Assistance

Payments	0	0	0	0	0
FTE	(0)		(0)	(0)	(0)

Base Program: The Incentive Bonus Program component provided for the payment of a bonus for clients who volunteered in a timely fashion for relocation. Since all these clients will have moved by FY2020, we do not request any bonus funds.

Total Bonus Request 0

Title of Activity: Discretionary Funds (Decrease of \$9,263 from Base.)

Authorization: P.L. 93-531, 88 Stat. 1712, Sec. 27; 25 U.S.C. 640d.

(dollar amounts in thousands)

Program Element	FY2019 Appropriation	FY2018 Carryover	FY2019 Base	FY2020 Request	Change To Base
--------------------	-------------------------	---------------------	----------------	-------------------	-------------------

Discretionary

Funds	\$4,030	\$8,283	\$12,313	\$3,050	-\$9,263
FTE	(0)	(0)	(0)	(0)	

Base Program: Public Law 96-305 authorized a Discretionary Fund. The purpose of this fund, as defined by Congress, is "...to facilitate and expedite the relocation efforts of the Office."

A. HOUSING INFRASTRUCTURE COST: The expenses of providing individual infrastructure, in addition to the individual housing benefit for 5 relocations, would approximate \$150,000. This figure is based on a projected average cost per house of about \$30,000 to outside contractors.

Housing infrastructure	\$150,000
------------------------	-----------

B. CLOSE-OUT OF AGENCY AND FINAL PROJECTS: With the close-out of the Office, there will be a need for completion of a variety of close-out activities and transfer of responsibilities, such as supporting the APA cases that are still being heard, giving counseling to any newly certified clients, determining if newly certified clients can have a home built for them or receive some sort of buyout, inspecting any such homes being built to be sure the building by the contractor is up to the current Code standards, repaying warranties to contractors for homes that have passed the 2-year limit on warranty complaints, making sure the New Lands infrastructure is functioning properly, enforcing the grazing regulations for the New Lands, and transferring of ONHIR records to NARA. These are just examples of a handful of responsibilities that currently fall upon ONHIR that will need to be transferred. ONHIR requests \$2,900,000 for these activities in FY2020.

Close-Out Projects	\$2,900,000
--------------------	-------------

The summary of Discretionary Funds requested for FY 2020 is as follows:

Housing Infrastructure	\$150,000
Close-Out Projects	<u>2,900,000</u>
Total Discretionary Request	<u>\$3,050,000</u>

RECAP OF BUDGET REQUEST FOR FY 2020:

Operation of the Office	\$3,450,000
Relocation Operations	1,000,000
Incentive Bonuses	0
Discretionary Funds	<u>3,050,000</u>
Total Budget Request for FY 2020	<u>\$7,500,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2018</u> <u>Actual</u>	<u>FY2019</u> <u>Appopr</u>	<u>FY2018</u> <u>Carryover</u>	<u>FY2019</u> <u>Base</u>	<u>FY2020</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	4,401	3,970	4,368	8,338	3,450	-4,888
Relocation Operations (housing, roads, & archaeology)	1,240	750	2,000	2,750	1,000	-1,750
Incentive Bonuses	0	0	0	0	0	0
Discretionary Funds	<u>2,298</u>	<u>4,030</u>	<u>8,283</u>	<u>12,313</u>	<u>3,050</u>	<u>-9,263</u>
TOTAL	<u>7,939</u>	<u>8,750</u>	<u>14,651</u>	<u>23,401</u>	<u>7,500</u>	<u>-15,901</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2019 Apppr	FY2018 Carryover	FY2019 Base	FY2020 Request	Change To Base
11.1 Full-time permanent positions	2,377	2,600	4,977	2,000	-2,977
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	2,377	2,600	4,977	2,000	-2,977
12.1 Personnel benefits: Civilian	594	760	1,354	500	-854
21.0 Travel and transportation of persons	102	112	214	90	-124
22.0 Travel and transportation of things	1	2	3	1	-2
23.0 Rental payments to other, communications utilities, and miscellaneous charges	494	494	988	469	-519
24.0 Printing and reproduction	12	11	23	10	-13
25.0 Other services	330	300	630	320	-310
26.0 Supplies and materials	60	80	140	60	-80
31.0 Equipment	0	9	9	0	-9
32.0 Lands and structures	750	2,000	2,750	1,000	-1,750
41.0 Bonuses	0	0	0	0	0
42.0 Discretionary funding & grants	4,030	8,283	12,313	3,050	-9,263
TOTAL REQUIREMENTS	8,750	14,651	23,401	7,500	-15,901

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Program and Performance

The Office of Navajo and Hopi Indian Relocation was established by Public Law 93-531 to plan and conduct relocation activities associated with the settlement of a land dispute between the Navajo Nation and the Hopi Tribe. The three-member Commission which was appointed in July 1975 submitted a plan for such relocation to the Congress.

Amending legislation, P.L. 96-305, authorized the Office to grant Life Estates to eligible applicants, conduct a program of Discretionary Funding, and engage in land evaluation/analysis for possible acquisition as relocation sites, and provide for its own administrative, fiscal and housekeeping services.

Amending legislation, P.L. 100-666, reorganized the Commission to replace the Board of three Commissioners, appointed by the Secretary of Interior, with a single Commissioner appointed by the President of the United States with the advice and consent of the United States Senate. Additionally, P.L. 100-666 addressed several other policy concepts regarding the allowability of some improvement to properties in the 1934 Dispute Area, clarified the authority of the Commissioner for final planning authority on the New Lands, addressed certain legal expenditures for tribal expenses related to the relocation dispute, and other miscellaneous housekeeping issues. P.L. 100-666 also increased the Office's annual housing authority from \$15,000,000 to \$30,000,000, increased the total amount of money available for incentive payments to \$13,500,000, and provided an additional authority for the expenditure of Discretionary Funds which requires no match from outside sources when such expenditures are directly in the interest of the relocatees and in support of provision of infrastructure and related facilities to relocatees.

Amending legislation, P.L. 102-180, extended the authorization of housing appropriations through FY1995, and clarified the status of the employees, most of whom were reclassified to Competitive Service.

Amending legislation, P.L. 104-15, extended the authorization of housing appropriations through FY1997.

Amending legislation, P.L. 104-301, extended the authorization of housing appropriations through FY2000.

Amending legislation, P.L. 108-204, extended the authorization of housing appropriations through FY2008.

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FEDERAL FUNDS

General and Special Funds:

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531. (\$8,750,000) \$7,500,000 for operating expenses of the Office.

Program and Financing
(in thousands of dollars)

Identification Code 435-00-1100-0	FY2018 Actual	FY2019 Appropriation	FY2020 Estimate
Obligation by Program Activity:			
Operation of the office	4,401	3,970	3,450
Relocation payments (housing)	1,240	750	1,000
Incentive bonus payments	0	0	0
Discretionary fund payments	2,298	4,030	3,050
Total obligations	7,939	8,750	7,500
Financing:			
New budget authority, net	15,431	8,750	7,500
Recovery of prior year obligations	68	100	100
Unobligated balance, start of year	7,091	14,651	14,750
Unobligated balance, end of year	-14,651	-14,751	-14,850
	7,939	8,750	7,500
Appropriation, net	15,431	8,750	7,500
Transfer from other accounts			
Appropriation (adjusted)	15,431	8,750	7,500
Relation of obligations to outlays:			
Obligations incurred, net	7,939	8,750	7,500
Obligated balance, start of year	2,532	1,674	1,591
Obligated balance, end of year	-1,674	-1,591	-1,501
Recoveries of prior year obligations	-68	-100	-100
Accounts payable, start of year	272	267	250
Accounts payable, end of year	-267	-250	-240
Outlays	8,734	8,750	7,500

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 435-00-1100-0	FY2018 Actual	FY2019 Appropri	FY2020 Est.
11.0 Personnel Compensation:			
11.1 Full-time permanent	2,520	2,377	2,000
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	2,520	2,377	2,000
12.1 Personnel benefits: Civilian	730	594	500
21.0 Travel and transportation	112	102	90
22.0 Transportation of things	2	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	453	494	469
24.0 Printing and reproduction	1	12	10
25.0 Other services	501	330	320
26.0 Supplies and materials	82	60	60
31.0 Equipment	0	0	0
32.0 Lands and structures	1,241	750	1,000
41.0 Bonuses	0	0	0
42.0 Grants	2,297	4,030	3,050
99.9 Total Obligations	7,939	8,750	7,500
Personnel Summary:			
Total number of full-time permanent positions allowed	27	27	27
Total compensable workyears: Full-time equivalent employment	27	27	27

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2018 BY GRADE LEVEL

ES	1
GS15	2
GM14	1
GS14	3
GS13	3
GS12	1
GS11	2
GS9	4
GS8	1
GS7	3
GS5	1
WS	2
WG	<u>3</u>
Total	<u><u>27</u></u>
Projection-FY2019	<u><u>27</u></u>
Projection-FY2020	<u><u>27</u></u> *

* If/when the New Lands program is transferred to BIA, the estimate of total employees left is 19.