



UNITED STATES GOVERNMENT
OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

July 27, 2009

Christopher J. Bavasi
Executive Director

POLICY MEMORANDUM NO. 14. (Revised)

SUBJECT: 25 CFR § 700.133

POLICY:

A. Persons to whom ONHIR will seek to provide notice of the possibility that they may be eligible for Relocation Benefits

The Office of Navajo and Hopi Indian Relocation will give such notice as it can reasonably provide to persons who it is aware of and who may meet requirements a. or b. and c. through h.

- a. The person, if a Navajo, was a resident of what became the Hopi Partitioned Lands ("HPL") on December 22, 1974 and had not moved to what became the HPL on or after December 22, 1973; and
- b. The person, if a Hopi, was a resident of what became the Navajo Partitioned Lands ("NPL") on December 22, 1974 and had not moved to what became the NPL on or after December 22, 1973; and
- c. The person became a Head of Household on or before the earlier of the date the person left the HPL (if a Navajo) or the NPL (if a Hopi) or July 7, 1986; and
- d. The person did not knowingly reject Relocation Benefits; and
- e. The person has not already received Relocation Benefits as a Head of Household or spouse (or spouse equivalent) of a Head of Household; and
- f. The person did not relocate with a Head of Household as a member of that Household prior to the person becoming a Head of Household him/herself.
- g. The person did not sign the Accommodation Agreement with the Hopi Tribe; and
- h. The person did not previously apply for Relocation Benefits.

B. Persons from whom ONHIR will accept Applications for Relocation Benefits

- a. The person, if a Navajo, claims to have been a resident of what became the Hopi Partitioned Lands (“HPL”) on December 22, 1974 and had not moved to what became the HPL on or after December 22, 1973; and
- b. The person, if a Hopi, claims to have been a resident of what became the Navajo Partitioned Lands (“NPL”) on December 22, 1974 and had not moved to what became the NPL on or after December 22, 1973; and
- c. The person claims to have become a Head of Household on or before the earlier of the date the person left the HPL (if a Navajo) or the NPL (if a Hopi) or July 7, 1986; and
- d. The person did not knowingly reject Relocation Benefits; and
- e. The person has not already received Relocation Benefits as a Head of Household or spouse (or spouse equivalent) of a Head of Household; and
- f. The person did not relocate with a Head of Household as a member of that Household prior to the person becoming a Head of Household him/herself.
- g. The person did not sign the Accommodation Agreement with the Hopi Tribe; and
- h. The person did not previously apply for Relocation Benefits.
- i. The Application is received by ONHIR on or before the Application Deadline.

C. Persons from whom ONHIR will not accept Applications for Relocation Benefits from

ONHIR will decline to accept Applications for Relocation Benefits from persons who fall into any of the following categories. Such persons will not be permitted to appeal this declination through ONHIR’s Administrative Appeals procedure.

- a. Persons who are not members of the Navajo Nation or Hopi Tribe *unless* such persons are surviving spouses of members of the Navajo Nation or Hopi Tribe and the decedent met the requirements of Subsection B. a-h., above.
- b. Persons who were born after December 22, 1974

- c. Persons who signed the Accommodation Agreement with the Hopi Tribe and did not relinquish the Agreement within three (3) years of signing it
- d. Persons who previously applied for Relocation Benefits
- e. Persons who previously relocated as a spouse or spouse equivalent of a Head of Household
- f. Persons who file Applications for Relocation Benefits after the Application deadline
- g. Persons who file incomplete Applications for Relocation Benefits

D. Persons whom ONHIR will certify as being eligible for Relocation Benefits

ONHIR will certify for Relocation Benefits persons who file a timely and complete Application for Relocation Benefits which is accepted by ONHIR and who prove to ONHIR's satisfaction that:

- a. The person, if a Navajo, was a resident of what became the Hopi Partitioned Lands ("HPL") on December 22, 1974 and had not moved to what became the HPL on or after December 22, 1973; and
- b. The person, if a Hopi, was a resident of what became the Navajo Partitioned Lands ("NPL") on December 22, 1974 and had not moved to what became the NPL on or after December 22, 1973; and
- c. The person became a Head of Household on or before the earlier of the date the person left the HPL (if a Navajo) or the NPL (if a Hopi) or July 7, 1986; and
- d. The person did not knowingly reject Relocation Benefits; and
- e. The person has not already received Relocation Benefits as a Head of Household or spouse (or spouse equivalent) of a Head of Household; and
- f. The person did not relocate with a Head of Household as a member of that Household prior to the person becoming a Head of Household him/herself.
- g. The person did not sign the Accommodation Agreement with the Hopi Tribe; and
- h. The person did not previously apply for Relocation Benefits.

- i. The Application for Relocation Benefits was filed on a timely basis

E. Appeals

A person permitted to apply for Relocation Benefits but who is denied eligibility and wishes to pursue their claim of eligibility must file an administrative appeal with ONHIR and follow ONHIR's regulations, Management Manual and policies in pursuing such an appeal.

F. Eligibility of persons with Appeals pending before October 10, 2008

The eligibility of persons with Eligibility Appeals which were pending before October 10, 2008 shall be evaluated under the criteria set forth in Section D., a. or b. and c. through g. above.

G. Eligibility of persons with Final Agency Action prior to October 10, 2008

Persons for whom Final Agency Action has been taken and the Statute of Limitations to seek review in the Federal Courts under the Administrative Procedure Act has not expired may, on request and in the discretion of the Executive Director, have their eligibility for Relocation Benefits determined under criteria set forth in Section D., a. or b. and c. through g. above.

DISCUSSION:

As we seek to complete our work, we need to make sure that we have fulfilled the goals that the Congress set for this Agency both when it was established by the 1974 Settlement Act (P.L. 93-531) as well as by amendments to that Act and directives from the Congress as well as the Federal Courts.

One of the things we must be sure of is that we have provided Relocation Benefits to persons who are entitled to them under the standards established by the Congress and implemented by our Agency.

Our own Regulation (25 CFR § 700.133) imposed on us the obligation to "issue a preliminary relocation notice to each person identified by the Commission as potentially subject to relocation."

ONHIR worked hard to provide outreach and information concerning Relocation and the benefits available to eligible persons as well as the procedure for applying for benefits.

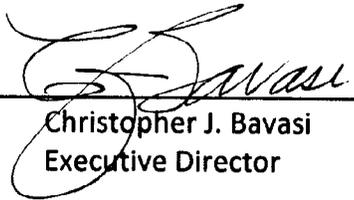
As a Federal Agency, in addition to our responsibility to persons eligible for Relocation Benefits, we had and have an obligation to the taxpayer to spend their money carefully and only when

necessary. Thus, to the extent that we could fulfill the Congressional mandate by looking to eligible persons to come to ONHIR and apply for Relocation Benefits, rather than our having to search out and find such persons, we would minimize the cost of the Relocation Program to the taxpayers by avoiding or at least minimizing the cost of conducting an outreach program.

Over the last year we have been reviewing a 2008 Federal Court decision which interpreted 25 CFR § 700.133 to require not only "issuing" the "relocation notice" in the manner set forth in that regulation, but also providing "notice" in the manner set forth in another of our regulations, 25 CFR § 700.11. Based on this review we will modify our approach to determining eligibility so that the Agency assumes the responsibility of giving notice to certain persons who are or were "potentially subject to relocation" under the criteria in effect on July 7, 1986 and carefully documenting that notice and our contacts.

This revision in Policy Memorandum No. 14. of October 10, 2008 clarifies certain aspects of that Policy Memorandum.

Approved: _____


Christopher J. Bavasi
Executive Director

Date: July 27, 2009