

Office of Navajo and Hopi Indian Relocation

Statutory Authority for Collection of Information

The Navajo-Hopi Settlement Act of 1974, as amended (25 U.S.C. 640d et seq.)

§ 640d-11. Office of Navajo and Hopi Indian Relocation

(a) Establishment; Commissioner

There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this subchapter referred to as the "Commissioner").

(b) Appointment; term of office; compensation

(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term. The Commissioner serving at the end of a term shall continue to serve until his or her successor has been confirmed in accordance with paragraph (1) of this subsection.

(3) The Commissioner shall be a full-time employee of the United States, and shall be compensated at the rate of basic pay payable for level IV of the Executive Schedule.

(c) Transfer of powers, duties, and funds to Commissioner

(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Indian Relocation Commission had before November 16, 1988.

(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

(2) There are hereby transferred to the Commissioner, on January 31, 1989--

(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): Provided, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs (B) [FN1]: Provided further, That for administrative purposes such funds shall be maintained in a separate account.

(d) Powers of Commissioner

(1) Subject to such rules and regulations as may be adopted by the Office of Navajo and Hopi Indian Relocation, the Commissioner shall have the power to--

(A) appoint and fix the compensation of such staff and personnel as the Commissioner deems necessary in accordance with the provisions of Title 5 governing appointments in the competitive service, but at rates not in excess of a position classified above a GS-15 of the General Schedule under section 5108 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of Title 5, but at rates not to exceed \$200 a day for individuals.

(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

(3) There are authorized to be appropriated for each fiscal year \$100,000 to fund contracts described in paragraph (2).

(e) Administrative, fiscal and housekeeping services; implementation of relocation plan; reasonable assistance by Federal departments or agencies; report to Congress

(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

(f) Termination

The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.

§ 640d-12. Report concerning relocation of households and members of each tribe

(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this subchapter.

(b) The report required under subsection (a) of this section shall contain, among other matters, the following:

(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this subchapter and who have not received all the benefits for which such members are eligible under this subchapter; and

(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is [FN1] being among the persons named in clause (1) of this subsection.

§ 640d-13. Relocation of households and members

(a) Authorization; time of completion; prohibition of further settlement of nonmembers without written approval; limit on grazing of livestock

Consistent with section 640d-7 of this title and the order of the District Court issued pursuant to section 640d-2 or 640d-3 of this title, the Commissioner is authorized and directed to relocate pursuant to section 640d-7 of this title and such order all households and members thereof and their personal property, including livestock, from any lands partitioned to the tribe of which they are not members. The relocation shall take place in accordance with the relocation plan and shall be completed by the end

of five years from the date on which the relocation plan takes effect. No further settlement of Navajo individuals on the lands partitioned to the Hopi Tribe pursuant to this subchapter or on the Hopi Reservation shall be permitted unless advance written approval of the Hopi Tribe is obtained. No further settlement of Hopi individuals on the lands partitioned to the Navajo Tribe pursuant to this subchapter or on the Navajo Reservation shall be permitted unless advance written approval of the Navajo Tribe is obtained. No individual shall hereafter be allowed to increase the number of livestock he grazes on any area partitioned pursuant to this subchapter to the tribe of which he is not a member, nor shall he retain any grazing rights in any such area subsequent to his relocation therefrom.

(b) Additional payments to heads of household; time

In addition to the payments made pursuant to section 640d-14 of this title, the Commissioner shall make payments to heads of households identified in the report prepared pursuant to section 640d-12 of this title upon the date of relocation of such households, as determined by the Commissioner, in accordance with the following schedule:

(1) the sum of \$5,000 to each head of a household who, prior to the expiration of one year after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(2) the sum of \$4,000 to each head of a household who is not eligible for the payment provided for in clause (1) of this subsection but who, prior to the expiration of two years after the effective date of the relocation plan, contracts with the Commissioner to relocate;

(3) the sum of \$3,000 to each head of a household who is not eligible for the payments provided for in clause (1) or (2) of this subsection but who, prior to the expiration of three years after the effective date of the relocation plan, contracts with the Commissioner to relocate; and

(4) the sum of \$2,000 to each head of a household who is not eligible for the payments provided for in clause (1), (2), or (3) of this subsection but who, prior to the expiration of four years after the effective date of the relocation plan, contracts with the Commissioner to relocate.

(c) Payments to or for any person moving into partitioned area after May 29, 1974

No payment shall be made pursuant to this section to or for any person who, after May 29, 1974, moved into an area partitioned pursuant to section 640d-7 of this title or section 640d-2 or 640d-3 of this title to a tribe of which he is not a member.

§ 640d-14. Relocation housing

(a) Purchase of habitation and improvements from head of household; fair market value

The Commission shall purchase from the head of each household whose household is required to relocate under the terms of this subchapter the habitation and other improvements owned by him on the area from which he is required to move. The purchase price shall be the fair market value of such habitation and improvements as determined under section 640d-12(b)(2) of this title.

(b) Reimbursement for moving expenses; payment for replacement dwelling; limitations

In addition to the payments made pursuant to subsection (a) of this section, the Commissioner shall:

(1) reimburse each head of a household whose household is required to relocate pursuant to this subchapter for the actual reasonable moving expenses of the household as if the household members were displaced persons under section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) [42 U.S.C.A. § 4622];

(2) pay to each head of a household whose household is required to relocate pursuant to this subchapter an amount which, when added to the fair market value of the habitation and improvements purchased under subsection (a) of this section, equals the reasonable cost of a decent, safe, and sanitary replacement dwelling adequate to accommodate such household: Provided, That the additional payment authorized by this paragraph (2) 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, except that the Commissioner may, after consultation with the Secretary of Housing and Urban Development, annually increase or decrease such

limitations to reflect changes in housing development and construction costs, other than costs of land, during the preceding year: Provided further, That the additional payment authorized by this subsection shall be made only to a head of a household required to relocate pursuant to this subchapter who purchases and occupies such replacement dwelling not later than the end of the two-year period beginning on the date on which he receives from the Commissioner final payment for the habitation and improvements purchased under subsection (a) of this section, or on the date on which such household moves from such habitation, whichever is the later date. The payments made pursuant to this paragraph (2) shall be used only for the purpose of obtaining decent, safe, and sanitary replacement dwellings adequate to accommodate the households relocated pursuant to this subchapter.

(c) Establishment of standards consistent with other laws; payments to or for any person moving into partitioned area after specified time

In implementing subsection (b) of this section, the Commissioner shall establish standards consistent with those established in the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) [42 U.S.C.A. § 4601 et seq.]. No payment shall be made pursuant to this section to or for any person who, later than one year prior to December 22, 1974, moved into an area partitioned pursuant to section 640d-7 of this title or section 640d-2 or 640d-3 of this title to a tribe of which he is not a member.

(d) Methods of payment

The Commissioner shall be responsible for the provision of housing for each household eligible for payments under this section in one of the following manners:

(1) Should any head of household apply for and become a participant or homebuyer in a mutual help housing or other homeownership opportunity project undertaken under the United States Housing Act of 1937 (50 Stat. 888) as amended [42 U.S.C.A. § 1437 et seq.], or in any other federally assisted housing program now or hereafter established, the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section shall be paid to the local housing agency or sponsor involved as a voluntary equity payment and shall be credited against the outstanding indebtedness or purchase price of the household's home in the project in a manner which will accelerate to the maximum extent possible the achievement by that household of debt free homeownership.

(2) Should any head of household wish to purchase or have constructed a dwelling which the Commissioner determines is decent, safe, sanitary, and adequate to accommodate the household, the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section shall be paid to such head of household in connection with such purchase or construction in a manner which the Commissioner determines will assure the use of the funds for such purpose.

(3) Should any head of household not make timely arrangements for relocation housing, or should any head of household elect and enter into an agreement to have the Commissioner construct or acquire a home for the household, the Commissioner may use the amounts payable with respect to such household under paragraph (2) of subsection (b) of this section and under subsection (a) of this section for the construction or acquisition (including enlargement or rehabilitation if necessary) of a home and related facilities for such household: Provided, That, the Commissioner may combine the funds for any number of such households into one or more accounts from which the costs of such construction or acquisition may be paid on a project basis and the funds in such account or accounts shall remain available until expended: Provided further, That the title to each home constructed or acquired by the Commissioner pursuant to this paragraph shall be vested in the head of the household for which it was constructed or acquired upon occupancy by such household, but this shall not preclude such home being located on land held in trust by the United States.

(e) Disposal of acquired dwellings and improvements

The Commission is authorized to dispose of dwellings and other improvements acquired or constructed pursuant to this subchapter in such manner, including resale of such dwellings and improvements to members of the tribe exercising jurisdiction over the area at prices no higher than the acquisition or construction costs, as best effects section 640d-7 of this title and the order of the District Court pursuant to section 640d-2 or 640d-3 of this title.

(f) Preferential treatment for heads of households of Navajo Tribe evicted from Hopi Reservation by judicial decision; restriction

Notwithstanding any other provision of law to the contrary, the Commissioner shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this

section to the head of each household of members of the Navajo Tribe who were evicted from the Hopi Indian Reservation as a consequence of the decision in the case of United States v. Kabinto (456 F.2d 1087 (1972)): Provided, That such heads of households have not already received equivalent assistance from Federal agencies.

(g) Appeals of eligibility determinations

Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona.