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Freedom of Information/Privacy Act Officer
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From: Scott
Date: Nov 8, 2013 10:54:57 AM
Subject: ONHIR FOIA Request

Attached please find electronic copies of the ONHIR budget requests for years 2008-2013 as requested. Regarding your request for a copy of the internal memo describing the status of the pending group of administrative appeals at ONHIR, I'm not sure which document you are referring to. Do you have a specific memo that you know of or can you provide additional information regarding this? Let me know please.

Scott Kuhr
FOIA Officer

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2008

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2008 is \$9,000,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

- Operation of the Office	\$5,256
a. Office of the Commissioner	
b. Executive Direction	
c. Administration	
- Relocation Payments (Housing)	4,920
- Incentive Bonus Payments	66
- Discretionary Funds (Individual Infrastructure)	<u>758</u>
	11,000
- Carryover to be used in FY2008	<u>-2,000</u>
Total Budget Request	<u>9,000</u>

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, the Office will continue efforts towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Mission Statement: The mission of the Office of Navajo and Hopi Indian Relocation is to provide quality services to eligible households and others impacted by the Relocation Act, in such a way that our clients have the opportunity to re-establish their lives in a positive and productive manner.

Long-Range Goal: The Office is seeking an equitable resolution of a one-hundred-year-old land dispute between the Navajo and Hopi Tribes regarding that area of land in Northern Arizona known as the former Joint Use Area. The long-range goal of the Office is to assure that all relocation-resettlement activities conducted by the Office are consistent with the intent of Congress and the Executive Branch as expressed by PL 93-531, and the Navajo and Hopi Indian Relocation Amendments Act.

Rationale for Federal Role: The rationale for the Federal role in this dispute is inescapable. The lands in question are Federal Indian Trust lands and no other political entity has the authority to impact activities on these lands. While there are other public and private groups with an interest in resolving the problem, there are no other groups with the authority to do so. Congressional actions have repeatedly affirmed the commitment of the Federal Government to handle this issue via the neutrality of ONHIR.

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is total relocation population of 3,638 families. Of this amount, 3,436 families have been moved as of the end of FY2006, 126 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs, and 76 certified heads of household remain to be relocated.

- A total of 3,326 Navajo families have relocated from the Hopi Partitioned Lands, 2,251 to on-reservation homesites and 1,159 to off-reservation. 74 Navajo families remain to be relocated, 8 residing on the HPL and 66 residing elsewhere.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. No Hopi families remain to be relocated.
- A total of 84 Navajo families, who were forced to move from District Six as a consequence of the decision in U.S. vs. Kabinto, have received relocation benefits. 2 District Six families remain to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of the end of FY2006:

Certified Eligible	3,638	
Closed, not Relocated	-126	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,436</u>	
Relocation in Progress	<u>76</u>	

Homes Being Built	17	Includes one full-time residents of the HPL.
Seeking Homes	24	Includes 1 full-time resident of the HPL.
Remaining	<u>35</u>	Includes 7 full-time residents of the HPL.
Total to be relocated	<u>76</u>	

As of the end of FY2006, there are 195 pending appeals of the total of 1,246 denied cases. If any of these denials is reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,638.

Performance Plan: Of the 76 remaining families, 17 of these signed contracts in FY2006 with their homes currently under construction. There will be budgetary funds for only 25 family moves in FY2007, and again the budgetary constraints will allow only 21 families to move during FY2008. The balance of families pending relocation now, as well as any families who receive certification via the appeal process, will be moved after FY2008 based on funding availabilities. If any of the currently certified clients do not take the necessary actions required by the Office to move their case along, their cases will be closed. Over the years, the Office has allowed some clients to be inactive because there has always been a sufficient number of clients ready to move. The Office has now given all clients time frames in which to perform activities needed to move their cases along, such as turning in birth certificates and certificates of Indian Blood, turning in prior years tax returns to determine ability to move off reservation, searching for a site to build their home on the reservation, obtaining a homesite lease from the appropriate chapter to which they want to move, searching for a contractor, etc. The Office has always extended a great deal of help to these clients in all these various categories, but now our relocation specialists have been instructed to help these clients in any way they can in order to facilitate their moves. With all the extra efforts being extended, if a client now does not perform the necessary tasks, that case will be closed. If this client comes in after the case has been closed, has performed the previously required activities, and there is still time to relocate them before the Office closes, the client will have their case reopened and will be moved.

There are three other categories of people that the Office is dealing with prior to shutdown. All these categories involve people who have missed administrative deadlines in the past, possibly due to cultural and language differences. The Federal Courts have held that, as a consequence of the general trust relationship with Native Americans, the Federal Government is held to a higher standard of conduct in keeping with its moral obligations. The Office has therefore reopened some of these areas that have been administratively closed in the past.

The first two categories of potential relocatees have been the subject of negotiations between the Office and the Navajo Hopi Legal Services (NHLS). A few years ago, the NHLS had opened litigation against the Office regarding late applicants and late appeals. The Office felt the possibility

of losing the class-action suits was real, and has thus worked out a compromise with NHLS to deal with these two groups in the proposed manner.

1. *Late Applicants.* Based on instructions from Congress, the Office closed the relocation application process on July 7, 1985. The Navajo Nation filed for injunctive relief, and an agreement between the Navajo Nation and ONHIR was reached that stipulated the final date for accepting relocation applications would move to 7/7/86. In 1997, with the approval of the Accommodation Agreement (AA), ONHIR instituted a final outreach, which, in accordance with both law and regulations, required ONHIR to make contact with all HPL residents, determine if they were eligible for relocation benefits, and make a final offer to relocate them before these residents became subject to eviction. The Office was faced with the dilemma of having a voluntary application deadline established by Congress and the Courts, and conversely needing to establish the eligibility of the above-mentioned individuals, even if they had not applied for benefits. Subsequently, NHLS asserted that regardless of why we let people apply late for benefits, we had to allow anyone who had missed the application deadline to apply or we would be employing unequal treatment. The Office realized that we would not prevail when NHLS brought this to court, so in the interest of finding a fair solution for both the government and the clients, the Office reached an agreement with NHLS that would set stringent rules on who would be allowed to apply for relocation benefits.

From the application deadline until 2000 (the final date allowing relinquishment of the AA by Navajo signers), a list was maintained by ONHIR of people who had already moved off the HPL by 7/7/86, had failed to apply in a timely fashion for relocation benefits, but were still seeking an opportunity to do so. In FY2005, this list of about 500 names was reviewed. Out of 500 names, 296 names met the stringent requirements to be able to apply, and were sent letters asking them to come in and prove their case for obtaining relocation benefits. Out of 296 so notified, 198 actually completed applications and 8 were certified. 190 appeals were denied by the Office, and NHLS has filed a timely blanket appeal on behalf of all of these cases. These hearings are currently under way, and we expect less than 15 applicants will be certified.

2. *Late Appeals.* Approximately 250 families that were originally denied benefits by the Office failed to make a timely appeal of this denial, and thus had their appeal rejected. Once a person has been denied, they are given 60 days to appeal the decision. If they appeal, a hearing with an outside Hearing Officer will be held whereby this person can present their case for certification. If they are denied certification by the Hearing Officer, they can then submit arguments to the Executive Director of ONHIR. If the Executive Director upholds the denial, their case can then be appealed to the federal court within six years. The NHLS has about 50 applicants who appear to have good cause for not making a timely appeal (poor proficiency in English, not personally receiving the Notice of Denial from ONHIR, etc). These applicants will be allowed to explain why they did not make an appeal, and if their excuses are determined to be reasonable, the applicants will then be allowed to have their appeal heard by the Hearing Officer. There is no deadline for when these appeals must be made, other than the closing date of the Office. It is anticipated that no more than 20 of these cases will be reversed and thus certified by the Hearing Officer.

3. *AA Signers Who Wish To Relinquish.* There were 250 signers of the Accommodation Agreement (AA) with the Hopi Tribe. This agreement allowed these Navajo families to stay on the Hopi Partitioned Lands (HPL) and required their adherence to Hopi laws, all in exchange for a cash settlement from the federal government to the Hopis. The Department of Justice (DOJ) brokered this agreement and used eligibility requirements that differed from ONHIR, even though the Office offered to have our list of certified clients be the starting point for this pact. ONHIR believes that some of the signers of this agreement should not have been allowed to sign: some had been denied certification by ONHIR, some had already received their benefits and relocated—and then returned to the HPL, some had not made a timely application to ONHIR for benefits, some had been denied by ONHIR and then had not made a timely appeal of this denial.

Each signer of the AA had three years from their signing date to relinquish, or opt out of this agreement. During the three years after the AA was signed by the last person, several families have relinquished and received the benefits that were due them under the ONHIR relocation program. The Office currently has a list of AA signers who missed this three-year time period and have now decided they want to relinquish their signing of the agreement and be relocated by ONHIR. If the Office allows these relinquishments, we estimate that as many as 125 signers may wish to have their cases reopened. In the case of individuals that are not on the ONHIR eligibility list, they will have a certification hearing. Of these cases opened, there may be as many as 75 clients added to our roles. (There could be some overlap of these individuals from categories 1 and 2 above.)

The rationale for allowing the relinquishment by the AA signers is that ONHIR's reason for existence has been to solve the relocation problems for every family residing on the Joint Use Area that was living on the portion of the lands that were allocated to the tribe of which they were not a member. At this point, there are seven Navajo families still living on the Hopi Partitioned Lands who did not elect to sign the AA, and who do not wish to relocate. These families were served notices to vacate by ONHIR several years ago, with the enforcement to be handled by DOJ. Since ONHIR was established as a voluntary relocation agency, DOJ would have to handle the actual removal. Discussions between ONHIR, the Hopi Tribe, and DOJ have revealed that DOJ does not intend to evict any of these families. ONHIR has proposed allowing a time period for the AA signers who missed the deadline for relinquishment to reconsider and accept their benefits. In exchange for this action which would return more land to the Hopi Tribe, the Tribe would allow these remaining seven Navajo families living on the HPL to exist as autonomous families thereon, and agree that they would not bring a quiet title action in the federal courts. This agreement is nearing completion.

To recap the above, the Office will move the 17 clients who had signed housing contracts in FY2006 by 9/30/07. In addition, the Office should have funds available in FY2007 to move 25 of the currently certified families. For the FY2008 budget, the Office estimates relocating 21 families based on the budget allowed by OMB. Any remaining families that are currently certified, as well as any families that are certified from these three categories, will be moved in future years. The current Office FTE should be able to handle this influx of clients, primarily because these individuals

will be ready and motivated to move, and will have done some of the necessary required preparations already .

The use of the New Lands area is very important to the successful completion of the program. To date, 399 families have chosen to move to the New Lands. Current planning indicates that the New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move the majority of clients remaining who are culturally and economically dependent on livestock.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, that may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients will not be possible in FY2008 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete. Clients in the three categories of late certifications listed above will be put on a fast-track system for obtaining homesite leases if necessary.

Those who can afford the cost of living will be allowed to move off-reservation. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$730 from Base).

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

(dollar amounts in thousands)

Program Element	FY2007 Request	FY2006 Carryover	FY2007 Base	FY2008 Estimate	Change To Base
Operation of the Office	\$5,100	\$ 886	\$ 5,986	\$5,256	-\$730
FTE	(46)		(46)	(46)	(-0-)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation can be broken down into two program areas:

- A. Executive Direction: New Lands Management & Coordination, Legal & Human Resources.
- B. Operations & Administration: Relocation Operations & Administrative Coordination

A. Executive Direction: This branch oversees all of the Office's operational and administrative programs, the coordination of legal services, the implementation of Office policy, and the development and implementation of program initiatives. Under this branch, the legal and human resources department handles all certification appeals, all personnel matters, client conservatorship cases, New Lands leases, all operational and procedural interpretation of regulations, and archiving of records.

New Lands management and coordination is also under this department and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Range improvement and management is part of the department and includes negotiations with current permit or lease holders, analyses of needs to improve the range capabilities, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

B. Operations & Administration: This branch oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic and social status of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation process. This department also provides for a full range of real estate acquisition activities and includes new construction contracting, acquisition of new and resale dwellings, and monitoring of any necessary warranty or housing repair programs. 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.

All necessary administrative and financial management services are provided to the agency within this branch. This includes the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, personnel services, vehicle fleet management, data and word processing, and all procurement services including contracting for services, grant management, and managing agreements with other agencies.

For the past eleven years, the Office has been audited by an independent CPA firm who have performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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.

Title of Activity: *Relocation Operations* (Decrease of \$3,983 from Base)

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

(dollar amounts in thousands)

Program Element	FY2007 Request	FY2006 Carryover	FY2007 Base	FY2008 Estimate	Change To Base
Relocation Operations	\$ -0-	\$6,903	\$ 6,903	\$2,920	-\$ 3,983
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and programs on the New Lands. In FY2008, the requested funds would underwrite the cost of relocating a maximum of 21 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 21 moves at an average of \$121,500 each, totaling \$2,551,500. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs

\$2,551,500

Range Management:

The funds requested by the Office under this category will primarily be used towards fence and corral building and maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands. In addition, the Navajo Nation will be funded for a ranger position which will enforce ONHIR and Navajo Nation regulations on the New Lands. The funds necessary for these categories are \$1,037,500.

Range improvements

\$957,500

Ranger

80,000

\$1,037,500

Homesite Leases:

For many years, the Office has funded a portion of the Office of Navajo Land Administration within the Navajo Nation for the express purpose of processing homesite lease requests in an expeditious manner for relocatees moving to the Navajo reservation. This processing by the ONLA office reduces the lengthy homesite lease approval process from the normal time length of two to six years, to approximately one year. To fund this process in FY2008, the Office is requesting funds of \$200,000.

Homesite leases

\$200,000

Archaeology:

In FY2000, the Office determined that it was in the best interest of our clients to deal directly with any archaeological clearances, rather than going through the Navajo Nation and the State of Arizona Historic Preservation Office. On the New Lands, there will be 3 sections of land and 20 miles of range fencing that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. On the big reservation, approximately 20 homesites will need to be surveyed by contract archaeologists. We estimate needing \$220,000 for these various contracts in FY2008.

Small archaeological contracts

\$220,000

Programs on the New Lands:

The Office has contracted with various non-profit organizations and the Navajo Nation to provide a holistic approach to the management of the grazing areas on the New Lands, to provide wildlife

management projects, and woodlands improvement projects. In FY2008, we estimate needing \$215,000 for these various contracts.

Programs on the New lands	\$215,000
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Hopi Property Dismantling:

As Navajos relocate off the Hopi reservation, the Office turns over that particular homesite, with whatever improvements may be existing upon it, to the Hopis. The Hopi Cultural Preservation Office (HCPO) performs archaeological surveys upon the area, and then turns the site over to the Hopi Property Dismantling/Disposal Office (HPD). This group is then charged with cleaning up the site. To complete this dismantling project for all the Navajo sites remaining uncleaned, the Office estimates needing \$460,00 in FY2008.

Hopi Property Dismantling	\$460,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings, landfill usage, additional projects on the Hopi and Navajo reservations, and other assorted small projects. For these various items, the Office requests \$236,000 in FY2008.

Miscellaneous	\$236,000
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The following is a summary of Housing Funds requested for FY2008:

Estimated costs:

Housing & related costs	\$ 2,551,500
Range improvements	1,037,500
Homesite leases	200,000
Archaeology	220,000
Programs on the New Lands	215,000
Hopi dismantling project	460,000
Miscellaneous	<u>236,000</u>
Total needs	\$ 4,920,000
Less Carryover to be used in FY2008	<u>- 2,000,000</u>
Total Housing Request	<u><u>\$2,920,000</u></u>

Title of Activity: *Assistance Payments* (Decrease of \$332 from Base)

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

(dollar amounts in thousands)

Program Element	FY2007 Request	FY2006 Carryover	FY2007 Base	FY2008 Estimate	Change To Base
Assistance Payments	\$ 100	\$298	\$398	\$66	-\$332
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2008, we expect bonus payments for the moves of 21 clients to amount to approximately \$66,000.

\$66,000

Title of Activity: *Discretionary Funds Management* (Decrease of \$682 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2007 Request	FY2006 Carryover	FY2007 Base	FY2008 Estimate	Change To Base
Discretionary Funds	\$740	\$700	\$1,440	\$758	-\$682
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..." The Office anticipates utilizing these funds to underwrite the cost of a broad range of activities designed

to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

During previous years, the Office has coordinated specific group infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects have been directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

At the request level, the expenses of providing individual infrastructure, in addition to the individual housing benefit, for 21 relocations would approximate \$518,000. This is based on the following two items: 1) a projected average client cost of \$17,500 to outside contractors; and 2) the cost of electrical line extensions on the Navajo Nation aggregating \$150,000.

Housing infrastructure	\$518,000
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Land Selection:

The Navajo Nation still has 8,000 acres in Arizona, and 900 acres in New Mexico to select as part of the original legislation governing relocation. This selection process will entail title searches, legal surveys, land studies, legal fees, and appraisals. The funds estimated for this activity in FY2008 are \$150,000

Land Selection	\$150,000
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Nahata Dzill Chapter Grant:

Even though this Chapter has received its self-governance decree from the Navajo Nation, the Office feels the Chapter will need financial assistance from the Office for a few more years. These funds are administered by the Office with close supervision over the budgeting and financial management processes of the Chapter. A strong Chapter organization entices other relocatees to move to the New Lands. The funds requested for this activity in FY2008 are \$30,000.

Chapter Grant	\$ 30,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line-item budgeted, that would

allow the Office the discretion to make decisions on a case-by-case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line-item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$60,000 for small worthwhile projects.

Miscellaneous projects	\$ 60,000
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The summary of Discretionary Funds requested is as follows:

Housing infrastructure	\$518,000
Land selection	150,000
Chapter grant	30,000
Miscellaneous projects	<u>60,000</u>
Total Discretionary Request	<u>\$758,000</u>

RECAP OF BUDGET REQUEST FOR FY2008

Operation of the Office	\$5,256,000
Housing	4,920,000
Bonus	66,000
Discretionary Funds	<u>758,000</u>
Total Needs for FY2008	11,000,000
Carryover to be used in FY2008	<u>-2,000,000</u>
Total Budget Request for FY2008	<u>\$ 9,000,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2006</u> <u>Actual</u>	<u>FY2007</u> <u>Request</u>	<u>FY2006</u> <u>Carryover</u>	<u>FY2007</u> <u>Base</u>	<u>FY2008</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	5,382	5,100	886	5,986	5,256	-730
Relocation Operations (housing, roads, & archaeology)	5,615	0	6,903	6,903	2,920	-3,983
Incentive Bonuses	100	100	298	398	66	-332
Discretionary Funds	1,129	740	700	1,440	758	-682
TOTAL	<u>12,226</u>	<u>5,940</u>	<u>8,787</u>	<u>14,727</u>	<u>9,000</u>	<u>-5,727</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	<u>FY2007 Request</u>	<u>FY2006 Carryover</u>	<u>FY2007 Base</u>	<u>FY2008 Request</u>	<u>Change To Base</u>
11.1 Full-time permanent positions	3,304	347	3,651	3,226	-425
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	3,304	347	3,651	3,226	-425
12.1 Personnel benefits: Civilian	727	99	826	806	-20
21.0 Travel and transportation of persons	213	105	318	228	-90
22.0 Travel and transportation of things	1	3	4	1	-3
23.0 Rental payments to other, communication utilities, and miscellaneous charges	498	80	578	551	-27
24.0 Printing and reproduction	29	11	40	18	-22
25.0 Other services	224	54	278	320	42
26.0 Supplies and materials	99	67	166	96	-70
31.0 Equipment	5	120	125	10	-115
32.0 Lands and structures	0	6,903	6,903	2,920	-3,983
41.0 Bonuses	100	298	398	66	-332
42.0 Grants	740	700	1,440	758	-682
TOTAL REQUIREMENTS	5,940	8,787	14,727	9,000	-5,727

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. The Office is continuing to conduct relocation activities under a single Commissioner.

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 Indian Relocation as authorized by Public Law 93-531. (\$5,940,000) \$9,000,000 for operating expenses of the Office. (Department of the Interior and Related Agencies Appropriations Act, no public bill yet.)

Program and Financing
(in thousands of dollars)

Identification Code 48-1100-0-1-806	FY2006 Actual	FY2007 Estimate	FY2008 Estimate
Obligation by Program Activity:			
Operation of the office	5,382	5,111	5,256
Relocation payments (housing)	5,615	8,062	4,920
Incentive bonus payments	100	83	66
Discretionary fund payments	1,129	744	758
Total obligations	12,226	14,000	11,000
Financing:			
New budget authority, net	8,474	5,940	9,000
Recovery of prior year obligations	442	1,273	1,000
Unobligated balance, start of year	12,097	8,787	2,000
Unobligated balance, end of year	-8,787	-2,000	-1,000
	12,226	14,000	11,000
Appropriation, net	8,474	5,940	9,000
Transfer from other accounts			
Appropriation (adjusted)	8,474	5,940	9,000
Relation of obligations to outlays:			
Obligations incurred, net	12,226	14,000	11,000
Obligated balance, start of year	3,503	3,015	3,834
Obligated balance, end of year	-3,015	-3,834	-5,884
Recoveries of prior year obligations	-442	-1,273	-1,000
Accounts payable, start of year	363	292	200
Accounts payable, end of year	-292	-200	-150
Outlays	12,343	12,000	8,000

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 48-1100-0-1-806	FY2006 Actual	FY2007 Est.	FY2008 Est.
Personnel Compensation:			
11.1 Full-time permanent	3,271	3,161	3,226
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	3,271	3,161	3,226
12.1 Personnel benefits: Civilian	814	790	806
21.0 Travel and transportation	212	215	228
22.0 Transportation of things	1	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	476	513	551
24.0 Printing and reproduction	12	17	18
25.0 Other services	467	308	320
26.0 Supplies and materials	114	96	96
31.0 Equipment	15	10	10
32.0 Lands and structures	5,615	8,062	4,920
41.0 Bonuses	100	83	66
42.0 Grants	1,129	744	758
99.9 Total Obligations	12,226	14,000	11,000
Personnel Summary:			
Total number of full-time permanent positions	46	46	46
Total compensable workyears: Full-time equivalent employment	46	46	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 9/30/2006 BY GRADE LEVEL

ES	2
GM15	1
GM14	1
GS15	1
GS14	1
GS13	2
GS12	6
GS11	7
GS10	1
GS9	5
GS8	1
GS7	7
GS5	3
WS	1
WG	<u>7</u>
Total	<u><u>46</u></u>
Projection-FY2007	46
Projection-FY2008	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2009

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2009 is \$7,530,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

- Operation of the Office	\$5,360
a. Office of the Commissioner	
b. Executive Direction	
c. Administration	
- Relocation Payments (Housing)	4,710
- Incentive Bonus Payments	40
- Discretionary Funds (Individual Infrastructure)	<u>420</u>
	10,530
- Carryover to be used in FY2009	<u>-3,000</u>
Total Budget Request	<u>7,530</u>

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, the Office will continue efforts towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Mission Statement: The mission of the Office of Navajo and Hopi Indian Relocation is to provide quality services to eligible households and others impacted by the Relocation Act, in such a way that our clients have the opportunity to re-establish their lives in a positive and productive manner.

Long-Range Goal: The Office is seeking an equitable resolution of a one-hundred-year-old land dispute between the Navajo and Hopi Tribes regarding that area of land in Northern Arizona known as the former Joint Use Area. The long-range goal of the Office is to assure that all relocation-resettlement activities conducted by the Office are consistent with the intent of Congress and the Executive Branch as expressed by PL 93-531, and the Navajo and Hopi Indian Relocation Amendments Act.

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is a total relocation population of 3,642 families. Of this amount, 3,464 families have been moved as of the end of FY2007, 127 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs, and 51 certified heads of household remain to be relocated.

- A total of 3,353 Navajo families have relocated from the Hopi Partitioned Lands, 2,274 to on-reservation homesites and 1,164 to off-reservation. 49 Navajo families remain to be relocated, 8 residing on the HPL and 41 residing elsewhere.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. No Hopi families remain to be relocated.
- A total of 85 Navajo families, who were forced to move from District Six as a consequence of the decision in U.S. vs. Kabinto, have received relocation benefits. 2 District Six families remain to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of the end of FY2007:

Certified Eligible	3,642	
Closed, not Relocated	-127	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,464</u>	
Relocation in Progress	<u>51</u>	
Homes Being Built	9	Includes no full-time residents of the HPL.
Seeking Homes	19	Includes 1 full-time resident of the HPL.
Remaining	<u>23</u>	Includes 7 full-time residents of the HPL.
Total to be relocated	<u>51</u>	

As of the end of FY2007, there are 163 pending appeals of the total of 1,244 denied cases. If any of these denials is reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,642.

Performance Plan: Of the 51 remaining families, 9 of these signed contracts in FY2007 with their homes currently under construction. There will be budgetary funds for 33 family moves in FY2008 and a request for funds for 20 families to move during FY2009. Any families who receive certification via the appeal process will be moved after FY2009 based on funding availabilities. If any of the currently certified clients do not take the necessary actions required by the Office to move their case along, their cases will be closed. Over the years, the Office has allowed some clients to be inactive because there has always been a sufficient number of clients ready to move. The Office has now given all clients time frames in which to perform activities needed to move their cases along, such as turning in birth certificates and certificates of Indian Blood, turning in prior years tax returns to determine ability to move off reservation, searching for a site to build their home on the reservation, obtaining a homesite lease from the appropriate chapter to which they want to move, searching for a contractor, etc. The Office has always extended a great deal of help to these clients in all these various categories, but now our relocation specialists have been instructed to help these clients in any way they can in order to facilitate their moves. With all the extra efforts being extended, if a client now does not perform the necessary tasks, that case will be closed. If this client comes in after the case has been closed, has performed the previously required activities, and there is still time to relocate them before the Office closes, the client will have their case reopened and will be moved.

There are three other categories of people that the Office is dealing with prior to shutdown. All these categories involve people who have missed administrative deadlines in the past, possibly due to cultural and language differences. The Federal Courts have held that, as a consequence of the general trust relationship with Native Americans, the Federal Government is held to a higher standard of conduct in keeping with its moral obligations. The Office has therefore reopened some of these areas that have been administratively closed in the past.

The first two categories of potential relocatees have been the subject of negotiations between the Office and the Navajo Hopi Legal Services (NHLS). A few years ago, the NHLS had opened litigation against the Office regarding late applicants and late appeals. The Office felt the possibility of losing the class-action suits was real, and has thus worked out a compromise with NHLS to deal with these two groups in the proposed manner.

1. *Late Applicants.* Based on instructions from Congress, the Office closed the relocation application process on July 7, 1985. The Navajo Nation filed for injunctive relief, and an agreement between the Navajo Nation and ONHIR was reached that stipulated the final date for accepting relocation applications would move to 7/7/86. In 1997, with the approval of the Accommodation

Agreement (AA), ONHIR instituted a final outreach, which, in accordance with both law and regulations, required ONHIR to make contact with all HPL residents, determine if they were eligible for relocation benefits, and make a final offer to relocate them before these residents became subject to eviction. The Office was faced with the dilemma of having a voluntary application deadline established by Congress and the Courts, and conversely needing to establish the eligibility of the above-mentioned individuals, even if they had not applied for benefits. Subsequently, NHLS asserted that regardless of why we let people apply late for benefits, we had to allow anyone who had missed the application deadline to apply or we would be employing unequal treatment. The Office realized that we would not prevail when NHLS brought this to court, so in the interest of finding a fair solution for both the government and the clients, the Office reached an agreement with NHLS that would set stringent rules on who would be allowed to apply for relocation benefits.

From the application deadline until 2000 (the final date allowing relinquishment of the AA by Navajo signers), a list was maintained by ONHIR of people who had already moved off the HPL by 7/7/86, had failed to apply in a timely fashion for relocation benefits, but were still seeking an opportunity to do so. In FY2005, this list of about 500 names was reviewed. Out of 500 names, 296 names met the stringent requirements to be able to apply, and were sent letters asking them to come in and prove their case for obtaining relocation benefits. Out of 296 so notified, 198 actually completed applications and 8 were certified. 190 appeals were denied by the Office, and NHLS has filed a timely blanket appeal on behalf of all of these cases. These hearings are currently under way, with 163 appeals remaining. We expect less than 15 applicants will be certified and will be moving after FY2009.

2. *Late Appeals.* Approximately 250 families that were originally denied benefits by the Office failed to make a timely appeal of this denial, and thus had their appeal rejected. Once a person has been denied, they are given 60 days to appeal the decision. If they appeal, a hearing with an outside Hearing Officer will be held whereby this person can present their case for certification. If they are denied certification by the Hearing Officer, they can then submit arguments to the Executive Director of ONHIR. If the Executive Director upholds the denial, their case can then be appealed to the federal court within six years. The NHLS has about 50 applicants who appear to have good cause for not making a timely appeal (poor proficiency in English, not personally receiving the Notice of Denial from ONHIR, etc). These applicants will be allowed to explain why they did not make an appeal, and if their excuses are determined to be reasonable, the applicants will then be allowed to have their appeal heard by the Hearing Officer. There is no deadline for when these appeals must be made, other than the closing date of the Office. It is anticipated that no more than 20 of these cases will be reversed, and thus certified by the Hearing Officer, and will move after FY2009.

3. *AA Signers Who Wish To Relinquish.* There were 250 signers of the Accommodation Agreement (AA) with the Hopi Tribe. This agreement allowed these Navajo families to stay on the Hopi Partitioned Lands (HPL) and required their adherence to Hopi laws, all in exchange for a cash settlement from the federal government to the Hopis. The Department of Justice (DOJ) brokered this agreement and used eligibility requirements that differed from ONHIR, even though the Office

offered to have our list of certified clients be the starting point for this pact. ONHIR believes that some of the signers of this agreement should not have been allowed to sign: some had been denied certification by ONHIR, some had already received their benefits and relocated—and then returned to the HPL, some had not made a timely application to ONHIR for benefits, some had been denied by ONHIR and then had not made a timely appeal of this denial.

Each signer of the AA had three years from their signing date to relinquish, or opt out of this agreement. During the three years after the AA was signed by the last person, several families have relinquished and received the benefits that were due them under the ONHIR relocation program. The Office currently has a list of AA signers who missed this three-year time period and have now decided they want to relinquish their signing of the agreement and be relocated by ONHIR. If the these relinquishments are allowed, we estimate that as many as 125 signers may wish to have their cases reopened. In the case of individuals that are not on the ONHIR eligibility list, they will have a certification hearing. Of these cases opened, there may be as many as 75 clients added to our roles. (There could be some overlap of these individuals from categories 1 and 2 above.)

The rationale for allowing the relinquishment by the AA signers is that ONHIR's reason for existence has been to solve the relocation problems for every family residing on the Joint Use Area that was living on the portion of the lands that were allocated to the tribe of which they were not a member. At this point, there are seven Navajo families still living on the Hopi Partitioned Lands who did not elect to sign the AA, and who do not wish to relocate. These families were served notices to vacate by ONHIR several years ago, with the enforcement to be handled by DOJ. Since ONHIR was established as a voluntary relocation agency, DOJ would have to handle the actual removal. Discussions between ONHIR, the Hopi Tribe, and DOJ have revealed that DOJ does not intend to evict any of these families. ONHIR has proposed allowing a time period for the AA signers who missed the deadline for relinquishment to reconsider and accept their benefits. In exchange for this action which would return more land to the Hopi Tribe, the Tribe would allow these remaining seven Navajo families living on the HPL to exist as autonomous families thereon, and agree that they would not bring a quiet title action in the federal courts. The three parties involved (ONHIR, the Hopi Tribe, and DOJ) are in the process of drafting an agreement that would be acceptable to all three.

To recap the above, the Office has funds available in FY2008 to move 33 of the currently certified families. For the FY2009 budget, the Office estimates relocating 20 families. Any remaining families that are currently certified, as well as any families that are certified from these three categories, will be moved in future years. The current Office FTE should be able to handle these moves adequately. Once all these clients have been moved, the Office will need to remain open for 1-2 years to complete required administrative shutdown functions as well as warranty activities provided for all new homes built in FY2008 and FY2009.

The use of the New Lands area is very important to the successful completion of the program. As of 10/1/08, 404 families have chosen to move to the New Lands. Current planning indicates that the

New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move the majority of clients remaining who are culturally and economically dependent on livestock.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, that may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients will not be possible in FY2009 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete. Clients in the three categories of late certifications listed above will be put on a fast-track system for obtaining homesite leases if necessary.

Those who can afford the cost of living will be allowed to move off-reservation. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$753 from Base).

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

(dollar amounts in thousands)

Program Element	FY2008 Appropriation	FY2007 Carryover	FY2008 Base	FY2009 Estimate	Change To Base
Operation of the Office	\$5,174	\$ 939	\$ 6,113	\$5,360	-\$753
FTE	(46)		(46)	(46)	(-0-)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation can be broken down into two program areas:

- A. Executive Direction: New Lands Management & Coordination, Legal & Human Resources.

B. Operations & Administration: Relocation Operations & Administrative Coordination

A. Executive Direction: This branch oversees all of the Office's operational and administrative programs, the coordination of legal services, the implementation of Office policy, and the development and implementation of program initiatives. Under this branch, the legal and human resources department handles all certification appeals, all personnel matters, client conservatorship cases, New Lands leases, all operational and procedural interpretation of regulations, and archiving of records.

New Lands management and coordination is also under this department and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Range improvement and management is part of the department and includes negotiations with current permit or lease holders, analyses of needs to improve the range capabilities, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

B. Operations & Administration: This branch oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic and social status of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation process. This department also provides for a full range of real estate acquisition activities and includes new construction contracting, acquisition of new and resale dwellings, and monitoring of any necessary warranty or housing repair programs. 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.

All necessary administrative and financial management services are provided to the agency within this branch. This includes the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, personnel services, vehicle fleet management, data and word processing, and all procurement services including contracting for services, grant management, and managing agreements with other agencies.

For the past thirteen years, the Office has been audited by an independent CPA firm who has performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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 1978, as amended in 1988.

Title of Activity: *Relocation Operations* (Decrease of \$7,300 from Base)

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

(dollar amounts in thousands)

Program Element	FY2008 Apprpr	FY2007 Carryover	FY2008 Base	FY2009 Estimate	Change To Base
Relocation Operations FTE	\$2,875 (0)	\$6,135	\$ 9,010 (0)	\$1,710 (0)	-\$ 7,300 (0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and programs on the New Lands. In FY2009, the requested funds would underwrite the cost of relocating a maximum of 20 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 20 moves at an average of \$117,500 each, totaling \$2,350,000. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs	\$2,350,000
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Range Management:

The funds requested by the Office under this category will primarily be used towards fence and corral building and maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands. In addition, the Navajo Nation will be funded for a ranger position which will enforce ONHIR and Navajo Nation regulations on the New Lands. Funds for the Bar T Ranch Management project will help fund the outside management for this working ranch setup by ONHIR on the New Lands. The funds necessary for these categories are \$863,000.

Range improvements	\$728,000
Bar T Ranch management	50,000
Ranger	<u>85,000</u>
	\$863,000

Homesite Leases:

For many years, the Office has funded a portion of the Office of Navajo Land Administration within the Navajo Nation for the express purpose of processing homesite lease requests in an expeditious manner for relocatees moving to the Navajo reservation. This processing by the ONLA office reduces the lengthy homesite lease approval process from the normal time length of two to six years, to approximately one year. To fund this process in FY2009, the Office is requesting funds of \$225,000.

Homesite leases	\$225,000
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Archaeology:

In FY2000, the Office determined that it was in the best interest of our clients to deal directly with any archaeological clearances, rather than going through the Navajo Nation and the State of Arizona Historic Preservation Office. On the New Lands, there will be 20 miles of range fencing that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. On the big reservation, approximately 20 homesites will need to be surveyed by contract archaeologists. We estimate needing \$20,000 for these various contracts in FY2009.

Small archaeological contracts	\$20,000
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Hopi Property Dismantling:

As Navajos relocate off the Hopi reservation, the Office turns over that particular homesite, with whatever improvements may be existing upon it, to the Hopis. The Hopi Cultural Preservation Office (HCPO) performs archaeological surveys upon the area, and then turns the site over to the Hopi Property Dismantling/Disposal Office (HPD). This group is then charged with cleaning up the

site. To complete this dismantling project for all the Navajo sites remaining uncleaned, the Office estimates needing \$250,000 in FY2009.

Hopi Property Dismantling	\$250,000
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New Lands Roads Program:

Although there will be no new roads built on the New Lands in FY2009, the maintenance of these roads is an on-going process. The original equipment which is currently in use was purchased in the early 1990's and has nearly reached the end of its useful life. Any equipment purchased will be turned over to BIA at the closure of the relocation program in order to keep up the maintenance on the New Lands roads. Funds necessary for the purchase of this equipment in FY2009 is \$930,000.

New Lands Roads Program	\$930,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings, landfill usage, additional projects on the Hopi and Navajo reservations, and other assorted small projects. For these various items, the Office requests \$72,000 in FY2009.

Miscellaneous	\$72,000
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The following is a summary of Housing Funds requested for FY2009:

Estimated costs:

Housing & Related Costs	\$ 2,350,000
Range Management	863,000
Homesite Leases	225,000
Archaeology	20,000
Hopi Dismantling Project	250,000
New Lands Roads Program	930,000
Miscellaneous	<u>72,000</u>
Total needs	\$ 4,710,000
Less Carryover to be used in FY2009	<u>- 3,000,000</u>
Total Housing Request	<u>\$1,710,000</u>

Title of Activity: *Assistance Payments* (Decrease of \$421 from Base)

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

(dollar amounts in thousands)

Program Element	FY2008 Appropriation	FY2007 Carryover	FY2008 Base	FY2009 Estimate	Change To Base
Assistance Payments	\$ 65	\$396	\$461	\$40	-\$421
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2009, we expect bonus payments for the moves of 20 clients to amount to approximately \$40,000.

\$40,000

Title of Activity: *Discretionary Funds Management* (Decrease of \$2,466 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2008 Appropriation	FY2007 Carryover	FY2008 Base	FY2009 Estimate	Change To Base
Discretionary Funds	\$746	\$2,140	\$2,886	\$420	-\$2,466
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..." The

Office anticipates utilizing these funds to underwrite the cost of a broad range of activities designed to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

During previous years, the Office has coordinated specific group infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects have been directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

At the request level, the expenses of providing individual infrastructure, in addition to the individual housing benefit, for 20 relocations would approximate \$181,000. This is based on the projected average cost of about \$9,050 to outside contractors.

Housing infrastructure	\$181,000
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Land Selection:

The Navajo Nation still has 8,000 acres in Arizona, and 900 acres in New Mexico to select as part of the original legislation governing relocation. This selection process will entail title searches, legal surveys, land studies, legal fees, and appraisals. The funds estimated for this activity in FY2009 are \$150,000

Land Selection	\$150,000
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Nahata Dzill Chapter Grant:

Even though this Chapter has received its self-governance decree from the Navajo Nation, the Office feels the Chapter will need financial assistance from the Office for a few more years. These funds are administered by the Office with close supervision over the budgeting and financial management processes of the Chapter. A strong Chapter organization entices other relocatees to move to the New Lands. The funds requested for this activity in FY2009 are \$30,000.

Chapter Grant	\$ 30,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line-item budgeted, that would

allow the Office the discretion to make decisions on a case-by-case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line-item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$59,000 for small worthwhile projects.

Miscellaneous projects	\$ 59,000
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The summary of Discretionary Funds requested for FY2009 is as follows:

Housing Infrastructure	\$181,000
Land Selection	150,000
Chapter Grant	30,000
Miscellaneous Projects	<u>59,000</u>
Total Discretionary Request	<u>\$420,000</u>

RECAP OF BUDGET REQUEST FOR FY2009

Operation of the Office	\$5,360,000
Housing	4,710,000
Bonus	40,000
Discretionary Funds	<u>420,000</u>
Total Needs for FY2009	10,530,000
Carryover to be used in FY2009	<u>-3,000,000</u>
Total Budget Request for FY2009	<u>\$ 7,530,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2007</u> <u>Actual</u>	<u>FY2008</u> <u>Approp</u>	<u>FY2007</u> <u>Carryover</u>	<u>FY2008</u> <u>Base</u>	<u>FY2009</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	5,285	5,174	939	6,113	5,360	-753
Relocation Operations (housing, roads, & archaeology)	3,426	2,875	6,135	9,010	1,710	-7,300
Incentive Bonuses	32	65	396	461	40	-421
Discretionary Funds	318	746	2,140	2,886	420	-2,466
TOTAL	9,061	8,860	9,610	18,470	7,530	-10,940

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2008 Approp	FY2007 Carryover	FY2008 Base	FY2009 Request	Change To Base
11.1 Full-time permanent positions	3,176	331	3,507	3,327	-180
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	3,176	331	3,507	3,327	-180
12.1 Personnel benefits: Civilian	793	106	899	833	-66
21.0 Travel and transportation of persons	224	122	346	198	-148
22.0 Travel and transportation of things	1	4	5	1	-4
23.0 Rental payments to other, communication utilities, and miscellaneous charges	542	95	637	642	5
24.0 Printing and reproduction	18	1	19	17	-2
25.0 Other services	315	82	397	264	-133
26.0 Supplies and materials	95	99	194	78	-116
31.0 Equipment	10	99	109	0	-109
32.0 Lands and structures	2,875	6,135	9,010	1,710	-7,300
41.0 Bonuses	65	396	461	40	-421
42.0 Grants	746	2,140	2,886	420	-2,466
TOTAL REQUIREMENTS	8,860	9,610	18,470	7,530	-10,940

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. The Office is continuing to conduct relocation activities under a single Commissioner.

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 Indian Relocation as authorized by Public Law 93-531. (\$8,859,600) \$7,530,000 for operating expenses of the Office. (Consolidated Appropriations Act 2008, PL 110-161)

Program and Financing
(in thousands of dollars)

Identification Code 48-1100-0-1-806	FY2007 Actual	FY2008 Estimate	FY2009 Estimate
Obligation by Program Activity:			
Operation of the office	5,285	5,256	5,360
Relocation payments (housing)	3,426	4,920	4,710
Incentive bonus payments	32	66	40
Discretionary fund payments	318	758	420
Total obligations	9,061	11,000	10,530
Financing:			
New budget authority, net	8,509	8,860	7,530
Recovery of prior year obligations	1,375	1,530	1,000
Unobligated balance, start of year	8,787	9,610	9,000
Unobligated balance, end of year	-9,610	-9,000	-7,000
	9,061	11,000	10,530
Appropriation, net	8,509	8,860	7,530
Transfer from other accounts			
Appropriation (adjusted)	8,509	8,860	7,530
Relation of obligations to outlays:			
Obligations incurred, net	9,061	11,000	10,530
Obligated balance, start of year	3,015	1,589	2,075
Obligated balance, end of year	-1,589	-2,075	-3,805
Recoveries of prior year obligations	-1,375	-1,530	-1,000
Accounts payable, start of year	292	316	300
Accounts payable, end of year	-316	-300	-100
Outlays	9,088	9,000	8,000

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 48-1100-0-1-806	FY2007 Actual	FY2008 Est.	FY2009 Est.
Personnel Compensation:			
11.1 Full-time permanent	3,205	3,256	3,328
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	3,205	3,256	3,328
12.1 Personnel benefits: Civilian	794	814	832
21.0 Travel and transportation	198	187	198
22.0 Transportation of things	1	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	516	590	642
24.0 Printing and reproduction	26	10	17
25.0 Other services	438	236	258
26.0 Supplies and materials	76	78	78
31.0 Equipment	31	15	6
32.0 Lands and structures	3,426	5,071	4,710
41.0 Bonuses	32	65	40
42.0 Grants	318	677	420
99.9 Total Obligations	9,061	11,000	10,530

Personnel Summary:

Total number of full-time permanent positions	46	46	46
Total compensable workyears: Full-time equivalent employment	46	46	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2010

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2010 is \$8,000,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

• Operation of the Office	\$5,300
○ Office of the Commissioner	
○ Executive Direction	
○ Administration	
• Relocation Payments (Housing)	7,200
• Incentive Bonus Payments	50
• Discretionary Funds (Infrastructure & Grants)	<u>650</u>
	13,500
Carryover to be used in FY2010	<u>-5,500</u>
 Total Budget Request	 <u>\$8,000</u>

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, the Office will continue its efforts as provided in these statutes towards implementing the towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is a total relocation population of 3,690

families who have been certified as eligible for Relocation Benefits as of March 31, 2009. Of this amount, 3,492 families have been moved, 128 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs. Of the balance of 70 families, 2 have already signed relocation contracts. We plan to relocate the remaining 68 families who have already been certified as eligible for benefits during FY2009 and FY2010, up to the amount of funding available.

- A total of 3,466 Navajo families have relocated from the Hopi Partitioned Lands, 2,296 to on-reservation homesites and 1,170 to off-reservation. 68 Navajo families remain to be relocated, 8 residing on the HPL and 60 residing elsewhere. 127 Navajo cases have been closed.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. One Hopi case has been closed, and there are no Hopi families remaining to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of March 31, 2009:

Certified Eligible	3,690	
Closed, not Relocated	-128	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,492</u>	
Relocation in Progress	<u>70</u>	
Homes Being Built	2	Includes no full-time residents of the HPL.
Seeking Homes	9	Includes 1 full-time resident of the HPL.
Remaining	<u>59</u>	Includes 7 full-time residents of the HPL.
Total to be relocated	<u>70</u>	

As of the end of March 2009, there are 125 pending appeals of the current total of 1,199 denied cases. If any of these denials is reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,690.

There are four other categories of potential clients that the Office is also dealing with. The first category involves a District Court case lost by the Office in FY2008. The other three categories involve people who have missed administrative deadlines in the past.

1. *District Court Case.* In FY2008, the US District Court for the District of Arizona decided a case in which a Navajo, who grew up on lands partitioned to the Hopi Tribe and who was denied relocation benefits by the Office, was awarded such benefits by the District Court. This Navajo was a minor child when first identified by the Office, but when the family was certified in 1981, he was 18 years of age and living with his parents, though attending college off the Hopi Partitioned Lands. The Court determined that the Office knew the Navajo was a person "subject to relocation" and thus had an obligation to contact him prior to July 7, 1986, and inform him of this fact as well as the possible benefits he would receive if he applied for and was determined eligible for relocation benefits. The District Court would not accept the eight or more letters and notices that the Office had sent to the Navajo's family as being sufficient to meet the Office's notice obligation.

After reviewing this decision, the Office determined that it had an obligation to review its eligibility files and contact all persons named in these files who it had reason to believe might meet the Office's eligibility criteria in effect through July 7, 1986, and who had not applied for relocation benefits, and provide such persons an opportunity to apply for these benefits. The Office has implemented this decision by (a) sending letters to all children of relocates who were 18 years of age prior to 7/7/86, who have known addresses, and by (b) putting the information on our website in the form of Frequently Asked Questions which discusses eligibility requirements and the procedure to make application for Relocation Benefits. We also have a fillable Application for Relocation Benefits on our website. The Office has sent out about 300 letters to persons of interest. In addition, the Navajo Nation has sent out about 460 letters to individuals that do not have an address known to the Office. Although the Office does not know how many people will respond to these mailings and the website, approximately 500 Applications had been received by the end of March.

2. *Late Applicants.* Based on instructions from Congress, the Office closed the relocation application process on July 7, 1985. The Navajo Nation filed for injunctive relief, and an agreement between the Navajo Nation and the Office was reached that stipulated the final date for accepting relocation applications would move to 7/7/86. This Stipulation was approved by the District Court. In 1997, with the approval of the Accommodation Agreement (AA) between the Hopi Tribe and the United States Department of Justice, ONHIR instituted a final outreach, which, in accordance with both law and regulations, required ONHIR to make contact with any HPL residents, determine if they were eligible for relocation benefits, and make a final offer to them before these residents became subject to eviction. The Office was faced with the dilemma of having a voluntary application deadline established by Congress and the Courts, and conversely needing to establish the eligibility of the above-mentioned individuals, even if they had not applied for benefits. Subsequently, NHLS asserted that regardless of why we let people apply late for benefits, we had to allow anyone who had missed the application deadline to apply or we would be guilty of unequal treatment. The Office realized that we would not prevail when NHLS brought this to court, so in the interest of finding a fair solution for both the government and the clients, the Office reached an agreement with NHLS that would set stringent rules on who would be allowed to apply for relocation benefits.

From the application deadline until FY2000 (the final date allowing relinquishment of the AA by Navajo signers), a list was maintained by the Office of people who, following the court orders, had already moved off the HPL by 7/7/86, had failed to apply in a timely fashion for relocation benefits, but were still seeking an opportunity to apply for relocation benefits. In FY2005, this list of about 500 names was reviewed. Out of 500 names, only 296 names met the stringent requirements to even be able to apply, and those individuals were sent letters asking them to come in and prove their case for obtaining relocation benefits. Of these 296 so notified, 198 actually completed applications and 8 were certified. 190 applications were denied by the Office and NHLS filed a timely blanket appeal on behalf of all of these denied cases.

3. *Late Appeals.* Approximately 250 families that were denied benefits by the Office failed to make a timely appeal of this denial, and thus had their appeal rejected. Once a person has been denied, they are given 60 days to appeal. If they appeal, a hearing with our outside Hearing Officer will be held whereby this person can present their case for certification. If they are denied certification by the Hearing Officer, they can then submit arguments to the Executive Director of ONHIR. If the Executive Director upholds the denial, their case can then be appealed to the federal court within six years. The NHLS has about 50 applicants who may have good cause for not making a timely appeal (poor proficiency in English, not personally receiving the Notice of Denial from ONHIR, etc). These applicants will (through their NHLS counsel) be permitted to petition the ONHIR Executive Director to be allowed to have their late appeal considered by the Hearing Officer. It is within his discretion whether or not to grant the petition. No deadline has yet been established for submission of the Petitions to allow a Late Appeal to be heard.
4. *AA Signers Who Wish to Relinquish.* There were 250 signers of the Accommodation Agreement (AA) between the Hopi Tribe and the United States Department of Justice. This agreement allowed these Navajo families to stay on the Hopi Partitioned Lands (HPL) and required their adherence to Hopi laws, all in exchange for a cash settlement from the federal government to the Hopis. The Department of Justice (DOJ) brokered this agreement and used eligibility requirements that differed from ONHIR, even though the Office offered to have our list of certified clients be the starting point for this pact. Each signer of the AA had three years from their signing date to relinquish, or opt out of this agreement and seek relocation benefits from our Office. During the three years after the AA was signed by the last person, several families relinquished and received the benefits for which they were eligible under the relocation program administered by our Office. The Office currently has a list of AA signers who missed this three-year time period and have now decided they want to relinquish the AA and be relocated by ONHIR.

The rationale for allowing the relinquishment by the AA signers is that ONHIR's reason for existence has been to solve the relocation problems for every family residing on the Joint Use Area that was living on the portion of the lands that were allocated to the tribe of which they were not a member. At this point, there are about seven Navajo families still living on the Hopi Partitioned Lands who did not elect to sign the AA, and who do not wish to

relocate. These families were served notices to vacate by ONHIR several years ago, with the enforcement to be handled by DOJ. Since ONHIR was established as a voluntary relocation agency, DOJ would have to handle the actual removal. Discussions between ONHIR, the Hopi Tribe, and DOJ have revealed that DOJ does not intend to evict any of these families. To solve the relocation problems of these seven Navajo families, to let them remain living on the HPL, and to allow for a comprehensive settlement, DOJ has drafted a new agreement that would allow any AA signers who would meet the ONHIR requirements for certification and who wish to move off the HPL to be relocated using the benefits under our program. In exchange for this action which would return more land to the Hopi Tribe, the Tribe would agree to allow approximately seven Navajo families to remain as autonomous families on the HPL, and the Hopi Tribe would agree to allow these families to remain on the HPL and further agree that the Hopi Tribe would not seek to require the United States to remove these families from the HPL. Since this agreement has not yet been signed by the Hopi Tribe, we will not estimate any further certifications from this group of people at this time.

During FY2009, the Office has received funding to move 20 clients. The FY2010 budget is requesting funds to move 35 families. The Office has some carryover available in case more families are ready to move during either of these years. The current Office FTE of 46 should be able to handle these moves adequately.

The use of the New Lands area is very important to the successful completion of the program. Current planning indicates that the New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move families who are culturally and economically dependent on livestock. Those families that are not grazers could be relocated to the expanded Rural Community Subdivision on the New Lands.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, and which may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients may not be possible in FY2010 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete. Clients in the four categories listed above will be put on a fast-track system for obtaining homesite leases if necessary.

There will also be moves off-reservation for those who can afford the cost of living. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: Operation of the Office (Decrease of \$715 from Base).

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

(dollar amounts in thousands)

Program Element	FY2009 Appropriation	FY2008 Carryover	FY2009 Base	FY2010 Request	Change To Base
Operation of the Office	\$5,360	\$ 955	\$ 6,315	\$5,600	-\$715
FTE	(46)		(46)	(46)	(0)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation can be broken down into two program areas:

- A. Executive Direction: New Lands Management & Coordination, Legal & Human Resources
- B. Operations & Administration: Relocation Operations & Administrative Coordination

A. Executive Direction: This branch oversees all of the Office's operational and administrative programs, the coordination of legal services, the implementation of Office policy, and the development and implementation of program initiatives. Under this branch, the legal and human resources departments handle all certification appeals, client conservatorship cases, New Lands leases, all operational and procedural interpretation of regulations, archiving of records, and personnel matters.

New Lands management and coordination is also under this department and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Range improvement and management is part of the department and includes negotiations with current permit or lease holders, analyses of needs to improve the range capabilities, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

B. Operations & Administration: This branch oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic and social status of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation process. This department also provides for a full range of real estate acquisition activities and includes new construction contracting, acquisition of new and resale dwellings, and monitoring of any necessary warranty or housing repair programs. 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.

All necessary administrative and financial management services are provided to the agency within this branch. This includes the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, personnel services, vehicle fleet management, data and word processing, and all procurement services including contracting for services, grant management, and managing agreements with other agencies.

For the past thirteen years, the Office has been audited by an independent CPA firm who has performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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 1978, as amended in 1988.

Title of Activity: *Relocation Operations* (Decrease of \$5,610 from Base)

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

(dollar amounts in thousands)

Program Element	FY2009 Appropriation	FY2008 Carryover	FY2009 Base	FY2010 Request	Change To Base
Relocation Operations	\$1,710	\$5,600	\$7,310	\$1,700	-\$ 5,610
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and other reservation programs. In FY2010, the requested funds would underwrite the cost of relocating a maximum of 35 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 35 moves at an average of \$125,000 each, totaling \$4,375,000. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs	\$4,375,000
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Range Management:

The funds requested by the Office under this category will primarily be used towards fence and corral building and maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands. In addition, the Navajo Nation will be funded for a ranger position which will enforce ONHIR and Navajo Nation regulations on the New Lands. Funds for the Padres Mesa Ranch Demonstration project will fund this working ranch being setup by ONHIR on the New Lands. The funds necessary for these categories are \$929,000.

Range improvements	\$639,000
Ranger salary	90,000
Padres Mesa Ranch demonstration	<u>200,000</u>
	\$929,000

Homesite Leases:

For many years, the Office has funded a portion of the Office of Navajo Land Administration (ONLA, a department of the Navajo Nation) for the express purpose of processing homesite lease requests in an expeditious manner for relocatees moving to the Navajo reservation. This

processing by the ONLA office reduces the lengthy homesite lease approval process from the normal time length of two to six years, to approximately one year. To fund this process in FY2010, the Office is requesting funds of \$225,000.

Homesite leases	\$225,000
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Archaeology:

The Office is responsible for all required archaeological activities. On the New Lands, there will be some sites that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. We estimate needing \$50,000 for these various contracts in FY2010.

Small archaeological contracts	\$50,000
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Hopi Property Dismantling:

The Office has had a continuing contract with the Hopi Tribe for property dismantling of Navajo housing sites on the HPL. These are sites that have been surrendered by Navajo families in exchange for their housing benefits. The Hopi Tribe performs an archaeological evaluation of the sites, and then releases the sites to the Hopi Property Dismantling/Disposal Office for dismantling of any property thereon. The cost of this program in FY2010 will be \$250,000.

Hopi Property Dismantling	\$250,000
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Coalmine Chapter Subdivision:

There has been some shifting of soils in the Coalmine Chapter Subdivision area. Even though the homes were built on engineered fill, the shifting has caused floors and walls of some homes to crack. The homes in this subdivision will need to be examined by an engineering firm to determine which houses will require foundation repairs and interior wall or floor repair. For this work, the Office is requesting funds of \$1,300,000 in FY2010.

Coalmine Chapter subdivision	\$1,300,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings, landfill usage, additional projects on the Hopi and Navajo reservations, and other assorted small projects. For these various items, the Office requests \$71,000 in FY2010.

Miscellaneous	\$71,000
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The following is a summary of Housing Funds requested for FY2010:

Estimated costs:

Housing & Related Costs	\$ 4,375,000
Range Management	929,000
Homesite Leases	225,000
Archaeology	50,000
Hopi Dismantling Project	250,000
Coalmine Mesa Subdivision	1,300,000
Miscellaneous	<u>71,000</u>

Total needs	\$7,200,000
Less Carryover to be used in FY2010	<u>-5,500,000</u>

Total Housing Request \$1,700,000

Title of Activity: *Assistance Payments* (Decrease of \$406 from Base)

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

(dollar amounts in thousands)

Program Element	FY2009 Appropriation	FY2008 Carryover	FY2009 Base	FY2010 Request	Change To Base
Assistance Payments	\$40	\$416	\$456	\$50	-\$406
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2010, we expect bonus payments for families who applied within the timeframes above to amount to approximately \$50,000.

\$50,000

Title of Activity: *Discretionary Funds Management* (Decrease of \$2,169 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2009 Appropriation	FY2008 Carryover	FY2009 Base	FY2010 Request	Change To Base
Discretionary Funds	\$420	\$2,399	\$2,819	\$650	-\$2,169
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..." The Office anticipates utilizing these funds to underwrite the cost of a broad range of activities designed to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

As in previous years, the Office will coordinate specific infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects are directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

The expenses of providing individual infrastructure, in addition to the individual housing benefit, for 35 relocations would approximate \$430,000. This is based on a projected average cost per house of about \$12,285 to outside contractors.

Housing infrastructure	\$430,000
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Land Selection:

The Navajo Nation still has 13,000 acres in Arizona, and 848 acres in New Mexico to select as part

of the original legislation governing relocation. This selection process entails title searches, legal surveys, land studies, legal fees, and appraisals. The funds estimated for this activity in FY2010 are \$150,000.

Land Selection	\$150,000
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Nahata Dzill Chapter Grant:

Even though this Chapter has received its self-governance decree from the Navajo Nation, the Office feels the Chapter will still need financial assistance from the Office. These funds are administered by the Office with close supervision over the budgeting and financial management processes of the Chapter. A strong Chapter organization entices other relocatees to move to the New Lands. The funds requested for this activity in FY2010 are \$30,000.

Chapter Grant	\$30,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line item budgeted, that would allow the Office the discretion to make decisions on a case by case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$40,000 for small worthwhile projects.

Miscellaneous projects	\$40,000
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The summary of Discretionary Funds requested for FY2010 is as follows:

Housing Infrastructure	\$430,000
Land Selection	150,000
Chapter Grant	30,000
Miscellaneous Projects	<u>40,000</u>
Total Discretionary Request	<u>\$650,000</u>

RECAP OF BUDGET REQUEST FOR FY2010

Operation of the Office	\$5,600,000
Housing	7,200,000
Bonus	50,000
Discretionary Funds	<u>650,000</u>
 Total Needs for FY2010	 13,500,000
Carryover to be used in FY2010	<u>-5,500,000</u>
 Total Budget Request for FY2010	 <u>\$8,000,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2008</u> <u>Actual</u>	<u>FY2009</u> <u>Approp</u>	<u>FY2008</u> <u>Carryover</u>	<u>FY2009</u> <u>Base</u>	<u>FY2010</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	5,438	5,360	955	6,315	5,600	-715
Relocation Operations (housing, roads, & archaeology)	3,274	1,710	5,600	7,310	1,700	-5,610
Incentive Bonuses	45	40	416	456	50	-406
Discretionary Funds	495	420	2,399	2,819	650	-2,169
TOTAL	<u>9,252</u>	<u>7,530</u>	<u>9,370</u>	<u>16,900</u>	<u>8,000</u>	<u>-8,900</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2009 Approp	FY2008 Carryover	FY2009 Base	FY2010 Request	Change To Base
11.1 Full-time permanent positions	3,327	238	3,565	3,389	-176
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	3,327	238	3,565	3,389	-176
12.1 Personnel benefits: Civilian	833	93	926	847	-79
21.0 Travel and transportation of persons	198	140	338	211	-127
22.0 Travel and transportation of things	1	5	6	1	-5
23.0 Rental payments to other, communications utilities, and miscellaneous charges	642	154	796	603	-193
24.0 Printing and reproduction	17	14	31	10	-21
25.0 Other services	264	103	367	333	-34
26.0 Supplies and materials	78	106	184	95	-89
31.0 Equipment	0	102	102	111	9
32.0 Lands and structures	1,710	5,600	7,310	1,700	-5,610
41.0 Bonuses	40	416	456	50	-406
42.0 Grants	420	2,399	2,819	650	-2,169
TOTAL REQUIREMENTS	7,530	9,370	16,900	8,000	-8,900

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. The Office is continuing to conduct relocation activities under a single Commissioner.

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 Indian Relocation as authorized by Public Law 93-531. (\$7,530,000) \$8,000,000 for operating expenses of the Office. (Omnibus Appropriations Act 2009, PL 111-8)

Program and Financing
(in thousands of dollars)

Identification Code 48-1100-0-1-806	FY2008 Actual	FY2009 Estimate	FY2010 Estimate
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Obligation by Program Activity:

Operation of the office	5,438	5,360	5,600
Relocation payments (housing)	3,275	7,180	7,700
Incentive bonus payments	45	40	50
Discretionary fund payments	495	420	650

Total obligations	9,253	13,000	14,000
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Financing:

New budget authority, net	8,860	7,530	8,000
Recovery of prior year obligations	153	2,100	1,000
Unobligated balance, start of year	9,610	9,370	6,000
Unobligated balance, end of year	-9,370	-6,000	-1,000
	9,253	13,000	14,000

Appropriation, net	8,860	7,530	8,000
Transfer from other accounts			
Appropriation (adjusted)	8,860	7,530	8,000

Relation of obligations to outlays:

Obligations incurred, net	9,253	13,000	14,000
Obligated balance, start of year	1,589	2,165	5,055
Obligated balance, end of year	-2,165	-5,055	-8,105
Recoveries of prior year obligations	-153	-2,100	-1,000
Accounts payable, start of year	316	290	300
Accounts payable, end of year	-290	-300	-250
Outlays	8,550	8,000	10,000

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 48-1100-0-1-806	FY2008 Actual	FY2009 Est.	FY2010 Est.
Personnel Compensation:			
11.1 Full-time permanent	3,269	3,327	3,389
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	3,269	3,327	3,389
12.1 Personnel benefits: Civilian	807	833	847
21.0 Travel and transportation	205	198	211
22.0 Transportation of things	1	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	496	642	603
24.0 Printing and reproduction	7	17	10
25.0 Other services	559	264	333
26.0 Supplies and materials	88	78	95
31.0 Equipment	7	0	111
32.0 Lands and structures	3,274	7,180	7,700
41.0 Bonuses	45	40	50
42.0 Grants	495	420	650
99.9 Total Obligations	9,253	13,000	14,000

Personnel Summary:

Total number of full-time permanent positions	45	46	46
Total compensable workyears: Full-time equivalent employment	45	46	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2008 BY GRADE LEVEL

ES	2
GM15	1
GM14	1
GS15	2
GS14	3
GS13	3
GS12	3
GS11	7
GS10	1
GS9	3
GS8	2
GS7	6
GS5	3
WS	1
WG	<u>7</u>
Total	<u><u>45</u></u>
Projection-FY2009	<u><u>46</u></u>
Projection-FY2010	<u><u>46</u></u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2011

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2011 is \$8,000,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

• Operation of the Office	\$6,100
○ Office of the Commissioner	
○ Executive Direction	
○ Administration	
• Relocation Payments (Housing)	6,245
• Incentive Bonus Payments	20
• Discretionary Funds (Infrastructure & Grants)	<u>735</u>
	13,100
Carryover to be used in FY2011	<u>-5,100</u>
 Total Budget Request	 <u>\$8,000</u>

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, the Office will continue its efforts as provided in these statutes towards implementing the towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is a total relocation population of 3,705

families who have been certified as eligible for Relocation Benefits as of December 31, 2009. Of this amount, 3,501 families have been moved, 124 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs. Of the balance of 80 families, 9 have already signed relocation contracts. We plan to relocate the remaining 71 families who have already been certified as eligible for benefits during FY2010 and FY2011, up to the amount of funding available.

- A total of 3,475 Navajo families have relocated from the Hopi Partitioned Lands, 2,301 to on-reservation homesites and 1,174 to off-reservation. 71 Navajo families remain to be relocated, 8 residing on the HPL and 63 residing elsewhere. 124 Navajo cases have been closed.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. One Hopi case has been closed, and there are no Hopi families remaining to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of December 31, 2009:

Certified Eligible	3,705	
Closed, not Relocated	-124	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,501</u>	
Relocation in Progress	<u>80</u>	
Homes Being Built	9	Includes no full-time residents of the HPL
Seeking Homes	10	Includes 1 full-time resident of the HPL
Remaining	<u>61</u>	Includes 7 full-time residents of the HPL
Total to be relocated	<u>80</u>	

As of the end of December 2009, there are 168 pending appeals of the current total of 1,441 denied cases. If any of these denials is reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,705.

There are four other categories of potential clients that the Office is also dealing with. The first category involves a District Court case lost by the Office. The other three categories involve people who have missed administrative deadlines in the past.

1. *District Court Case.* In FY2008, the US District Court for the District of Arizona decided a case in which a Navajo, who grew up on lands partitioned to the Hopi Tribe and who was denied relocation benefits by the Office, was awarded such benefits by the District Court. This Navajo was a minor child when first identified by the Office, but when the family was certified in 1981, he was 18 years of age and living with his parents, though attending college off the Hopi Partitioned Lands. The Court determined that the Office knew the Navajo was a person “subject to relocation” and thus had an obligation to contact him prior to July 7, 1986, and inform him of this fact as well as the possible benefits he would receive if he applied for and was determined eligible for relocation benefits.

After reviewing this decision, the Office determined that it had an obligation to review its eligibility files and contact all persons named in these files who it had reason to believe might meet the Office’s eligibility criteria in effect through July 7, 1986, and who had not applied for relocation benefits, and provide such persons an opportunity to apply for these benefits. The Office has implemented this decision by (a) sending letters to all children of relocates who were 18 years of age prior to 7/7/86, who have known addresses, and by (b) putting the information on our website in the form of Frequently Asked Question, as well as what steps are required to be certified. The Office has had applications for benefits submitted by nearly 1600 families. Of these submittals, 91 were disallowed because they had previously applied for benefits, 252 were denied because they were not Heads of Households on 7/7/86, and 172 were born after 12/22/74, thereby being too young. Currently, the Office has several contract lawyers helping us review the files of the remaining 1,035 applications.

2. *Late Applicants.* Based on instructions from Congress, the Office closed the relocation application process on July 7, 1985. The Navajo Nation filed for injunctive relief, and an agreement between the Navajo Nation and the Office was reached that stipulated the final date for accepting relocation applications would move to 7/7/86. This Stipulation was approved by the District Court. In 1997, with the approval of the Accommodation Agreement (AA) between the Hopi Tribe and the United States Department of Justice, ONHIR instituted a final outreach, which, in accordance with both law and regulations, required ONHIR to make contact with any HPL residents, determine if they were eligible for relocation benefits, and make a final offer to them before these residents became subject to eviction. The Office was faced with the dilemma of having a voluntary application deadline established by Congress and the Courts, and conversely needing to establish the eligibility of the above-mentioned individuals, even if they had not applied for benefits. Subsequently, NHLS asserted that regardless of why we let people apply late for benefits, we had to allow anyone who had missed the application deadline to apply or we would be guilty of unequal treatment. The Office realized that we would not prevail when NHLS brought this to court, so in the interest of finding a fair solution for both the government and the clients, the Office reached an agreement with NHLS that would set stringent rules on who would be allowed to apply for relocation benefits.

From the application deadline until FY2000 (the final date allowing relinquishment of the AA by Navajo signers), a list was maintained by the Office of people who, following the

court orders, had already moved off the HPL by 7/7/86, had failed to apply in a timely fashion for relocation benefits, but were still seeking an opportunity to apply for relocation benefits. In FY2005, this list of about 500 names was reviewed. Out of 500 names, only 296 names met the stringent requirements to even be able to apply, and those individuals were sent letters asking them to come in and prove their case for obtaining relocation benefits. Of these 296 so notified, 198 actually completed applications and 8 were certified. 190 applications were denied by the Office and NHLS filed a timely blanket appeal on behalf of all of these denied cases. Currently there are about 140 denied cases left to be heard, with an estimated 15 new clients to be certified from these.

3. *Late Appeals.* Approximately 250 families that were denied benefits by the Office failed to make a timely appeal of this denial, and thus had their appeal rejected. Once a person has been denied, they are given 60 days to appeal. If they appeal, a hearing with an outside Hearing Officer will be held whereby this person can present their case for certification. If they are denied certification by the Hearing Officer, they can then submit arguments to the Executive Director of ONHIR. If the Executive Director upholds the denial, their case can then be appealed to the federal court within six years. The NHLS has about 50 applicants who may have good cause for not making a timely appeal (poor proficiency in English, not personally receiving the Notice of Denial from ONHIR, etc). These applicants will be allowed to explain why they did not make an appeal, and if their excuses are determined to be reasonable, the applicants will then be allowed to have their appeal heard by the Hearing Officer. There is no deadline for when these appeals must be made, other than the closing date of the Office. It is anticipated that no more than 20 of these cases will be reversed and thus certified by the Hearing Officer.
4. *AA Signers Who Wish to Relinquish.* There were 250 signers of the Accommodation Agreement (AA) between the Hopi Tribe and the United States Department of Justice. This agreement allowed these Navajo families to stay on the Hopi Partitioned Lands (HPL) and required their adherence to Hopi laws, all in exchange for a cash settlement from the federal government to the Hopis. The Department of Justice (DOJ) brokered this agreement and used eligibility requirements that differed from ONHIR, even though the Office offered to have our list of certified clients be the starting point for this pact. Each signer of the AA had three years from their signing date to relinquish, or opt out of this agreement. During the three years after the AA was signed by the last person, several families relinquished and received the benefits for which they were eligible under the relocation program. The Office currently has a list of AA signers who missed this three-year time period and have now decided they want to relinquish the AA and be relocated by ONHIR.

The rationale for allowing the relinquishment by the AA signers is that ONHIR's reason for existence has been to solve the relocation problems for every family residing on the Joint Use Area that was living on the portion of the lands that were allocated to the tribe of which they were not a member. At this point, there are about seven Navajo families still living on the Hopi Partitioned Lands who did not elect to sign the AA, and who do not wish to relocate. These families were served notices to vacate by ONHIR several years ago, with

the enforcement to be handled by DOJ. Since ONHIR was established as a voluntary relocation agency, DOJ would have to handle the actual removal. Discussions between ONHIR, the Hopi Tribe, and DOJ have revealed that DOJ does not intend to evict any of these families. To solve the relocation problems of these seven Navajo families, to let them remain living on the HPL, and to allow for a comprehensive settlement, DOJ has drafted a new agreement that would allow any AA signers who would meet the ONHIR requirements for certification and who wish to move off the HPL to be relocated using the benefits under our program. In exchange for this action which would return more land to the Hopi Tribe, the Tribe would agree to allow approximately seven Navajo families to remain as autonomous families on the HPL, and agree that they would not bring a quiet title action in the federal courts. Since this agreement is only in draft form and has not yet been agreed to by the Hopi Tribe, we will not estimate any further certifications from this group of people at this time.

To recap the above, the Office plans to have about 70 currently certified families sign relocation contracts by 9/30/11. The current FTE of 46 should be able to handle these moves adequately.

The use of the New Lands area is critical to the successful completion of the program. Current planning indicates that the New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move families who are culturally and economically dependent on livestock. Those families that are not grazers could be relocated to the expanded Rural Community Subdivision on the New Lands.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, and which may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients may not be possible in FY2011 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete. Clients in the four categories listed above will be put on a fast-track system for obtaining homesite leases if necessary.

There will also be moves off-reservation for those who can afford the cost of living. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$344 from Base).

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

(dollar amounts in thousands)

<u>Program Element</u>	<u>FY2010 Appropriation</u>	<u>FY2009 Carryover</u>	<u>FY2010 Base</u>	<u>FY2011 Request</u>	<u>Change To Base</u>
Operation of the Office	\$5,600	\$ 844	\$ 6,444	\$6,100	-\$344
FTE	(46)		(46)	(46)	(0)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation can be broken down into two program areas:

- A. Executive Direction: New Lands Management & Coordination, Legal & Human Resources
- B. Operations & Administration: Relocation Operations & Administrative Coordination

A. Executive Direction: This branch oversees all of the Office's operational and administrative programs, the coordination of legal services, the implementation of Office policy, and the development and implementation of program initiatives. Under this branch, the legal and human resources departments handle all certification appeals, client conservatorship cases, New Lands leases, all operational and procedural interpretation of regulations, archiving of records, and personnel matters.

New Lands management and coordination is also under this department and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Range improvement and management is part of the department and includes negotiations with current permit or lease holders, analyses of needs to improve the range capabilities, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

B. Operations & Administration: This branch oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic and social status of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation process. This department also provides for a full range of real estate acquisition activities and includes new construction contracting, acquisition of new and resale dwellings, and monitoring of any necessary warranty or housing repair programs. 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.

All necessary administrative and financial management services are provided to the agency within this branch. This includes the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, personnel services, vehicle fleet management, data and word processing, and all procurement services including contracting for services, grant management, and managing agreements with other agencies.

For the past fifteen years, the Office has been audited by an independent CPA firm who has performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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 1978, as amended in 1988.

Title of Activity: *Relocation Operations* (Decrease of \$4,972 from Base)

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

(dollar amounts in thousands)

<u>Program Element</u>	<u>FY2010 Appropriation</u>	<u>FY2009 Carryover</u>	<u>FY2010 Base</u>	<u>FY2011 Request</u>	<u>Change To Base</u>
Relocation Operations	\$1,700	\$4,417	\$6,117	\$1,145	-\$ 4,972
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and other reservation programs. In FY2011, the requested funds would underwrite the cost of relocating a maximum of 35 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 35 moves at an average of \$130,000 each, totaling \$4,550,000. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs	\$4,550,000
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Range Management:

The funds requested by the Office under this category will primarily be used towards fence and corral building and maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands. In addition, the Navajo Nation will be funded for a ranger position which will enforce ONHIR and Navajo Nation regulations on the New Lands. Funds for the Padres Mesa Ranch Demonstration project will fund this working ranch being setup by ONHIR on the New Lands. The funds necessary for these categories are \$1,027,000.

Range improvements	\$732,000
Ranger salary	95,000
Padres Mesa Ranch demonstration	<u>200,000</u>
	\$1,027,000

Homesite Leases:

For many years, the Office has funded a portion of the Office of Navajo Land Administration (ONLA, a department of the Navajo Nation) for the express purpose of processing homesite lease requests in an expeditious manner for relocatees moving to the Navajo reservation. This

processing by the ONLA office reduces the lengthy homesite lease approval process from the normal time length of two to six years, to approximately one year. To fund this process in FY2011, the Office is requesting funds of \$225,000.

Homesite leases	\$225,000
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Archaeology:

The Office is responsible for all required archaeological activities. On the New Lands, there will be some sites that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. We estimate needing \$60,000 for these various contracts in FY2011.

Small archaeological contracts	\$60,000
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Hopi Property Dismantling:

The Office has had a continuing contract with the Hopi Tribe for property dismantling of Navajo housing sites on the HPL. These are sites that have been surrendered by Navajo families in exchange for their housing benefits. The Hopi Tribe performs an archaeological evaluation of the sites, and then releases the sites to the Hopi Property Dismantling/Disposal Office for dismantling of any property thereon. The cost of this program in FY2011 will be \$293,000.

Hopi Property Dismantling	\$293,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings, landfill usage, additional projects on the Hopi and Navajo reservations, and other assorted small projects. For these various items, the Office requests \$90,000 in FY2011.

Miscellaneous	\$90,000
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The following is a summary of Housing Funds requested for FY2011:

Estimated costs:	
Housing & Related Costs	\$ 4,550,000
Range Management	1,027,000
Homesite Leases	225,000
Archaeology	60,000
Hopi Dismantling Project	293,000
Miscellaneous	<u>90,000</u>
Total needs	\$6,245,000
Less Carryover to be used in FY2011	<u>-5,100,000</u>
Total Housing Request	<u>\$1,145,000</u>

Title of Activity: *Assistance Payments* (Decrease of \$472 from Base)

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

(dollar amounts in thousands)

Program Element	FY2010 Appropriation	FY2009 Carryover	FY2010 Base	FY2011 Request	Change To Base
Assistance Payments	\$50	\$442	\$492	\$20	-\$472
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2011, we expect bonus payments for families who applied within the timeframes above to amount to approximately \$20,000.

\$20,000

Title of Activity: *Discretionary Funds Management* (Decrease of \$1,591 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2010 Appropriation	FY2009 Carryover	FY2010 Base	FY2011 Request	Change To Base
Discretionary Funds	\$650	\$1,676	\$2,326	\$735	-\$1,591
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..." The Office anticipates utilizing these funds to underwrite the cost of a broad range of activities designed to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

As in previous years, the Office will coordinate specific infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects are directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

The expenses of providing individual infrastructure, in addition to the individual housing benefit, for 35 relocations would approximate \$455,000. This is based on a projected average cost per house of about \$13,000 to outside contractors.

Housing infrastructure	\$455,000
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Land Selection:

The Navajo Nation still has 13,000 acres in Arizona, and 848 acres in New Mexico to select as part of the original legislation governing relocation. This selection process entails title searches, legal surveys, land studies, legal fees, and appraisals. The funds estimated for this activity in FY2011 are \$150,000.

Land Selection	\$150,000
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Nahata Dzill Chapter Grant:

Even though this Chapter has received its self-governance decree from the Navajo Nation, the Office feels the Chapter will still need financial assistance from the Office. These funds are administered by the Office with close supervision over the budgeting and financial management processes of the Chapter. A strong Chapter organization entices other relocatees to move to the New Lands. The funds requested for this activity in FY2011 are \$35,000.

Chapter Grant	\$35,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line item budgeted, that would allow the Office the discretion to make decisions on a case by case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$95,000 for small worthwhile projects.

Miscellaneous projects	\$95,000
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The summary of Discretionary Funds requested for FY2011 is as follows:

Housing Infrastructure	\$455,000
Land Selection	150,000
Chapter Grant	35,000
Miscellaneous Projects	<u>95,000</u>
Total Discretionary Request	<u>\$735,000</u>

RECAP OF BUDGET REQUEST FOR FY2011

Operation of the Office	\$6,100,000
Housing	6,245,000
Bonus	20,000
Discretionary Funds	<u>735,000</u>
 Total Needs for FY2011	 13,100,000
Carryover to be used in FY2011	<u>-5,100,000</u>
 Total Budget Request for FY2011	 <u><u>\$8,000,000</u></u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2009</u> <u>Actual</u>	<u>FY2010</u> <u>Approp</u>	<u>FY2009</u> <u>Carryover</u>	<u>FY2010</u> <u>Base</u>	<u>FY2011</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	5,952	5,600	844	6,444	6,100	-344
Relocation Operations (housing, roads, & archaeology)	3,444	1,700	4,417	6,117	1,145	-4,972
Incentive Bonuses	14	50	442	492	20	-472
Discretionary Funds	262	650	1,676	2,326	735	-1,591
TOTAL	<u>9,672</u>	<u>8,000</u>	<u>7,379</u>	<u>15,379</u>	<u>8,000</u>	<u>-7,379</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2010 Approp	FY2009 Carryover	FY2010 Base	FY2011 Request	Change To Base
11.1 Full-time permanent positions	3,389	175	3,564	3,418	-146
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	3,389	175	3,564	3,418	-146
12.1 Personnel benefits: Civilian	847	107	954	854	-100
21.0 Travel and transportation of persons	211	128	339	224	-115
22.0 Travel and transportation of things	1	1	2	1	-1
23.0 Rental payments to other, communications utilities, and miscellaneous charges	603	311	914	572	-342
24.0 Printing and reproduction	10	28	38	11	-27
25.0 Other services	333	21	354	317	-37
26.0 Supplies and materials	95	73	168	138	-30
31.0 Equipment	111	0	111	565	454
32.0 Lands and structures	1,700	4,417	6,117	1,145	-4,972
41.0 Bonuses	50	442	492	20	-472
42.0 Grants	650	1,676	2,326	735	-1,591
TOTAL REQUIREMENTS	8,000	7,379	15,379	8,000	-7,379

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. The Office is continuing to conduct relocation activities under a single Commissioner.

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 Indian Relocation as authorized by Public Law 93-531. (\$8,000,000) \$8,000,000 for operating expenses of the Office. (Department of the Interior, Environment, and Related Agencies Appropriations Act, PL 111-88)

Program and Financing
(in thousands of dollars)

Identification Code 48-1100-0-1-806	FY2009 Actual	FY2010 Estimate	FY2011 Estimate
Obligation by Program Activity:			
Operation of the office	5,952	5,600	6,100
Relocation payments (housing)	3,444	7,700	7,145
Incentive bonus payments	14	50	20
Discretionary fund payments	262	650	735
Total obligations	9,672	14,000	14,000
Financing:			
New budget authority, net	7,530	8,000	8,000
Recovery of prior year obligations	151	3,621	1,000
Unobligated balance, start of year	9,370	7,379	5,000
Unobligated balance, end of year	-7,379	-5,000	0
	9,672	14,000	14,000
Appropriation, net	7,530	8,000	8,000
Transfer from other accounts			
Appropriation (adjusted)	7,530	8,000	8,000
Relation of obligations to outlays:			
Obligations incurred, net	9,672	14,000	14,000
Obligated balance, start of year	2,165	2,149	4,556
Obligated balance, end of year	-2,149	-4,556	-9,606
Recoveries of prior year obligations	-152	-3,621	-1,000
Accounts payable, start of year	290	328	300
Accounts payable, end of year	-328	-300	-250
Outlays	9,498	8,000	8,000

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 48-1100-0-1-806	FY2009 Actual	FY2010 Est.	FY2011 Est.
Personnel Compensation:			
11.1 Full-time permanent	3,389	3,389	3,418
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	3,389	3,389	3,418
12.1 Personnel benefits: Civilian	819	847	854
21.0 Travel and transportation	208	211	224
22.0 Transportation of things	1	1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	497	603	572
24.0 Printing and reproduction	3	10	11
25.0 Other services	567	333	317
26.0 Supplies and materials	112	95	138
31.0 Equipment	356	111	565
32.0 Lands and structures	3,444	7,700	7,145
41.0 Bonuses	14	50	20
42.0 Grants	262	650	735
99.9 Total Obligations	<u>9,672</u>	<u>14,000</u>	<u>14,000</u>
Personnel Summary:			
Total number of full-time permanent positions	44	46	46
Total compensable workyears: Full-time equivalent employment	44	46	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2009 BY GRADE LEVEL

ES	1
GM15	1
GM14	1
GS15	2
GS14	2
GS13	3
GS12	4
GS11	6
GS10	1
GS9	5
GS8	1
GS7	6
GS5	3
WS	1
WG	<u>7</u>
Total	<u><u>44</u></u>
Projection-FY2010	<u><u>46</u></u>
Projection-FY2011	<u><u>46</u></u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2012

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2012 is \$9,570,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

• Operation of the Office	\$5,848
○ Office of the Commissioner	
○ Executive Direction	
○ Administration	
• Relocation Payments (Housing)	3,322
• Incentive Bonus Payments	20
• Discretionary Funds (Infrastructure & Grants)	<u>380</u>
 Total Budget Request	 <u>\$9,570</u>

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, the Office will continue its efforts as provided in these statutes towards implementing the towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is a total relocation population of 3,731 families who have been certified as eligible for Relocation Benefits as of December 31, 2010. Of this amount, 3,521 families have been moved, 124 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs. Of the balance of 86 families, 15 have already signed relocation contracts. We plan to relocate the

remaining 71 families who have already been certified as eligible for benefits during FY2010 and FY2011, up to the amount of funding made available by Congress.

- A total of 3,495 Navajo families have relocated from the Hopi Partitioned Lands, 2,315 to on-reservation homesites and 1,180 to off-reservation. 71 Navajo families remain to be relocated, 8 residing on the HPL and 63 residing elsewhere. 124 Navajo cases have been closed.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. One Hopi case has been closed, and there are no Hopi families remaining to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of December 31, 2010:

Certified Eligible	3,731	
Closed, not Relocated	-124	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,521</u>	
Relocation in Progress	<u>86</u>	
Homes Being Built	15	Includes no full-time residents of the HPL
Seeking Homes	13	Includes 1 full-time resident of the HPL
Remaining	<u>58</u>	Includes 7 full-time residents of the HPL
Total to be relocated	<u>86</u>	

As of the end of December 2010, there are 178 pending appeals of the current total of 1,918 denied cases. If any of these denials is reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,731.

In FY2008, the US District Court for the District of Arizona decided a case in which a Navajo, who grew up on lands partitioned to the Hopi Tribe and who was denied relocation benefits by the Office, was awarded such benefits by the District Court. This Navajo was a minor child when first identified by the Office, but when the family was certified in 1981, he was 18 years of age and living with his parents, though attending college off the Hopi Partitioned Lands. The Court determined that the Office should have known that the Navajo was a person "subject to relocation" and thus had an obligation to contact him prior to July 7, 1986, and inform him of this fact as well as the possible benefits he would receive if he applied for and was determined eligible for

relocation benefits.

After reviewing this decision, the Office, in conjunction with the Department of Justice, determined that it had an obligation to review its eligibility files and contact all persons named in these files who it had reason to believe met the Office's eligibility criteria in effect through July 7, 1986, and who had not applied for relocation benefits, and provide such persons an opportunity to apply for these benefits. The Office has implemented this decision by allowing these children to submit applications for eligibility for the past couple of years. The application deadline was August 31, 2010. Since October 2008, the Office has had applications for benefits submitted by about 2700 families. About 1300 of these submittals have been reviewed, with 20 families being certified for benefits. Currently, the Office has several contract lawyers helping us review the remaining files (about 1400).

To recap the above, the Office plans to have currently certified families sign relocation contracts at a rate of 30 signings by 9/30/11, another 15 by 9/30/12, and the balance as funding is available in future years. The current allowable FTE of 46 should be able to handle these moves adequately.

The use of the New Lands area is critical to the successful completion of the program. Current planning indicates that the New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move families who are culturally and economically dependent on livestock. Those families that are not grazers could be relocated to the expanded Rural Community Subdivision on the New Lands.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, and which may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients may not be possible in FY2012 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete.

There will also be moves off-reservation for those who can afford the cost of living. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$1,302 from Base).

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

(dollar amounts in thousands)

Program Element	FY2011 Cont. Res	FY2010 Carryover	FY2011 Base	FY2012 Request	Change To Base
Operation of the Office	\$6,100	\$1,050	\$ 7,150	\$5,848	-\$1,302
FTE	(46)		(46)	(46)	(0)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation 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, and interpretation of regulations.

C. HUMAN RESOURCES

This area is responsible for all personnel matters.

D. NEW LANDS

This area is responsible for the management and coordination of the New Lands reservation and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Such analyses include negotiations with current permit or lease holders, engineering analysis, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing

federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

E. RELOCATIONS OPERATIONS

This area oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic history of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation 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 programs. 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 the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, vehicle fleet management, data and word processing, and all procurement of goods and services, grant management, and managing agreements with other agencies. For the past fifteen years, the Office has been audited by an independent CPA firm who has performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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.

Total Operations Request	<u>\$5,848,000</u>
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Title of Activity: *Relocation Operations* (Increase of \$ 883 from Base)

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

(dollar amounts in thousands)

<u>Program Element</u>	<u>FY2011 Cont. Res</u>	<u>FY2010 Carryover</u>	<u>FY2011 Base</u>	<u>FY2012 Request</u>	<u>Change To Base</u>
Relocation Operations	\$1,145	\$1,294	\$2,439	\$3,322	\$ 883
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and other reservation programs. In FY2012, the requested funds would underwrite the cost of relocating a maximum of 35 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 15 moves at an average of \$130,000 each, totaling \$1,950,000. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs	\$1,950,000
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Range Management:

The funds requested by the Office under this category will primarily be used towards fence and corral building and maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands. In addition, the Navajo Nation will be funded for a ranger position which will enforce ONHIR and Navajo Nation regulations on the New Lands. Funds for the Padres Mesa Ranch Demonstration project will fund this working ranch setup by ONHIR on the New Lands.

The funds necessary for these categories are \$774,000.

Range improvements	\$574,000
Ranger salary & ancillary costs	100,000
Padres Mesa Ranch demonstration	<u>100,000</u>
	\$774,000

Homesite Leases:

For many years, the Office has funded a portion of the Office of Navajo Land Administration (ONLA, a department of the Navajo Nation) for the express purpose of processing homesite lease requests in an expeditious manner for relocatees moving to the Navajo reservation. This processing by the ONLA office reduces the lengthy homesite lease approval process from the normal time length of two to six years, to approximately one year. To fund this process in FY2012, the Office is requesting funds of \$150,000.

Homesite leases	\$150,000
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Archaeology:

The Office is responsible for all required archaeological activities. On the New Lands, there will be some sites that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. We estimate needing \$65,000 for these various contracts in FY2012.

Small archaeological contracts	\$65,000
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Hopi Property Dismantling:

The Office has had a continuing contract with the Hopi Tribe for property dismantling of Navajo housing sites on the HPL. These are sites that have been surrendered by Navajo families in exchange for their housing benefits. The Hopi Tribe performs an archaeological evaluation of the sites, and then releases the sites to the Hopi Property Dismantling/Disposal Office for dismantling of any property thereon. The cost of this program in FY2012 will be \$293,000.

Hopi Property Dismantling	\$293,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings, landfill usage, additional projects on the Hopi and Navajo reservations, and other assorted small projects. For these various items, the Office requests \$90,000 in FY2012.

Miscellaneous	\$90,000
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The following is a summary of Housing Funds requested for FY2012:

Estimated costs:	
Housing & Related Costs	\$ 1,950,000
Range Management	774,000
Homesite Leases	150,000
Archaeology	65,000
Hopi Dismantling Project	293,000
Miscellaneous	<u>90,000</u>
 Total Housing Request	 <u>\$3,322,000</u>

Title of Activity: *Assistance Payments* (Decrease of \$474 from Base)

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

(dollar amounts in thousands)

Program Element	FY2011 Cont Res	FY2010 Carryover	FY2011 Base	FY2012 Request	Change To Base
Assistance Payments	\$20	\$474	\$494	\$20	-\$474
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2012, bonus payments for families who applied within the timeframes above should amount to \$20,000.

Total Bonus Request	<u>\$20,000</u>
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Title of Activity: *Discretionary Funds Management* (Decrease of \$1,774 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2011 Cont Res	FY2010 Carryover	FY2011 Base	FY2012 Request	Change To Base
Discretionary Funds	\$735	\$1,419	\$2,154	\$380	-\$1,774
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..." The Office anticipates utilizing these funds to underwrite the cost of a broad range of activities designed to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

As in previous years, the Office will coordinate specific infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects are directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

The expenses of providing individual infrastructure, in addition to the individual housing benefit, for 15 relocations would approximate \$240,000. This is based on a projected average cost per house of about \$16,000 to outside contractors.

Housing infrastructure	\$240,000
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Land Selection:

The Navajo Nation still has 13,000 acres in Arizona, and 848 acres in New Mexico to select as part of the original legislation governing relocation. This selection process entails title searches, legal surveys, land studies, legal fees, and appraisals. The funding estimated for this activity in

FY2012 is \$25,000.

Land Selection	\$25,000
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Nahata Dzill Chapter Grant:

Even though this Chapter has received its self-governance decree from the Navajo Nation, the Office feels the Chapter will still need financial assistance from the Office. These funds are administered by the Office with close supervision over the budgeting and financial management processes of the Chapter. A strong Chapter organization entices other relocatees to move to the New Lands. The funds requested for this activity in FY2012 are \$35,000.

Chapter Grant	\$35,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line item budgeted, that would allow the Office the discretion to make decisions on a case by case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$80,000 for small worthwhile projects.

Miscellaneous projects	\$80,000
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The summary of Discretionary Funds requested for FY2012 is as follows:

Housing Infrastructure	\$240,000
Land Selection	25,000
Chapter Grant	35,000
Miscellaneous Projects	<u>80,000</u>
Total Discretionary Request	<u>\$380,000</u>

Unlike previous years, the Office does not estimate having any carryover left for FY2012, so this budget request does not show any offset to estimated needs that would be handled by carryover.

RECAP OF BUDGET REQUEST FOR FY2012

Operation of the Office	\$5,848,000
Housing	3,322,000
Bonus	20,000
Discretionary Funds	<u>380,000</u>
 Total Budget Request for FY2012	 <u>\$9,570,000</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

RESOURCE REQUIREMENTS (Dollars in Thousands)

	<u>FY2009</u> <u>Actual</u>	<u>FY2010</u> <u>Approp</u>	<u>FY2009</u> <u>Carryover</u>	<u>FY2010</u> <u>Base</u>	<u>FY2011</u> <u>Estimate</u>	<u>Change</u> <u>To Base</u>
Operation of the Office	5,952	5,600	844	6,444	6,100	-344
Relocation Operations (housing, roads, & archaeology)	3,444	1,700	4,417	6,117	1,145	-4,972
Incentive Bonuses	14	50	442	492	20	-472
Discretionary Funds	262	650	1,676	2,326	735	-1,591
TOTAL	<u>9,672</u>	<u>8,000</u>	<u>7,379</u>	<u>15,379</u>	<u>8,000</u>	<u>-7,379</u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amount in thousands)

Appropriation: Salaries and Expenses	FY2011 Cont Res	FY2010 Carryover	FY2011 Base	FY2012 Request	Change To Base
11.1 Full-time permanent positions	3,418	298	3,716	3,324	-392
11.3 Other than full-time permanent					
11.8 Special personnel services payments					
11.9 Total personnel compensation	3,418	298	3,716	3,324	-392
12.1 Personnel benefits: Civilian	854	120	974	831	-143
21.0 Travel and transportation of persons	224	127	351	235	-116
22.0 Travel and transportation of things	1	2	3	1	-2
23.0 Rental payments to other, communications utilities, and miscellaneous charges	572	329	901	608	-293
24.0 Printing and reproduction	11	27	38	13	-25
25.0 Other services	317	96	413	635	222
26.0 Supplies and materials	138	47	185	126	-59
31.0 Equipment	565	4	569	75	-494
32.0 Lands and structures	1,145	1,294	2,439	3,322	883
41.0 Bonuses	20	474	494	20	-474
42.0 Grants	735	1,419	2,154	380	-1,774
TOTAL REQUIREMENTS	8,000	4,237	12,237	9,570	-2,667

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. The Office is continuing to conduct relocation activities under a single Commissioner.

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. (\$8,000,000) \$9,570,000 for operating expenses of the Office. (Department of the Interior, Environment, and Related Agencies Appropriations Act, no Public Law yet)

Program and Financing
(in thousands of dollars)

Identification Code 48-1100-0-1-806	FY2010 Actual	FY2011 Estimate	FY2012 Estimate
Obligation by Program Activity:			
Operation of the office	5,823	5,600	5,848
Relocation payments (housing)	4,966	7,700	3,322
Incentive bonus payments	18	50	20
Discretionary fund payments	590	650	380
Total obligations	11,397	14,000	9,570
Financing:			
New budget authority, net	8,000	8,000	9,570
Recovery of prior year obligations	255	1,763	0
Unobligated balance, start of year	7,379	4,237	0
Unobligated balance, end of year	-4,237	0	0
	11,397	14,000	9,570
Appropriation, net	8,000	8,000	9,570
Transfer from other accounts			
Appropriation (adjusted)	8,000	8,000	9,570
Relation of obligations to outlays:			
Obligations incurred, net	11,397	14,000	9,570
Obligated balance, start of year	2,149	2,623	4,903
Obligated balance, end of year	-2,623	-4,903	-4,523
Recoveries of prior year obligations	-255	-1,763	0
Accounts payable, start of year	328	343	300
Accounts payable, end of year	-343	-300	-250
Outlays	10,653	10,000	10,000

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

Identification Code 48-1100-0-1-806	FY2010 Actual	FY2011 Est.	FY2012 Est.
11.0 Personnel Compensation:			
11.1 Full-time permanent	3,266	3,418	3,324
11.3 Other than full-time permanent			
11.8 Special personal service payments			
11.9 Total personnel compensation	3,266	3,418	3,324
12.1 Personnel benefits: Civilian	834	854	831
21.0 Travel and transportation	208	224	235
22.0 Transportation of things		1	1
23.0 Rental payments to others, communications, utilities, and miscellaneous charges	539	572	608
24.0 Printing and reproduction	10	11	13
25.0 Other services	682	317	635
26.0 Supplies and materials	122	138	126
31.0 Equipment	162	565	75
32.0 Lands and structures	4,966	7,145	3,322
41.0 Bonuses	18	20	20
42.0 Grants	590	735	380
99.9 Total Obligations	11,397	14,000	9,570
Personnel Summary:			
Total number of full-time permanent positions	44	46	46
Total compensable workyears: Full-time equivalent employment	44	46	46

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

EMPLOYMENT AS OF 09/30/2010 BY GRADE LEVEL

ES	1
GM15	1
GM14	1
GS15	2
GS14	2
GS13	3
GS12	3
GS11	5
GS10	1
GS9	7
GS8	1
GS7	5
GS5	3
GS2	1
WS	1
WG	<u>7</u>
Total	<u><u>44</u></u>
Projection-FY2011	<u><u>46</u></u>
Projection-FY2012	<u><u>46</u></u>

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

FISCAL YEAR 2013

APPROPRIATION SUMMARY STATEMENT

The Office budget request for fiscal year 2013 is \$8,400,000. The funds requested will support the Operation of the Office, Relocation Payments (Housing Acquisition and Construction), Incentive Bonus Payments, and Discretionary Funding to facilitate and expedite resettlement activities.

Component elements of the Budget Proposal include: (thousands)

• Operation of the Office	\$5,131
○ Executive Direction	
○ Administration	
• Relocation Payments (Housing)	2,920
• Incentive Bonus Payments	20
• Discretionary Funds (Infrastructure & Grants)	<u>329</u>
Total Budget Request	<u>\$8,400</u>

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, the Office will continue its efforts as provided in these statutes towards implementing the towards the final settlement of the long standing dispute between the Navajo Nation and the Hopi Tribe.

Operation of the Office

Summary of Progress in Achieving Objectives: An assessment of the Office's progress in achieving its objectives is clearly quantifiable. There is a total relocation population of 3,769 families who have been certified as eligible for Relocation Benefits as of December 31, 2011. Of this amount, 3,547 families have been moved, 122 cases have been administratively closed due to inaction on the part of the relocatee or because of the death of a relocatee having no heirs. Of the current balance of 100 families, 14 have already signed relocation contracts. We plan to relocate the remaining 86 families who have already been certified as eligible for benefits during FY2012

and FY2013, up to the amount of funding made available by Congress.

- A total of 3,521 Navajo families have relocated from the Hopi Partitioned Lands, 2,335 to on-reservation homesites and 1,186 to off-reservation. 100 Navajo families currently remain to be relocated, 8 residing on the HPL and 92 residing elsewhere. 121 Navajo cases have been closed.
- A total of 26 Hopi families have relocated from the Navajo Partitioned Lands, 23 to on-reservation homesites and 3 off-reservation. One Hopi case has been closed, and there are no Hopi families remaining to be relocated.

The following illustrates the status of the families who have been certified eligible for benefits as of December 31, 2011:

Certified Eligible	3,769	
Closed, not Relocated	-122	These are applicants who have not met the Office's action requirements or who died with no heirs prior to receiving benefits.
Relocated	<u>-3,547</u>	
Relocation in Progress	<u>100</u>	
Homes Being Built	14	Includes no full-time residents of the HPL
Seeking Homes	16	Includes 1 full-time resident of the HPL
Remaining	<u>70</u>	Includes 7 full-time residents of the HPL
Total to be relocated	<u>100</u>	

As of the end of December 2011, there are 151 pending appeals of the current total of 2,205 denied cases. If any of these denials are reversed by administrative appeal or District Court, the certified total will be increased from its current level of 3,769.

In FY2008, the US District Court for the District of Arizona decided a case in which a Navajo, who grew up on lands partitioned to the Hopi Tribe and who was denied relocation benefits by the Office, was awarded such benefits by the District Court. This Navajo was a minor child when first identified by the Office, but when the family was certified in 1981, he was 18 years of age and living with his parents, though attending college off the Hopi Partitioned Lands. The Court determined that the Office should have known that the Navajo was a person "subject to relocation" and thus had an obligation to contact him prior to July 7, 1986, and inform him of this fact as well as the possible benefits he would receive if he applied for and was determined eligible for relocation benefits.

After reviewing this decision, the Office, in conjunction with the Department of Justice, determined that it had an obligation to review its eligibility files and contact all persons named in these files who it had reason to believe met the Office's eligibility criteria in effect through July 7, 1986, and who had not applied for relocation benefits, and provide such persons an opportunity to apply for these benefits. The application deadline was August 31, 2010. The Office received applications for benefits submitted by 3,137 families. 2,361 of these submittals have been reviewed, with 76 families being certified for benefits. Currently, the Office has contract lawyers helping us review the remaining 776 files. Any of these that are certified will also increase the currently certified level.

To recap the above, the Office plans to have currently certified families sign relocation contracts at a rate of 15 signings by 9/30/12, another 20 by 9/30/13, and the balance as funding is available in future years. The current allowable FTE of 40 should be able to handle these moves adequately.

The use of the New Lands area is critical to the successful completion of the program. Current planning indicates that the New Lands can accommodate a total of 975 families in a combination of both clustered grazing and rural community housing. The Office is relying on the New Lands range units to provide the necessary locations to move families who are culturally and economically dependent on livestock. Those families that are not grazers could be relocated to the expanded Rural Community Subdivision on the New Lands.

The Coalmine Canyon subdivision has over 50 lots remaining for relocatees. This area is just across the HPL borderline on the Navajo reservation, and may be desirable to many of these remaining clients. There are also subdivisions in Tuba City, Kayenta, and St Michaels, that have been built either by the Office or Navajo Housing Authority, and which may be chosen as acceptable sites for new homes by relocatees. Moving to other on-reservation areas for currently certified clients may not be possible in FY2013 unless the client has previously obtained a homesite lease for that area, since the homesite lease process takes at least a year to complete.

There will also be moves off-reservation for those who can afford the cost of living. These individuals will have to prove to the Office through prior year tax returns and current salary levels that they are able to cope with the added expenses of living off reservation.

Justification

Title of Activity: *Operation of the Office* (Decrease of \$282 from Base).

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

(dollar amounts in thousands)

Program Element	FY2012 Appropriation	FY2011 Carryover	FY2012 Base	FY2013 Request	Change To Base
Operation of the Office	\$5,413	\$ -0-	\$ 5,413	\$5,131	-\$ 282
FTE	(40)		(40)	(40)	(0)

Base Program: The operations of the Office of Navajo and Hopi Indian Relocation 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, and interpretation of regulations.

C. HUMAN RESOURCES

This area is responsible for all personnel matters.

D. NEW LANDS

This area is responsible for the management and coordination of the New Lands reservation and provides the technical analysis attendant to the planning and development of lands for relocation purposes and assesses the development necessary for facilities and services. Such analyses include negotiations with current permit or lease holders, engineering analysis, grazing capability analysis, and review of the sites by potential relocatee occupants. Utilization of existing

federal and state agency surveys and studies in the area of soil composition, water development, and mineral composition is stressed to avoid duplication of effort.

E. RELOCATIONS OPERATIONS

This area oversees the actual relocation of clients as well as all administrative support services. The relocation operations department provides ongoing consultation with the relocatee family from the beginning to the end of the process. These services include pre-move counseling to inform the families of various options available in the selection of a home, evaluation of economic history of the relocatees, coordination of other federal and state agency assistance activities for relocatee families, post-move counseling, and referral assistance to existing service providers upon completion of the relocation 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 programs. 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 the preparation and presentation of the Office's budget proposals, all internal financial management programs and reports, all supply and equipment maintenance systems, vehicle fleet management, data and word processing, and all procurement of goods and services, grant management, and managing agreements with other agencies. For the past sixteen years, the Office has been audited by an independent CPA firm who has performed their audits in accordance with federal audit standards. There have been no significant findings, and an unqualified opinion has been issued to ONHIR each year. In addition, 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.

Total Operations Request

\$5,131,000

Title of Activity: *Relocation Operations* (Increase of \$ 481 from Base)

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

(dollar amounts in thousands)

<u>Program Element</u>	<u>FY2012 Appropri.</u>	<u>FY2011 Carryover</u>	<u>FY2012 Base</u>	<u>FY2013 Request</u>	<u>Change To Base</u>
Relocation Operations	\$2,001	\$438	\$2,439	\$2,920	\$ 481
FTE	(0)		(0)	(0)	(0)

Base Program: Relocation Operations encompasses several components: relocation payments for housing, range management, homesite leases, archaeology, and other reservation programs. In FY2013, the requested funds would underwrite the cost of relocating a maximum of 20 families.

Housing:

The relocation payments for housing include: disposal of acquired property on the HPL/NPL, costs of obtaining homesite leases and other permits from the Navajo Nation and Hopi Tribe, the acquisition of housing for relocatee families through resale dwelling purchases in existing communities or the construction of new homes on or off reservation, and payments associated with the relocation process including moving expenses. It also includes certain engineering costs necessary to developing sites, both on the existing reservation and the New Lands.

Our request for this activity is for 20 moves at an average of \$130,000 each, totaling \$2,600,000. These funds will support (1) the acquisition of replacement housing, (2) payments due families for reasonable search and moving expenses to new locations, (3) necessary payments for miscellaneous expenses such as title and escrow fees and homesite acquisition costs, and (4) costs directly associated with engineering and planning for housing construction.

Housing and related costs	\$2,600,000
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Range Management:

Under Range Management, \$220,000 is requested by the Office for range improvements. These activities include fence and corral maintenance, as well as the drilling, installation, and maintenance of wells on the New Lands.

The second area of Range Management deals with the Padres Mesa Ranch Demonstration project.

This 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. The amount requested for these activities in FY2013 is \$50,000.

Range improvements	\$220,000
Padres Mesa Ranch demonstration	<u>50,000</u>
Range Management	\$270,000

Archaeology:

The Office is responsible for all required archaeological activities. On the New Lands, there will be some sites that need to be archaeologically cleared, as well as some sites that need to be examined for indirect impacts. We estimate needing \$30,000 for these various projects in FY2013.

Small archaeological contracts	\$30,000
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Miscellaneous:

In addition to these items listed above, there are several smaller tasks that fall within the housing category portion of the budget. These projects include the property management of New Lands buildings and assorted small projects on the Hopi and Navajo reservations. For these various items, the Office requests \$20,000 in FY2013.

Miscellaneous	\$20,000
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The following is a summary of Housing Funds requested for FY2013:

Estimated costs:	
Housing & Related Costs	\$ 2,600,000
Range Management	270,000
Archaeology	30,000
Miscellaneous	<u>20,000</u>
Total Housing Request	<u>\$2,920,000</u>

Title of Activity: *Assistance Payments* (No change from Base)

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

(dollar amounts in thousands)

Program Element	FY2012 Appropriation	FY2011 Carryover	FY2012 Base	FY2013 Request	Change To Base
Assistance Payments	\$20	\$ -0-	\$20	\$20	-0-
FTE	(0)		(0)	(0)	(0)

Base Program: The Assistance Payment (Bonus) component provides for the payment of an incentive bonus for clients who volunteered for relocation. This payment amount was set at \$5,000 per client for those who applied for relocation prior to July 7, 1982. A sliding scale dropped this payment by \$1,000 per year for applications after July 7, 1982, until it reached \$2,000 for applications received by July 7, 1985. After that date, no bonuses were allowed. In FY2013, bonus payments for families who applied within the timeframes above should amount to \$20,000.

Total Bonus Request	<u>\$20,000</u>
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Title of Activity: *Discretionary Funds Management* (Increase of \$25 from Base.)

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

(dollar amounts in thousands)

Program Element	FY2012 Appropriation	FY2011 Carryover	FY2012 Base	FY2013 Request	Change To Base
Discretionary Funds	\$304	\$ -0-	\$304	\$329	\$25
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..." The Office anticipates utilizing these funds to underwrite the cost of a broad range of activities

designed to support land development, group moves, economic development, water development, utility extensions, and other activities which will facilitate and expedite the program.

As in previous years, the Office will coordinate specific infrastructure development projects with the Navajo Nation, the Navajo Tribal Utility Authority, the Indian Health Service, and other organizations to "cost share" a variety of construction efforts. In all cases, the projects are directly related to the provision of services and community facilities for relocatee families at their resettlement sites. Efforts to provide basic services to existing communities during this process assist the host chapters in absorbing the pressures of an increased population (relocatee families) on already limited or under-developed resources and service capabilities.

Housing Infrastructure Cost:

The expenses of providing individual infrastructure, in addition to the individual housing benefit, for 20 relocations would approximate \$320,000. This is based on a projected average cost per house of about \$16,000 to outside contractors.

Housing infrastructure	\$320,000
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Miscellaneous Projects:

When the authorization for the Discretionary Fund was originally passed, it was clearly anticipated that the Office would spend a set amount of money that would not be line item budgeted, that would allow the Office the discretion to make decisions on a case by case basis of applications for worthwhile projects that reduce the adverse impacts of relocation. If the Office were required to justify all of its discretionary funding on a line item basis, no projects which were not anticipated by the applying party could be considered unless they had approximately two years advance time to get into the budget process with the Office. This request will allow the Office the latitude to respond to current requests of \$9,000 for small worthwhile projects.

Miscellaneous projects	\$9,000
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The summary of Discretionary Funds requested for FY2013 is as follows:

Housing Infrastructure	\$320,000
Miscellaneous Projects	<u>9,000</u>
Total Discretionary Request	<u>\$329,000</u>

Unlike previous years, the Office does not estimate having any carryover left for FY2013, so this budget request does not show any offset to estimated needs that would be handled by carryover.

RECAP OF BUDGET REQUEST FOR FY2013

Operation of the Office	\$5,131,000
Housing	2,920,000
Bonus	20,000
Discretionary Funds	<u>329,000</u>
 Total Budget Request for FY2013	 <u><u>\$8,400,000</u></u>