

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2024

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.

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 on fences and wells, 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) 2024 Request

The FY2024 budget request for ONHIR is \$5,024,000. 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	\$3,894
• Relocation Operations	930
• Discretionary Funds	<u>200</u>
Total Budget Request	<u>\$5,024</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 3,844 families who have been certified as eligible for Relocation Benefits as of January 31, 2023. Of this amount, 3,710 families have been moved and 127 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. We hope to sign the remaining balance of 7 relocatees to contracts during FY 2023-FY2024.

For FY2024, the Office is requesting \$5.024 million, which would allow moving 4 additional families that might be certified during FY2023-2024, depending on the outcome of various appeals, as well as completing other projects deemed necessary. Based on the fact that there have only been 14 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 11 pending Administrative Procedure Act (APA) appeals to the Federal District Court that have been brought by the Navajo Nation. Six cases have been remanded by the Federal District Court back to ONHIR and these have been delegated by the Executive Director to the Hearing Officer for his review and decision. There are now six APA appeals pending in the Court of Appeals for the Ninth Circuit. There are about 50 denied cases that are within the 6-year federal statute of limitations. 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.

In addition to these court cases, there is one case in the Court of Federal Claims brought by the Navajo Nation against the U.S. Government, with a \$40,000,000 claim which is still pending. The Declaratory and Injunctive Relief Case in the District Court of Arizona brought by the Navajo Nation v. ONHIR and DOI had all claims against DOI dismissed and three of the four claims against ONHIR dismissed through an order on September 29, 2022. The remaining claim is still pending in the Court system.

Efforts Toward Closeout of the Office: ONHIR will continue with our tribal consultation policy of carrying on meaningful dialogues with both the Navajo Nation and the Hopi Tribe as a regular part of our daily business. We are always available to consult with them on policy and programs. We have formed meaningful relationships with them as well as DOI and other stakeholders, and currently our discussions also involve the closeout of the Office, since the Office has largely completed its mission. The current FTE level is 18 and is enough to complete the tasks prior to closeout.

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. DOI in Denver is already performing our accounting functions since 10/1/2022. This is working well and will ease the transition of the Office.

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. The Office is aware of offering equal opportunities to all persons, even though we have not had any new hires since 2009 and do not foresee any such activity in the future.

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. NEWLANDS

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 ensure 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.

Per Federal Information Security Management Act (FISMA) requirements, the Office has invested in additional software and contract help to assist in reducing cybersecurity risks. During FY2023-2024, the Office is dedicating more resources for cybersecurity to adopt zero trust policies and meet the requirements of the SECURE Technology Act of 12/21/18, as well as OMB Policies M-21-30, M-21-31, M-22-01, M-22-16, and Executive Order 14028 "Improving the Nation's Cybersecurity^t.,

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 was 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 aid in the closure planning process. The programmatic audit has concluded, and the DOI report has been

issued as of the end of February 2023. The financial audit was stopped in 2020 when the auditors selected did not feel they could audit the financial statements of ONHIR as they were prepared using the old format approved by Treasury. The Department of Interior, Interior Business Center, was then put under contract by ONHIR to take over the accounting records and bring the new statements in line with the current Treasury recommendations.

Of the \$5.024 million requested for FY2024, \$3.894 million is requested for ONHIR operations. All payroll and employee benefits, as well as administrative costs, are included in the Operations request. The increase over the request in FY2023 is due to several items: new cybersecurity contracts to keep ONHIR current with FISMA and the new Executive Order requirements; additional legal help required to handle the various court cases; new accounting costs to DOI to prepare financial records; and about a 5% increase in salaries starting in 2023.

Total FY2024 Operation of the Office Request \$3,894,000

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: To process any clients that are ready to start their home acquisition during FY2024, the Office requests \$700,000, which would cover the cost of 4 houses at \$175,000 each.

Housing and related costs	\$700,000
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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
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- C. RANGE IMPROVEMENTS: These activities include fence, corral, well, and windmill maintenance on the New Lands. The Office is requesting \$230,000 for activities in this category. The Office has increased our request over FY2023 as material costs for doing

the required maintenance on the range infrastructure has greatly increased. If projects exceed this estimate, carryover funds will be used.

Range Improvements	\$230,000
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D. 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 for all costs other than payroll. After the Office closes, this management responsibility and associated funding requirements will be assumed by the successor agency.

Management of Trust Properties	0
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The following is a summary of Relocation Operations funds requested for FY2024:

Estimated costs:

Housing & Related Costs	\$ 700,000
Padres Mesa Demonstration Ranch	0
Range Improvements	230,000
Management of Trust Properties	Q

Total FY2024 Relocation Operations Request	<u>\$930,000</u>
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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 4 relocations, would approximate \$200,000. This figure is based on an increase in the projected average cost per house of about \$15,000 moving the total average cost up to \$50,000 per house. These costs are paid to outside contractors building our relocation houses.

Housing infrastructure	\$200,000
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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 warranty holdbacks 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. Any costs for these activities in FY2024 would come from carryover funds.

Close-Out Projects	0
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The summary of Discretionary Funds requested for FY 2024 is as follows:

Housing Infrastructure	\$200,000
Close-Out Projects	Q
Total FY 2024 Discretionary Request	<u>\$200,000</u>

RECAP OF BUDGET REQUEST FOR FY 2024:

Operation of the Office	\$3,894,000
Relocation Operations	930,000
Discretionary Funds	<u>200,000</u>
Total Budget Request for FY 2024	<u>\$5,024,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2022 Actual</u>	<u>FY2022 Enacted</u>	<u>FY2023 Carry over</u>	<u>FY2023 Available</u>	<u>FY2024 Estimate</u>	<u>Change To Base</u>
Operation of the Office	4,978	0	1,106	1,106	3,894	2,788
Relocation Operations (housing, roads, & archaeology)	525	0	2,039	2,039	930	-1,109
Discretionary Funds	0	0	12,354	12,354	200	-12,154
TOTAL	<u>5,503</u>	<u>0</u>	<u>15,499</u>	<u>15,499</u>	<u>5,024</u>	<u>-10,175</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2022 Enacted	FY2022 Carryover	FY2023 Available	FY2024 Request	Change To Base
11.1 Full-time permanent positions	0	500	500	1,790	1,290
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	0	500	500	1,790	1,290
12.1 Personnel benefits: Civilian	0	156	156	447	291
21.0 Travel and transportation of persons	0	74	74	117	43
22.0 Travel and transportation of things	0	4	4	2	-2
23.0 Rental payments to other, communications utilities, and miscellaneous charges	0	29	29	534	505
24.0 Printing and reproduction	0	27	27	4	-23
25.0 Other services	0	268	268	896	628
26.0 Supplies and materials	0	40	40	104	64
31.0 Equipment	0	8	8	0	-8
32.0 Lands and structures	0	2,039	2,039	930	-1,109
42.0 Discretionary funding & grants	0	12,354	12,354	200	-12,154
TOTAL REQUIREMENTS	0	15,499	15,499	5,024	-10,475

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 435-1100-000	FY2022 Actual	FY2023 Enacted	FY2024 Request
11.0 Personnel Compensation:			
11.1 Full-time permanent	1,746	0	1,790
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	1,746	0	1,790
12.1 Personnel benefits: Civilian	595	0	447
21.0 Travel and transportation	74	0	117
22.0 Transportation of things	1	0	2
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	498	0	534
24.0 Printing and reproduction	5	0	4
25.0 Other services	1,926	0	896
26.0 Supplies and materials	133	0	104
31.0 Equipment	0	0	0
32.0 Lands and structures	525	0	930
42.0 Grants	0	0	200
99.9 Total Obligations	5,503	0	5,024
Personnel Summary:			
Total number offull-time permanent positions allowed	18	18	18
Total compensable workyears: Full-time equivalent employment	18	18	18

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. (-0-) \$5,024,000 for operating expenses of the Office.

Program and Financing
(in thousands of dollars)

Identification Code 435-11 0Q-000	FY2022 Actual	FY2023 Estimate	FY2024 Estimate
Obligation by Program Activity:			
Operation of the office	4,978	3,060	3,894
Relocation payments (housing)	525	800	930
Discretionary fund payments	0	140	200
Total obligations	5,503	4,000	5,024
Financing:			
New budget authority, net	0	0	5,024
Recovery of prior year obligations	25	100	100
Unobligated balance, start of year	19,806	15,499	11,000
Unobligated balance, end of year	-15,499	-11,599	11,100
	4,332	4,000	5,024
Appropriation, net	0	0	5,024
Transfer from other accounts			
Appropriation (adjusted)	0	0	5,024
Relation of obligations to outlays:			
Obligations incurred, net	5,503	4,000	5,024
Obligated balance, start of year	1,287	538	438
Obligated balance, end of year	-538	-438	-338
Recoveries of prior year obligations	-918	-100	-100
Accounts payable, start of year	252	268	268
Accounts payable, end of year	-268	-268	-268
Outlays	5,318	4,000	5,024

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2021 BY GRADE LEVEL

ES	1
GS15	1
GS14	4
GS13	1
GS12	2
GS9	4
GSS	1
GS7	2
WG	<u>2</u>
Total	<u><u>18</u></u>
Projection-FY2023	<u><u>18</u></u>
Projection-FY2024	<u><u>18</u></u>