

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2021

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), PL 93-531. 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 issuing leases and grazing permits. 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) 2021 Request

The FY2021 budget request for ONHIR is \$4,000,000. 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	\$2,850
• Relocation Operations	850
• Incentive Bonuses	0
• Discretionary Funds	<u>300</u>
 Total Budget Request	 <u>\$4,000</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 3,841 families who have been certified as eligible for Relocation Benefits as of December 31, 2019. Of this amount, 3,706 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 family to relocate. Of the current balance of 6 families, 3 have already signed relocation contracts. We are planning to sign the remaining 3 relocatees to contracts during FY 2020-FY2021.

For FY2021, the Office is requesting \$4 million, which would allow moving 6 additional families that might be certified during FY2020-2021, 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. There are currently 4 pending Administrative Procedure Act (APA) appeals to the Federal District Court that have been brought by the Navajo Nation. There are 2 pending cases in the Court of Appeals for the 9th Circuit. 3 cases were remanded by the Federal District Court back to ONHIR. These have been delegated by the Executive Director to the Hearing Officer for him to review and decide upon. 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 19, a reduction from FY2020 and enough to complete the tasks.

Efforts Toward 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 maintenance 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.

Activity: Operation of the Office

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. NEW LANDS

This branch acts as the Federal Land Manager for the lands acquired pursuant to the Navajo-Hopi Settlement Act, as amended, and is responsible for the management and coordination of the New Lands reservation while providing the technical analysis attendant to the usage of these lands. The New Lands Branch supports the range management programs, provides technical assistance to relocatees with New Lands Grazing Permits, and aids in the formulation and enforcement of the range unit management plans.

F. RELOCATIONS OPERATIONS

This area oversees the actual relocation of clients as well as all client support service, such as homeowner 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.

G. 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.

From FY1996-FY2017, the Office has undergone annual financial audits 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 of those years.

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.

Pursuant to the Consolidated Appropriations Act, 2019 (P.L. 116-6), ONHIR transferred \$1million in FY2019 to DOI's Office of the Inspector General to conduct a programmatic and financial audit of ONHIR to inform the closure planning process.

Of the \$4 million requested for FY2021, \$2.85 million is requested for ONHIR operations. All payroll and employee benefits, as well as administrative costs, are included in the Operations request.

Total FY2021 Operation of the Office Request \$2,850,000

Activity: Relocation Operations

Relocation Operations encompasses several components: relocation payments for housing, range management, and management of trust properties. The following sub-activities provide additional information:

- A. HOUSING: In case there are any certifications of clients in FY2020-FY2021 through the court processes, the Office requests \$850,000, which would cover the cost of 6 houses at \$140,000 each.

Housing and related costs	\$850,000
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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 will use carryover funds as necessary. After the Office closes, this management responsibility and associated funding requirements will be assumed by the successor agency.

Management of Trust Properties 0

The following is a summary of Relocation Operations funds requested for FY2021:

Estimated costs:

Housing & Related Costs	\$ 850,000
Padres Mesa Demonstration Ranch	0
Management of Trust Properties	<u>0</u>

Total FY2021 Relocation Operations Request \$850,000

Activity: Incentive Bonus Payment

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 have been moved, we do not request any bonus funds.

Total FY2021 Bonus Request 0

Activity: Discretionary Funds

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 6 relocations, would approximate \$180,000. This figure is based on a projected average cost per house of about \$30,000 to outside contractors.

Housing infrastructure	\$180,000
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B. CLOSE-OUT OF AGENCY AND FINAL PROJECTS: In order to support the ultimate closure of ONHIR, there will be a need for completion of a variety of close-out activities and transfer of responsibilities, such as supporting the Administrative Procedures Acts 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, 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 the National Archives & Records Administration. These are just examples of a handful of responsibilities that currently fall upon ONHIR that will need to be transferred. ONHIR requests \$120,000 for these activities in FY2021. Any costs exceeding this amount would come from carryover funds.

Close-Out Projects	\$120,000
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The summary of Discretionary Funds requested for FY 2021 is as follows:

Housing Infrastructure	\$180,000
Close-Out Projects	<u>120,000</u>
Total FY 2021 Discretionary Request	<u>\$300,000</u>

RECAP OF BUDGET REQUEST FOR FY 2021:

Operation of the Office	\$2,850,000
Relocation Operations	850,000
Incentive Bonuses	0
Discretionary Funds	<u>300,000</u>
Total Budget Request for FY 2021	<u>\$4,000,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2019</u> <u>Actual</u>	<u>FY2020</u> <u>Appropriations</u>	<u>FY2019</u> <u>Carryover</u>	<u>FY2020</u> <u>Available</u>	<u>FY2021</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	4,110	3,450	4,249	7,699	2,850	-4,849
Relocation Operations (housing, roads, & archaeology)	882	1,000	1,873	2,873	850	-2,023
Incentive Bonuses	0	0	0	0	0	0
Discretionary Funds	198	3,050	11,138	14,188	300	-13,888
TOTAL	<u>5,190</u>	<u>7,500</u>	<u>17,260</u>	<u>24,760</u>	<u>4,000</u>	<u>-20,760</u>

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SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2020 Appropriation	FY2019 Carryover	FY2020 Available	FY2021 Request	Change To Base
11.1 Full-time permanent positions	2,000	2,561	4,561	1,715	-2,846
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	2,000	2,561	4,561	1,715	-2,846
12.1 Personnel benefits: Civilian	500	648	1,148	428	-720
21.0 Travel and transportation of persons	90	119	209	70	-139
22.0 Travel and transportation of things	1	2	3	1	-2
23.0 Rental payments to other, communications utilities, and miscellaneous charges	469	576	1,045	413	-632
24.0 Printing and reproduction	10	23	33	0	-33
25.0 Other services	320	204	524	189	-335
26.0 Supplies and materials	60	111	171	34	-137
31.0 Equipment	0	5	5	0	-5
32.0 Lands and structures	1,000	1,873	2,873	850	-2,023
41.0 Bonuses	0	0	0	0	0
42.0 Discretionary funding & grants	3,050	11,138	14,188	300	-13,888
TOTAL REQUIREMENTS	7,500	17,260	24,760	4,000	-20,760

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

APPROPRIATIONS LANGUAGE

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, \$4,000,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*; That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*; That no relocate will be provided with more than one new or replacement home: *Provided further*; That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to section 11 of Public Law 93-531 (88 Stat.1716).

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 435-00-1100-0	FY2019 Actual	FY2020 Appropri	FY2021 Est.
11.0 Personnel Compensation:			
11.1 Full-time permanent	2,416	2,000	1,715
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	2,416	2,000	1,715
12.1 Personnel benefits: Civilian	706	500	428
21.0 Travel and transportation	96	90	70
22.0 Transportation of things	1	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	416	469	413
24.0 Printing and reproduction	1	10	0
25.0 Other services	431	320	189
26.0 Supplies and materials	39	60	34
31.0 Equipment	4	0	0
32.0 Lands and structures	882	1,000	850
41.0 Bonuses	0	0	0
42.0 Grants	198	3,050	300
99.9 Total Obligations	<u>5,190</u>	<u>7,500</u>	<u>4,000</u>
Personnel Summary:			
Total number of full-time permanent positions allowed	27	19	19
Total compensable workyears: Full-time equivalent employment	27	19	19

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2019 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-FY2020	<u><u>19</u></u>
Projection-FY2021	<u><u>19</u></u>