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REVIEW OF THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION'S PR--ETC(U)  
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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

July 2, 1981

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The Honorable James A. McClure  
Chairman, Subcommittee on Interior  
and Related Agencies  
Committee on Appropriations  
United States Senate

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Dear Mr. Chairman:

Subject: Review of the Navajo and Hopi Indian Relocation  
Commission's Program. (CED-81-139)

In accordance with your March 4, 1981, request and subsequent agreements with your office, we have reviewed the Navajo and Hopi Indian Relocation Commission's relocation benefits, policies, and procedures.

On June 9, 1981, we briefed your office on the results of our review. This letter summarizes the information provided to you at that time.

- The Commission is regularly compensating relocation households at the maximum amounts authorized by law (currently \$66,000 for households of four persons or more and \$44,800 for households of three or less). Additional compensation is also paid by the Commission for dwellings and improvements (such as barns, corrals, fences, and orchards) owned by relocation households on the reservation.
- The original replacement home benefit amounts of \$17,000 and \$25,000 have been adjusted by the Commission, as authorized by law, for inflation on five separate occasions. The Commission's adjustment methodology has varied because (1) the previous inflation factor was abandoned by the Commission during the third annual adjustment in favor of a higher inflation index, (2) the Department of Housing and Urban Development's (HUD's) prototype cost areas used by the Commission have changed four times in the five adjustments, and (3) a completely revised adjustment methodology was adopted by the Commission for the fourth annual increase.
- Of the 72 families that occupied a reservation homesite and were relocated as of December 31, 1980, 51 families, or 71 percent, have moved off-reservation. Off-reservation relocations may increase total program replacement housing costs by about \$23,207,000.

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- About 75 percent, or 212 of the 284 households that have received relocation benefits through December 31, 1980, were classified as "temporarily-away," or households not actually located on the reservation. About 1,800 applications have been received for temporarily-away households, increasing the Commission's cost estimates to \$200 million from an original estimate of \$80 million.
- The on-reservation housing conditions have required the Commission to develop a more complex appraisal methodology than would normally be expected in an off-reservation housing market.

#### OBJECTIVES, SCOPE, AND METHODOLOGY

The purpose of this review was to examine the costs of the Commission's relocation program, including the specific areas of

- replacement home benefit costs,
- off-reservation relocations,
- temporarily-away benefits, and
- appraisal and property acquisition.

We made our review at the Commission's headquarters in Flagstaff, Arizona, and at the former Joint Use Area located within the Navajo reservation. We reviewed pertinent legislation, regulations, policy directives, and project files and interviewed Commission officials. We visually inspected 10 replacement houses in Flagstaff and at the former Joint Use Area.

We contacted officials at the Bureau of Indian Affairs, Department of the Interior, in Albuquerque, New Mexico, and at the Department of Housing and Urban Development in Washington, D.C. We also contacted officials at the Boeckh Division of the American Appraisal Company in Milwaukee, Wisconsin.

#### BACKGROUND

In 1882, prompted by conflicts between the Navajo and Hopi Tribes, President Chester A. Arthur created by Executive order the Hopi reservation " \* \* \* for the Hopis and such other Indians as the Secretary of the Interior sees fit to settle thereon." The Hopi reservation, rectangular in shape, is located near the northeastern corner of Arizona and within the larger Navajo reservation area. The Navajo reservation, as originally drawn, did not reflect the amount of or specific areas of land used by the Navajo Tribe. As a further complication, the Navajo reservation was expanded by a series of Executive orders. In total, 18 additions to the reservation and 5 withdrawals have been made since 1868. Joint use of the 1882 reservation area by both the Navajo and Hopi

Tribes led to subsequent and continued conflicts between the two tribes.

To provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes in lands lying within the Joint Use Area of the 1882 reservation, the Congress enacted Public Law 93-531 on December 22, 1974. The 1974 act provided for the appointment of a Federal mediator to undertake a final effort to get the two tribes to agree on the partition of the disputed lands and settlement of the long controversy. Despite this effort, no settlement was reached, and on December 12, 1975, the Federal mediator submitted his recommendations for judicial partition of the land to the United States District Court for the District of Arizona. On April 18, 1979, the United States District Court in Tucson, Arizona, issued a final judgment partitioning the Joint Use Area in settlement of the land dispute problem.

The 1974 act also established the Navajo and Hopi Indian Relocation Commission. The Commission, an independent and temporary agency, was created to handle the actual relocation of people affected by the partition of the Joint Use Area.

The Secretary of the Interior appointed the three-member Commission on July 1, 1975. The Commissioners were chosen by the Secretary to serve for the life of the Commission, unless removed for cause. Commission staff includes the Executive Director and a fiscal year 1981 total of approximately 34 permanent positions.

In addition to the relocation activities associated with the settlement of the land dispute between the two tribes, amending legislation (Public Law 96-305, enacted on July 8, 1980) also authorized the Commission to (1) grant life estates to eligible applicants, (2) conduct a program of discretionary funding, and (3) engage in land evaluation/analysis for possible acquisition as relocation sites.

The Commission's average payment for a replacement home without regard to housing type was \$62,215 during the first 6 months of fiscal year 1981. The composite average payment for replacement homes from inception of the program to April 1981 was \$49,771. The following schedule summarizes the payments made as of April 1981.

Housing Relocation Payments

Incentive bonus payments (note a)	\$ 1,550,000
Replacement-home benefits	\$13,021,290
Moving and search expenses	\$ <u>239,778</u>
Total	<u>\$14,811,068</u>

a/The 1974 act provided for a cash incentive payment to be disbursed directly to households who voluntarily relocated from the former Joint Use Area.

REPLACEMENT-HOME BENEFIT

The 1974 act provided that relocation benefits be paid to eligible Navajo and Hopi households who have been affected by judicial partitionment of the Joint Use Area. The Commission is directed by 25 U.S.C. 640d-14(b)(2) to pay a replacement-home benefit to provide replacement dwellings which are decent, safe and sanitary. Replacement-home maximum benefit levels were set by the 1974 act at \$17,000 (for a household of three or less) and \$25,000 (for a household of four or more). These benefit levels may be adjusted annually for changes in housing development and construction costs, other than costs of land.

The following table shows the Commission's adjustments which have been made to the original benefit as of June 1981 in accordance with procedures established by the 1974 act.

Replacement-Home Benefit Adjustments

3 persons or less:

As of:	12/22/74	3/10/77	3/02/78	3/01/79	12/07/79	12/06/80
	\$17,000	\$21,250	\$22,610	\$26,520	\$38,700	\$44,800

4 persons or more:

As of:	12/22/74	3/10/77	3/02/78	3/01/79	12/07/79	12/06/80
	\$25,000	\$31,250	\$33,250	\$39,000	\$57,000	\$66,000

Replacement-home benefits may be used to acquire various types of replacement housing including new and existing homes, mobile homes, modular and wood frame, or concrete block homes.

Payment procedures

The Commission is regularly compensating relocation households at the maximum authorized benefit levels. In addition to relocation payments, compensation is also being received by the relocation household if dwellings and improvements (such as barns, corrals, fences, and orchards) are owned by the household and located on the reservation.

Replacement-home benefit procedures contained in 25 U.S.C. 640d-14(b)(2) provide, in part, that the replacement-home benefit "shall not exceed \$17,000 for a household of three or less and not more than \$25,000 for a household of four or more \* \* \*." The Commission's Executive Director told us that the Commission's policy towards benefit payments is to be "thorough and generous." He said that the Commission encourages each eligible household to use the maximum benefit amounts authorized by law.

In this regard, the benefits paid by the Commission were in amounts close to the maximum authorized by law. For example, all 115 households approved by the Commission for fiscal year 1980 relocation benefits had received the maximum authorized replacement-home benefit of \$38,700 or \$57,000. In addition, of the above 115 households, 15 also received compensation for the appraised value of on-reservation dwellings and improvements which they had previously owned. These 15 households received an average appraisal payment of about \$4,104 for a household of three persons or less and \$9,490 for a household of four persons or more in addition to the replacement-home benefit. These 15 households received an average payment for relocation housing and their previously owned dwellings and improvements of about \$42,800 and \$66,490, respectively.

Annual adjustments to the replacement-home benefit

The annual replacement-home benefit adjustments, authorized by the 1974 act, have been varied. This has created a difficult and confusing procedural account of the methodology followed by the Commission in adjusting the replacement-home benefits. The Commission's Executive Director acknowledged that the Commission's use of various housing locations in Arizona and New Mexico to determine a reasonable replacement-housing benefit level has been inadequate. He said that a local area (near the reservation) housing cost schedule should be developed but that the Commission is not capable of preparing it.

The original replacement-home benefit amounts of \$17,000 and \$25,000 have been adjusted for inflation on five separate occasions and today are set at \$44,800 and \$66,000.

Since the Commission's first annual adjustment to the replacement-home benefit on March 10, 1977, it has used a number of methodologies to increase replacement-home benefit levels. These include:

- The Commission's third annual increase (March 1, 1979) abandoned the City of Phoenix's prototype cost area inflation factor used in the previous two increases (March 10, 1977, and March 2, 1978) and instead used the City of Albuquerque's. The Commission's Chairman said that the higher percentage increase--56 percent for Albuquerque instead of 49 percent for Phoenix--was necessary to meet on-reservation replacement housing costs. The Commission's records show, however, that 85 percent of the relocations at that time had been made off-reservation where replacement homes were about \$5,417, or 14 percent more costly than on-reservation housing.
- The HUD prototype cost areas used by the Commission to determine the housing inflation factor for the reservation area have been changed by HUD four times in the five annual adjustments.
- A completely revised adjustment methodology was developed by the Commission with HUD assistance for the fourth annual increase (December 7, 1979) because the initial procedure did not show actual cost increases for decent, safe, and sanitary replacement dwellings located on the reservation, or in surrounding areas.

#### OFF-RESERVATION RELOCATIONS

Of the 72 families that occupied a reservation homesite and were relocated as of December 31, 1980, 51 families, or 71 percent, have been moved off-reservation. The Commission's Executive Director said that most of these off-reservation moves were necessary because of the limited number of on-reservation homesite leases available (the tribes must approve a homesite lease before a family can relocate on the reservation).

From inception of the program to December 31, 1980, the average payment for replacement homes (without regard to type) located on-reservation has been \$43,173 and \$50,653 for relocations off-reservation--a difference of \$7,480, or about 17 percent. These figures indicate that if all relocations were made to on-reservation locations, total replacement-housing costs presently estimated at \$136,512,000 could be reduced to about \$113,305,000, a savings of about \$23,207,000. These savings do not include reductions that would be realized in advisory assistance services, replacement-home searches, and transportation costs.

The Congress recognized the need for additional reservation lands and provided authority in the 1974 act for the Navajo Tribe to acquire 250,000 acres of public lands. The Navajo Tribe applied for 250,000 acres in northwestern Arizona on August 4, 1975. However, the application became enmeshed in controversy, until the Navajo-Hopi Indian Relocation Amendments Act of 1980 (Public Law 96-305, dated July 8, 1980) removed the area from consideration. Continuing to recognize the need for additional lands to accommodate relocatees, the Congress in the 1980 act authorized transfer of 250,000 acres of public lands administered by the Bureau of Land Management to the Navajo Tribe without cost. The Congress also provided the Navajo Tribe the opportunity to purchase an additional 150,000 acres of private lands. All 400,000 acres are to eventually become part of the Navajo reservation. Additional reservation lands were not provided for the Hopi Tribe because partitioning the Joint Use Area required relocating only about 20 Hopi households as compared with about 1,200 Navajos.

The Commission is presently negotiating with the Bureau of Land Management and the State of Arizona for a trade of public lands adjacent to the reservation. The Commission is surveying land and making title searches in various areas most likely to be acquired by the reservation. The Commission's Executive Director told us that it will probably take 2 years for the Federal Government to take title and trust for the 400,000 acres of new land and an additional year to relocate the households.

#### TEMPORARILY-AWAY BENEFITS

About 75 percent of the households that have received relocation benefits as of December 1980 were not physically located on the partitioned areas. Relocation benefits for temporarily-away persons have increased estimated program costs to about \$200 million from original program estimates of \$80 million.

Eligibility for relocation benefits is defined in 25 U.S.C. 640d-12(b)(1), 13(b)(c), and 14. Those sections provide that a person is entitled to relocation benefits if the person can meet the requirements of residency. Residency is defined by the Commission as (1) actual occupancy on the former Joint Use Area or (2) temporarily-away. Temporarily-away persons are defined by the Commission as individuals who are temporarily away from the partitioned area due to employment or other reasons, but who have maintained substantial and recurring contacts with the homesite.

Of 284 Indian households that had received replacement-home benefits as of December 31, 1980, 212 households, or 75 percent, were temporarily-away. The Commission's Executive Director told us that about 1,200 households will ultimately have to be relocated from the former Joint Use Area. However, about 3,000 applications for relocation benefits had been received for processing by the Commission as of April 29, 1981. The additional 1,800 temporarily-away applications have already increased the Commission's originally



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projected total relocation benefit costs from about \$80 million to a present Commission estimate of about \$200 million. The Executive Director acknowledged that the number of program participants may increase depending on the ultimate number of temporarily-away Indian households that apply for relocation benefits. The Executive Director said that the present program benefit cost projection of about \$200 million may not be adequate to cover the actual costs of this program because additional temporarily-away applications for benefits will probably be received.

#### APPRAISAL AND PROPERTY ACQUISITION

The appraisals undertaken by the Commission are considerably more complex than would be expected in a conventional housing market. In a conventional off-reservation market, appraisals of real property are facilitated by records of ownership, monetary transactions, and legal descriptions of land and deeds. Property ownership on the reservation does not involve monetary transactions nor is any universally documented record of ownership kept. The Commission's appraisal program is further hampered by special factors which inhibit use of conventional depreciation calculations. The use of a conventional inflation index, such as Boeckh, to adjust preliminary replacement-cost appraisals determined with an unconventional depreciation schedule may not be the best method to determine fair market value on the reservation. An inflation index specifically tailored to the type of dwellings, improvements, and market conditions found on the reservation, as was done with the depreciation schedule, would more accurately reflect the value of dwellings and improvements.

Once a household residing within the former Joint Use Area has been found eligible for relocation benefits, the Commission embarks on an appraisal or an agreement of fair market value of the dwellings and improvements owned by the heads of such households. The Commission is directed by 25 U.S.C. 650d-12(b)(2) to determine the fair market value of the habitations and improvements owned by the heads of households identified for relocation.

This appraisal is a major factor in the calculation of total relocation assistance since the Commission's practice is to add the appraised value of the household's existing dwelling and improvements to the maximum authorized replacement-housing benefit in order to determine the total funds to be paid for the replacement home.

The Commission's appraisal methodology for determining the values of dwellings and improvements is by necessity unique because the conventional market forces of supply and demand are inoperative on the reservation. According to the Commission's chief property appraiser, the lifestyle on the reservation dictates that the value of dwellings and improvements found there be estimated without regard to functional utility or economic obsolescence. Therefore,

the Commission adopted an appraisal methodology which estimated a depreciated replacement cost for each dwelling and improvement rather than employing the usual fair market value to render a selling price. Depreciation in this case is measured only by observed physical deterioration rather than by the difference between a usual selling price and the reproduction cost of a structure as in the conventional housing market.

This unconventional depreciation schedule assumes that structures on the partitioned area have a longer physical life and remain in service longer than they would off-reservation.

Commission appraisals were conducted in two sessions, the preliminary and the final. Preliminary appraisals estimate the replacement cost of the dwelling and improvements; then, using the depreciation schedule, the Commission depreciates the replacement cost to determine an estimated present value.

The final appraisal of the relocatee's homesite is made by the Commission when the family signs a relocation contract. The Commission staff makes a second visit to the homesite to appraise value changes of the dwelling or improvements. A considerable amount of time can elapse between the preliminary and final appraisals. To allow for any change in value of properties due to the passage of time, the Commission applies the Boeckh Building Cost Modifier to adjust the preliminary appraisal value. The Boeckh Building Cost Modifier is a generally recognized commercial index used to evaluate changes in the value of dwellings and improvements on a specific homesite.

However, the use of Boeckh for the type of structures found on the reservation may not be appropriate. The Boeckh Index is calculated based on off-reservation mill prices for lumber and union wage rates. Neither of these factors are operative on the reservation because the tribes have established their own pricing and wage-rate systems. An official at the Boeckh Division of the American Appraisal Company felt that given the disparity between assumptions for Boeckh and reservation conditions, Boeckh may not be an appropriate index for such appraisals. The official did not know of any published index that would be appropriate because of the unique reservation conditions.

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At your request, we did not obtain written Commission comments on the information presented in this report. The report was discussed with Commission officials, however, and their comments were incorporated where appropriate.

As you requested, copies of this report are being sent to the Executive Director, Navajo and Hopi Indian Relocation Commission, the Senate Select Committee on Indian Affairs, and the House Committee on Appropriations.

Sincerely yours,

*Henry Eschwege*

Henry Eschwege  
Director