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Resources, Community, and
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April 27, 1995

The Honorable Ralph Regula
Chairman
The Honorable Sidney R. Yates
Ranking Minority Member
Subcommittee on Interior
and Related Agencies
Committee on Appropriations
House of Representatives

More than a century ago, a dispute originated between the Navajo and Hopi tribes over reservation land in northeastern Arizona. Members of both tribes lived in the disputed area, and conflicts arose over grazing and other uses of the land. On December 22, 1974, the Congress enacted the Navajo-Hopi Land Settlement Act (P.L. 93-531) to resolve the dispute by authorizing the relocation of Navajo and Hopi families that were living on land belonging to the other tribe. The Navajo and Hopi Indian Relocation Commission (now called the Relocation Office) was established to plan and implement a relocation program. Since fiscal year 1976, the Congress has appropriated almost \$357 million for the Relocation Office to certify that program applicants are eligible for assistance, to acquire land and housing, and to provide counseling services. Applicants found to be ineligible for assistance can ask for a review of the decision by the Relocation Office. If they are dissatisfied with the Office's ruling, they can seek further review in a U.S. district court.

To address your Committee's concern about the seemingly slow pace of relocations, we agreed to determine

- whether the Relocation Office certified more families for benefits than it relocated in calendar year 1994 and, if so, why and
- how many families remained to be relocated or certified as of December 31, 1994.

GAO/RCED-95-155R Navajo-Hopi Relocation Program

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In summary, we found that as of December 31, 1994, 4,507 families had applied for relocation assistance, 3,302 families were certified for benefits, and 2,560 families had been relocated. In calendar year 1994, the Relocation Office certified more families for benefits (160) than it relocated (102). Certifications outnumbered relocations primarily because previous determinations of ineligibility were reversed and relocation is a slow process. As of December 31, 1994, 742 families certified for relocation assistance had not been relocated. Another 660 families found to be ineligible for assistance could have their original determination of ineligibility overturned during review, making them eligible for assistance. According to Relocation Office officials, up to 100 additional Navajo families have never applied for assistance but may be eligible if they request assistance.

BACKGROUND

Although the relocation process is complex, it involves only two major steps: certification of eligibility for assistance and relocation. To be certified as eligible by the Relocation Office's certification officer, an applicant must meet the program's criteria for being a resident and the head of a household. To meet the first criterion, the applicant must have been a legal resident¹ of the disputed land on December 22, 1974 (the date of the Settlement Act), and must not have moved there within the previous year. Generally, to meet the second criterion, the applicant must speak for or be responsible for all members of the household and must have acted in such capacity on or before July 7, 1986.² However, an applicant can later become the head of the household through circumstances such as a divorce or the death of the previous head of the household.

¹To be a "legal resident," an applicant need not have resided continuously on the land but must have maintained substantial, recurring contact with an identifiable homesite.

²In October 1984, the Congress imposed a July 1985 deadline for the receipt of relocation program applications; this deadline was subsequently challenged and, by court order, postponed to July 7, 1986.

Reviewing Determinations of Ineligibility

An applicant who is found ineligible for the program may ask for a review of the decision within the Relocation Office by the Office's hearing officer. This review must be requested within 60 days of the initial determination of ineligibility. The Office's review process entails an explanatory conference, a hearing, and an internal review. At any of these stages, the Office can uphold or reverse a determination of ineligibility. Also, at any stage of the review process, an applicant can choose to be represented by an attorney, who will be provided by the Navajo Nation or the Hopi Tribe.

An applicant who disagrees with the outcome of the Relocation Office's review may pursue a further review of the case in a U.S. district court. The applicant must do so, however, within 6 years of the Relocation Office's final decision. According to Relocation Office officials, court decisions have relaxed some of the Office's previous procedures for determining eligibility and, in some cases, have required the Office to reconsider an applicant's eligibility. For example, a district court recognized that some applicants had not received notice that their eligibility for the program had been denied and, therefore, they could not file a timely request for review. Accordingly, by order of the district court, the Office reconsidered the cases of nearly 800 applicants whom it had previously found ineligible.

In other cases, when applicants notified the Office that they intended to request a judicial review of the Office's determination of ineligibility, these determinations were again reviewed and then administratively reversed at the recommendation of the U.S. attorney. The U.S. attorney's recommendation was based on counsel's judgment that the Relocation Office could not legally defend its determination of ineligibility. For example, the U.S. attorney said that, in some cases, the Office had no legally defensible basis for questioning the word of applicants who had attested to meeting the criteria for eligibility. In such cases, the U.S. attorney recommended that the Office reverse its determination of ineligibility.

Relocating Families

Once an applicant has been certified as eligible for relocation, the Relocation Office assigns the family a counselor, who helps the family with the process of

relocation. First, a counselor discusses with the family the area in which it wishes to live. For example, some families may desire to stay on reservation land; other families may wish to move outside the reservation. Once the family has decided where it wants to relocate, the counselor helps it acquire the homesite. For families who wish to be on the reservation, the land must be leased from the tribe that owns it. For families who want to move off the reservation, the homesite must be purchased. Once this is done, other Office staff help the family acquire housing (either build a home or purchase an existing one); the house is paid for by the program. Once the family has moved into its new home, with financial assistance from the program, a counselor provides advice and assistance to help the family adjust to life in the new community.

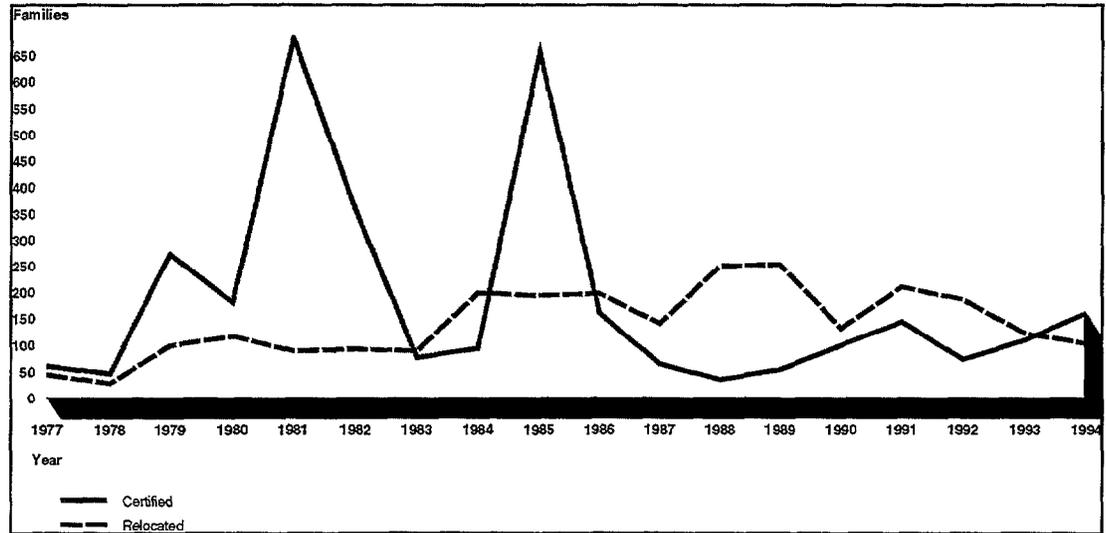
OVERVIEW OF PROGRAM'S RESULTS

As of December 31, 1994, 4,507 Navajo and Hopi families had applied for relocation benefits. Of these, 3,302 had been certified as eligible for assistance, and 2,560 of the certified families had been relocated. Another 1,205 applicants were determined to be ineligible for benefits. Of these, 346 had not requested a review of the determination and cannot do so now because the deadline for such a request has passed. The other 859 applicants requested a review of the determination of ineligibility. For 199 of these applicants, the request for a review was rejected, the review was dropped, or the time for further review has expired. For the remaining 660 applicants, the original determination of ineligibility could still be overturned, making them eligible for relocation benefits. For 302 of these applicants, the review is still ongoing within the Relocation Office. For the remaining 358 applicants, the review has been completed within the Office but further review in a U.S. district court remains an option.

NUMBER OF CERTIFICATIONS AND RELOCATIONS IN 1994

In 1994, the number of certifications exceeded the number of relocations for the first time since 1985. Specifically, the Relocation Office certified 160 families and relocated 102. In each of the 8 previous years, the number of relocations exceeded the number of certifications. Figure 1 shows the pattern of certifications and relocations from calendar years 1977 through 1994.

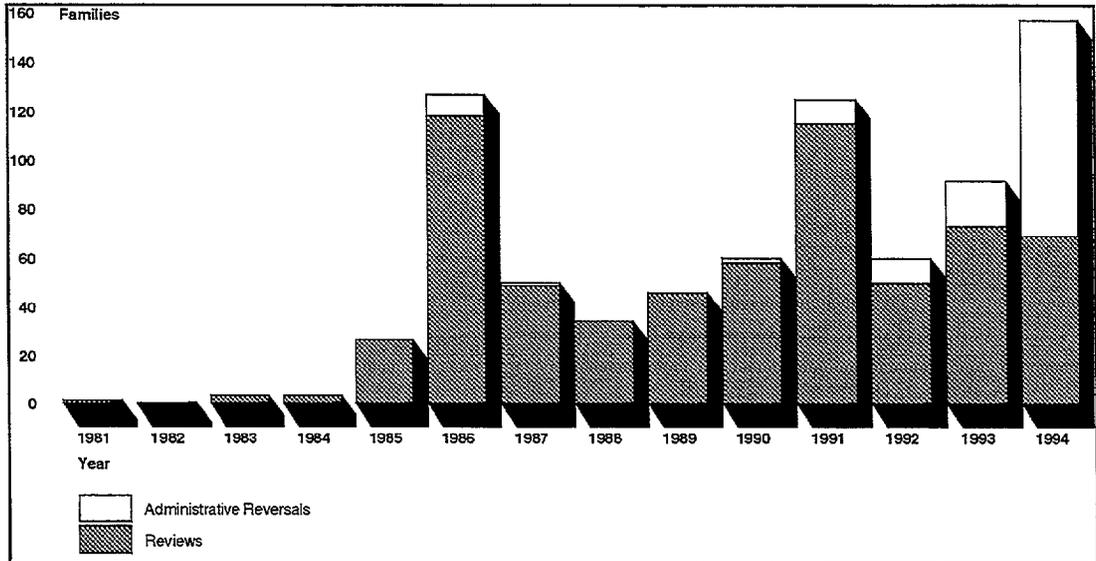
Figure 1: Certifications and Relocations, 1977-94



According to Relocation Office officials, certifications outnumbered relocations in 1994 primarily because the Office reviewed and reversed many of its past decisions of ineligibility. Of the 160 families certified in 1994, 157 were certified on the basis of such a reversal. Of these 157 reversals, 69 resulted from a review within the Office; the other 88 resulted from an administrative reversal recommended by the U.S. attorney. The remaining three certifications were new, resulting from a change in circumstances (e.g., a divorce).

According to program officials, 1994 was not the only year when many determinations of ineligibility were reversed. Figure 2 shows the number of certifications resulting from reviews and administrative reversals during calendar years 1981 through 1994.

Figure 2: Certifications Resulting From Reviews and Administrative Reversals, 1981-94



Certifications also outnumbered relocations in 1994 because the relocation process is slow. According to Relocation Office officials, relocation is often lengthy and lags behind certification. For example, half of the families that the Office relocated in 1994 had been certified between 1981 and 1989. According to Office staff, the speed with which a family progresses through the relocation process depends on many factors. For example, a Navajo family that wishes to be relocated on the existing Navajo reservation must obtain a homesite lease; doing so requires the approval of the family claiming customary use of the land, the tribal chapter, and the Navajo Nation. Additionally, the scarcity of remaining available land near the Navajo-Hopi border makes it more and more difficult for a family to obtain a homesite lease on the reservation. And finally, because the program is voluntary, there is no certainty that an eligible family will complete the relocation process.

NUMBER OF REMAINING RELOCATIONS AND CERTIFICATIONS

As of December 31, 1994, 742 families certified for relocation assistance had not completed the relocation process. In addition, 302 families were seeking a review of their determination of ineligibility within the

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Relocation Office, and another 358 families whose determination of ineligibility was not reversed by the Relocation Office could pursue their request for relocation assistance through a U.S. district court. Thus, some of these 660 families could have their original determination of ineligibility overturned, causing them to be certified and therefore eligible for relocation assistance. In addition, Relocation Office officials estimate that 50 to 100 Navajo families on Hopi lands have never applied for relocation benefits but may be eligible if they request assistance.

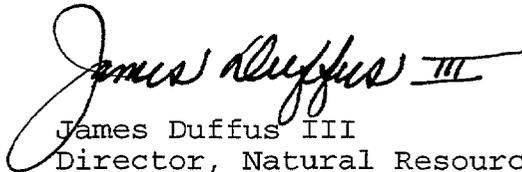
SCOPE AND METHODOLOGY

We obtained the information in this report from reviews of documents and clients' records and from interviews with officials at the Office of Navajo and Hopi Indian Relocation at Flagstaff, Arizona. We visited the Hopi and the Navajo reservations, where we met with representatives of both tribes. We conducted our review between August 1994 and March 1995 in accordance with generally accepted government auditing standards.

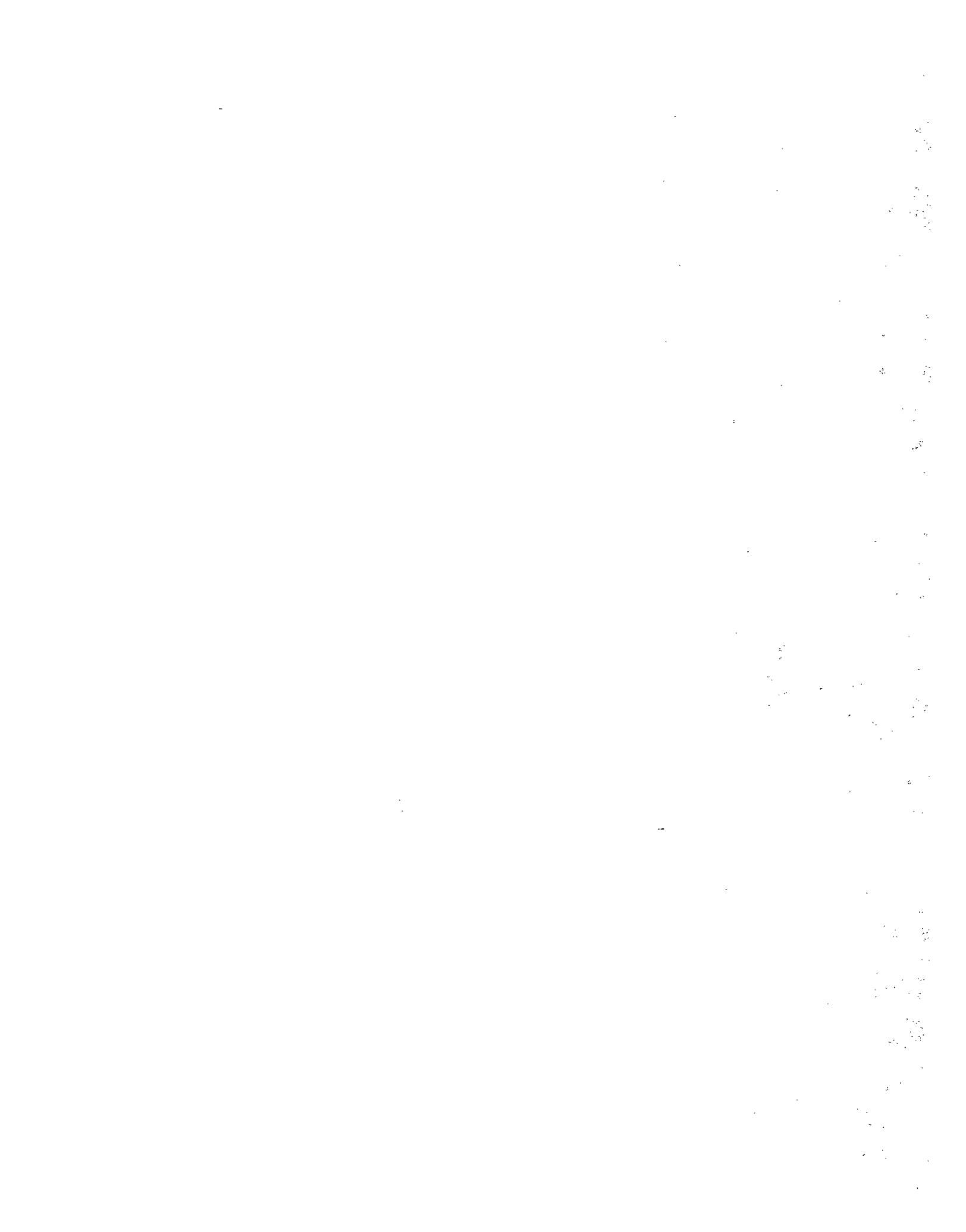
We discussed the contents of this report with the Executive Director of the Relocation Office and with other program officials. These officials generally agreed with the facts as presented, and we incorporated their comments where appropriate.

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If you or your staff have any questions, please call me on (202) 512-7756. Major contributors to this work were Sue Naiberk, Craig Richards, Felicia Turner, and Alan Wernz.


James Duffus III
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Management Issues

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