[4337-15-P]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

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RIN 1076-AF22

Housing Improvement Program

ACTION: Final Rule.

SUMMARY: The Bureau of Indian Affairs is updating its regulations governing its Housing Improvement Program, which is a safety-net program that provides grants for repairing, renovating, or replacing existing housing and for providing new housing. This final rule is an important part of the *Tiwahe* initiative, which is designed to promote the stability and security of Indian families. This final rule aligns the program with other Federal requirements, allows leveraging of housing funds to increase the number of families served and projects funded, and promotes tribal sovereignty and self-determination by providing tribes with more flexibility in determining how to address waiting lists of tribal members awaiting housing assistance.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Les Jensen, Division of Housing Assistance, Bureau of Indian Affairs at (907) 586-7397. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1 (800) 877-8339 between 8 a.m. and 4 p.m. Monday through Friday, excluding Federal holidays.

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I. Background

The Housing Improvement Program (HIP) is a safety-net program that provides grants for the cost of services to repair, renovate, or replace existing housing and provide new housing for eligible members of federally recognized Indian tribes. The BIA administers the HIP under the regulations at 25 CFR part 256. The BIA distributes HIP funding based on a priority ranking derived from a point system to identify those individuals and families most in need of housing assistance. Funding is restricted to individuals and families that reside in the tribe's service area. In Fiscal Year (FY) 2015, the HIP will serve approximately 140 recipients. These recipients are individuals and families with extremely low incomes.

II. The Rule's Changes to the Current HIP

This final rule updates various provisions to align the HIP with other Federal program requirements, allow leveraging of housing funds to increase the number of families served and projects funded, and provide tribes with flexibility to better address lengthy waiting lists of tribal members awaiting housing assistance.

Categories of Assistance and Funding Limits

Currently, the HIP provides funding for four categories of housing needs:

- Category A – for repair of existing homes;
- Category B – for renovation of existing homes to standard housing condition;
- Category C-1 – for construction of replacement homes; and
- Category C-2 – for new housing.

For each category, there is a limit on the amount of funding a recipient may receive. The final rule increases the limit for Category A funding from $2,500 to $7,500 and increases the limit for Category B funding from $35,000 to $60,000. The original limits are inadequate, given the average costs of repair and renovation to standard housing condition. These limit increases better reflect the actual costs of repair and renovation. Further, these limit increases will allow more households to repair and renovate existing homes, rather than spending more on each individual household to build a new home. This approach will improve housing conditions for more households.

The final rule adds a new Category D, to allow assistance toward the purchase of a modest house (e.g., financial assistance for a down payment) for families that can obtain a mortgage loan from other Federal programs. These rule changes allow for HIP assistance to families with very low income (rather than just families with extremely low income) and allow families to leverage the funding they receive, making each Federal dollar stretch farther.

Ranking Factors

Priority ranking for HIP assistance is based on total numeric value (points) received under the ranking factors. The current ranking factors are based on the applicant's annual household income, whether there is an aged person living in the house, whether there is a disabled person living in the house, and family size. There are a certain number of points available for each of the ranking factors. Each applicant receives a certain number of points under each of the ranking factors. The final rule updates the current ranking factors, as shown in the table below.

Ranking Factor	**Final Rule Change from Current Rule**	**Reason for Change**
Annual Household Income	Increase the income guidelines from 125 percent to 150 percent of the Federal Poverty Income Guidelines	Those within 150 percent of the poverty level would be eligible, allowing the HIP to assist the very needy, in addition to the extremely needy.
Age	Award one point for every year above 54 years of age, up to 15 points. Currently there is no maximum number of points available.	Awarding a maximum of 15 points for this ranking factor ensures that it is appropriately weighted against other factors so that tribes have more flexibility to address their lengthy waiting lists in a manner they determine best serves tribal members awaiting housing assistance.
Disability	Award 10 points if one or more members of the applicant household is disabled and decrease the number of points available for this category to 10 points (currently 20 points is available)	Awarding 10 points if one or more members of the applicant househhold is disabled ensures that this ranking factor is appropriately weighted against other factors so that tribes have more flexibility to address their lengthy waiting lists in a manner they determine best serves tribal members awaiting housing assistance.
Dependent Children	Award 3 points for one dependent and 3 points for each additional dependent, up to a maximum of 15 points for 5 or more dependents (currently, the maximum for 6 or more dependents is 5 points)	These adjustments ensure that this ranking factor is appropriately weighted against other factors so that tribes have more flexibility to address their lengthy waiting lists in a manner they determine best serves tribal members awaiting housing assistance.

Ranking Factor	Final Rule Change from Current Rule	Reason for Change
Other conditions	New category including ranking factors for veterans (5 points), homelessness or overcrowding (5 points), and dilapidated housing (5 points), with a maximum of 15 points.	These new ranking factors prioritize applicants who are veterans, homeless or in overcrowded or dilapidated housing conditions, by awarding points for these factors.
Approved Financing Package	New category for applicants with an approved financing package for housing who still need HIP assistance.	This new ranking factor allows applicants to leverage funding to improve housing conditions.

Overall, the adjustments to the points are intended to create a level playing field among applicants and provide tribes with more flexibility to determine how best to serve applicants on their long waiting lists.

Payback Agreements

Under the HIP, the recipient may be required to enter into a "payback agreement" which provides that the recipient will have to pay back the entire amount of funding received or a portion thereof if the recipient sells the home within a certain period of time. If the payback period expires, no payback is required and the money is considered a grant. Currently, for Category B, the payback period is 5 years. So, for example, a family that receives HIP funding for a home must repay the funding if the family sells the home within 5 years of receiving the funding. The final rule does not establish a uniform payback period, but provides that the payback agreement will establish the payback period. The final rule does not affect the payback period for Category C.

Four-Year Application Period

The final rule also increases the time for consideration of an application to 4 years. Currently an application expires after one year, requiring an applicant who does not receive

assistance under the HIP to reapply annually until assistance is received. The final rule places each application in the application pool for four years, so an applicant need only apply once every 4 years until assistance is received.

Land Ownership Requirements

HIP funding applicants must provide proof of land ownership before the grant award. The final rule allows the applicant to provide proof of a homesite lease or proof that the applicant can obtain the land, even by lease, rather than requiring ownership. A certificate of title is required if and when the applicant becomes the owner of the home.

Square-footage Limits

The final rule also increases square-footage limits to allow Americans with Disabilities Act (ADA) requirements to be met, when applicable, and clarify when ADA requirements apply. The following table shows the increases in square footage the final rule makes.

Number of Bedrooms in House	**Current and New Square Footages (SF)**	**Total Increase**
2 bedrooms	900 sf to 1,000 sf	100 sf
3 bedrooms	1,050 sf to 1,200 sf	50 sf
4 bedrooms	1,305 sf to 1,400 sf	95 sf

Standard Housing Definition

The definition of “standard housing” reduces the number of persons appropriate for a three-bedroom dwelling from “up to seven persons” to “up to six persons” to reflect that, depending on the make-up of the family, three persons per bedroom may be considered crowded. Additionally, the final rule changes the bedroom sizes to require “up to 120 feet” of floor space for the first bedroom and “up to 100 feet” of floor space for each additional bedroom, to allow tribes the flexibility to provide for smaller square footage where appropriate. The current rule requires “at least 120 feet” and “at least 100 feet,” respectively.

III. Comments Received on the Proposed Rule and Responses to Comments

We received 20 written comment submissions on this rule and several oral comments at tribal consultations. The following summarizes the substantive comments received and our responses.

A. General

Every tribe that submitted comments on the rule supported the proposed rule changes in general, noting the importance of the HIP as a program, and further stating that the changes provide flexibility for tribes to better address long waiting lists in their service areas, foster relationships with other agencies to leverage Federal housing funds, and increase the number of families served and projects funded. Only one commenter opposed the rule for reasons summarized below (e.g., opposition to the funding limits for Categories A and B, adding a new category for down payment assistance, the increased application period).

One tribe asked how the changes to factors will provide tribes with flexibility to better address lengthy waiting lists. Expanding the criteria and adjusting the points allows younger families more of a chance at assistance by awarding a similar number of points for different factors. This may result in more ties in points among applicants, which will allow the tribe flexibility to identify the priority among applicants with a similar number of points. By increasing the funding limits in Categories A and B, more households will be able to repair and renovate existing homes, reducing the need to build new homes. These changes, along with the new category for down-payment assistance to purchase a new home, allow Federal dollars to stretch farther and serve more households.

A commenter stated that the tribe supports allowing applicants to provide proof of a lease rather than homeownership because some families cannot afford to purchase a home but still

need to participate in the HIP to bring living conditions to an acceptable level. The final rule allows proof of a lease rather than homeownership.

B. Definitions (256.2)

One commenter suggested multiple changes to the definitions, as listed here.

- The definition of "agency" should include a unit of BIA that enters into cooperative agreements and/or self-determination contracts with tribes. The final rule does not incorporate this suggestion because the context in which "agency" is used in the rule does not require specifying that tribal organizations can enter into agreements to administer the HIP.
- The citation in the definition of "overcrowding" is incorrect. The final rule includes the correct citation, to 256.10 instead of 256.11.
- The definition of "permanent members of household" should be reworded to be "adults and any children living in the household who intend to live there continuously." The final rule does not make this change because the suggested wording could be interpreted to increase eligibility requirements by requiring proof of the children's intention to live in the household continuously.
- The definition of "standard housing condition" should include a four bedroom house as adequate for all but the largest families. The final rule inserts this provision and clarifies the number of occupants that each size house may not exceed.
- The definition of "standard housing condition" should state that, in regions of severe climate, the size of the house may be changed to comply with the requirement that the heating system has the capacity to maintain a minimum

temperature of 70 degrees in the house. The final rule does not incorporate this change because the size requirements and heating system requirements are compatible and both can be met even in areas of severe climate.

Another commenter asked whether all agencies of the Federal government are using the same definition of homelessness. The definition of "homelessness" for the purposes of HIP is different from that of other Federal agencies, to ensure that our definition encompasses persons who may be without a home but staying with extended family or friends, while other agencies' definitions may focus more on chronic homelessness.

A commenter asked for more information on what it means that the rule changes will "align" HIP requirements with other programs. The rule changes will allow eligible applicants for the HIP to participate in both the HIP and other government housing programs to leverage available funding and make down payments or receive repairs or renovations they may not otherwise have been able to afford.

A few commenters recommended specifying in the definition of "standard housing condition" that, if no housing codes with building standards exist, construction must meet appropriate building standards for the region. The final rule does not incorporate this change because every housing office should have a standard housing code, which would apply.

C. Policy (256.3)

One commenter suggested adding to the policy statement that every American Indian and Alaska Native should have the opportunity for a "safe" home and suitable living "conditions" (rather than "environment"). The final rule incorporates these edits because the opportunity for "safe" homes, in addition to decent homes, is consistent with national housing policy.

One commenter supported the provision at 256.3 requiring BIA to provide a certificate of title for the dwelling once the program participant owns the home. Another commenter suggested adding to the end of 256.25 that a certificate of title or ownership will be issued upon completion of the work. The tribe or lender may issue a certificate of title.

D. Eligibility (256.6)

1. Income Limits

Several commenters stated their support of the proposal to increase the income guidelines for eligibility from 125 percent to 150 percent of the Federal Poverty Income Guidelines because it will extend the reach of the program to more applicants who are in need of housing but not eligible for other housing assistance programs. The final rule includes this increase.

One commenter requested more information about the Federal Poverty Income Guidelines. The Department of Health and Human Services publishes the guidelines on an annual basis. They are available at: http://aspe.hhs.gov/poverty/index.cfm.

2. Previous HIP Assistance

Some commenters stated that, while they recognize the need to serve clients who have not previously received assistance through the HIP, they recommend that this restriction on eligibility not apply to recipients of Category B rehabilitation funds if the funds were received prior to a certain time, such as more than 25 years ago. The final rule retains the restriction on eligibility in the interest of fairness, to ensure that those who have not yet received HIP assistance are given priority.

3. Participation in Government Program

A few commenters stated that the eligibility restriction against having acquired present housing through participation in a Federal government-sponsored housing program should be

deleted. The commenters stated that the restriction could unnecessarily limit participation in the HIP and that participation in other programs, such as a Mutual Help, HUD Section 184, or Section 502 program should not prevent someone from participating in the HIP. The final rule clarifies that only past participation, over the previous 20-year period, in another Federal government-sponsored program to obtain your current home restricts your eligibility for the HIP. The final rule encourages contemporaneous participation in another Federal government-sponsored housing program to leverage available funding.

E. Category A – Repair of Existing Homes (256.7, 256.8)

Several commenters stated their support of the proposal to increase the limit for Category A (Repair) funding from $2,500 to $7,500 because it better reflects average costs of housing repairs and would allow tribes to address more housing conditions that threaten the health and safety of tribal members. A commenter stated that current funding limits allow only minimal repairs that do not make any lasting improvements, while the proposed limits would improve the health of impoverished families by better addressing basic housing needs. The final rule includes the proposed increase in Category A funding.

One commenter stated that there should be higher limits on repair costs and lower limits on renovation costs because renovations may be strictly cosmetic. The final rule does not change the limits because renovations funded by the HIP are those necessary to bring the house to standard housing condition. *See* 256.7.

One commenter stated that BIA should revisit the limits in two or three years, rather than the 13 years it took to update the current limits with this rule, to ensure that the amount continues to be sufficient. While revisiting the limits in two to three years may be unrealistic, BIA will

endeavor to revisit the limits more frequently to account for inflation and other factors that may affect the effectiveness of the limits.

One commenter stated that higher limits are necessary to address emergency repairs such as roofing, windows, doors, insulation, and old wiring and heating, and stated that such repairs may cost $15,000 and up. While Category A funding may be used to address safety concerns, the HIP generally is not intended for emergency repairs.

F. Category B – Renovation (256.7, 256.9)

Several commenters expressed their support for increasing the limit for Category B funding from $35,000 to $60,000 because the current renovation limits fail to provide adequate funding to improve housing conditions to a level that meets applicable building code standards. The final rule includes the increase in Category B funding.

The proposed rule would have lengthened the Category B payback period to 10 years. So, for example, a family that receives HIP funding for a home would have had to repay the funding if the family sold the home within 10 years. Several commenters also expressed their support of increasing the payback agreement period from 5 years to 10 years for Category B, to better allow the tribe to recoup the costs before the recipient sells the home and allow those recouped costs to be used to address the housing needs of other program recipients on the waiting list. One commenter expressed opposition to increasing the payback period, stating that the increase would detrimentally affect grant recipients by requiring them to stay in their home for at least 10 years. Another commenter suggested a pro-rata formula for payback beyond 5 years, because wear and tear on a home over 5 years can be significant. The final rule provides that the payback agreement will establish the payback period in order to allow flexibility in determining the appropriate payback period under each set of circumstances.

G. Category C – Replacement of New Housing, Square Footage (256.7, 256.10)

One commenter stated support for the inclusion of freight costs in Category C funding for homes in Alaska. The final rule includes freight costs for Category C funding.

One commenter stated that the table at 256.10(a)(1) should also require that the land has adequate ingress and egress rights and reasonable access to utilities. The final rule does not include this additional requirement because the cited provision addresses homes already owned, so it is presumed that there is already adequate ingress and egress and reasonable access to utilities.

Several commenters supported the proposed increase in square footage limits. Some stated that that it will allow tribes to better serve families with disabilities and meet Americans with Disabilities Act requirements. One commenter, while conceptually in favor of the square footage limits, stated concern that, without additional appropriations, the increases may prevent the HIP from reaching a greater number of people in need or reduce the number served. Another commenter stated that the proposed increases to bedroom sizes do not go far enough. The final rule incorporates the proposed increases in square footage limits to better serve families with disabilities.

H. Both Categories B and C

A few commenters recommended clarifying that recipients of Category B and Category C who sell the house must repay the tribe directly operating the HIP (or BIA), to ensure that funding stays in the community where it was originally invested, consistent with the Indian Self-Determination and Education Assistance Act (ISDEAA) and self-governance. The final rule incorporates this change; however, any funding returned to the tribe or tribal organization may be used only for the HIP.

One commenter suggested providing a $60,000 funding limit for Alaska and a lower funding limit for the lower 48 States because renovations are generally more costly in Alaska. The final rule imposes a funding limit of $60,000 on renovations, regardless of what State the home is located in; however, it allows for additional funding for homes in Alaska to cover freight costs.

I. Category D – Assistance (256.7, 256.11)

Several commenters stated their support of the proposed new Category D, allowing for down payment assistance. The commenters pointed out that assistance with down payments will help tribes promote homeownership to families of all ages and will allow tribes to serve working class families that would not otherwise qualify for housing because they do not have the financial resources to come up with a down payment. One noted that the down payment assistance dollars could be used to buy down the interest rate and principal loan so that monthly mortgage payments are more affordable for working families.

One commenter stated a concern that Category D does not include spending caps or payback agreements that the current HIP program categories possess and that, without a cap, the limited HIP funds may serve fewer recipients. BIA agrees that a cap may be appropriate at some point but requires several years to collect data on what an appropriate cap would be. For this reason, BIA will revisit this comment at some point in the next decade or two.

A few commenters specifically supported the proposed language at 256.11(b) saying that Category D funds may be used for down payment assistance, closing costs, and pre-homeownership counseling.

A few commenters suggested defining the income eligibility for Category D using the definition provided in the Native American Housing Assistance and Self-Determination Act

(NAHASDA) regulations at 12 CFR 1000.10, which would allow those with an annual income that is 80 percent of the area median income or United States median income, whichever is higher, to be eligible. The final rule does not incorporate this suggestion because defining income eligibility for one category in a manner different from the other categories would be administratively burdensome.

A few commenters suggested that, to promote use of Category D, BIA set aside 10 percent of each region's HIP allocation for Category D. They also suggested that BIA document the need for Category D funding so future appropriation requests can be increased to meet down payment assistance needs. There is no change to the final rule to address this comment because BIA addresses allocations in its annual funding letter to tribes. BIA believes it will take several funding cycles to fully implement the Category D program and identify the appropriate level of funding based on participation.

One commenter stated that down payment assistance should be offered as part of Category C-2, because creating a new Category D will demand more time, resources, and procedures. BIA has determined that the more cost effective solution is to create a new Category D for down payment assistance because it can be separately tracked and administered.

A commenter stated that the 30-point ranking value for factor 6, applicants with an approved financing package, may lead to an approval bias toward Category D applications, while needs related to the other three categories go unmet. The final rule lowers the point value from 30 to 25 in response to these comments. BIA believes the 25-point value will allow tribes the flexibility to put an applicant for Category D assistance on an equal footing with applicants for other categories. HIP funds will still be made available for the other categories.

One commenter stated that, with the addition of Category D, the intent of the program is changed from a safety-net program because the program would no longer be providing assistance to the neediest of the needy with no other resources, since Category D applicants do have other resources for assistance. The final rule does not make any changes in response to the comment because Category D applicants still must meet the extremely low and very low income and other eligibility requirements for HIP participation. While Category D helps those who need HIP assistance in order to avail themselves of otherwise unavailable resources. This commenter also suggested changing the down payment assistance program to one in which a participant could provide in-kind services for down payment (e.g., labor equity toward construction of the house). The final rule does not allow for in-kind services or labor equity because doing so would pose safety and liability issues that BIA is not prepared to undertake at this point.

One commenter asked whether a person approved for participation in the HIP can get a loan "on top of" the HIP assistance. The final rule does not allow loans in addition to HIP assistance, but does encourage coordination of HIP assistance with other Federal resources to leverage those resources.

J. New Ranking Factors (256.14)

Several commenters stated their support of the new ranking factors for homelessness, overcrowding, and dilapidated housing, as helping to identify and prioritize tribal communities' housing needs.

A few commenters suggested adding a new factor for veterans; one suggested the new factor for veterans should be for 20 points. The final rule adds veteran as an "other condition" in recognition of both the important contribution to society that veterans have made and the

disadvantage many veterans are under economically. The final rule provides the veteran ranking factor with a point value of 5 to balance this factor with other factors.

K. Ranking Factor – Dependent Children

A few commenters stated their support for increasing the maximum number of points for dependent children. One noted that single-parent families are growing and in need of housing but have difficulty in gaining approval under the HIP, and that elders often live with these families and, as such, the proposed increase in points serves two constituencies. One commenter stated that there should be a ranking factor or priority points for families with young children, and that these families should be prioritized above all because it is our duty as society to allocate sufficient resources for habitable homes to these children. The proposed and final rule increase the maximum number of points awarded for dependent children from 5 to 15 points.

L. Ranking Factor – Age

The final rule retains the threshold for being considered "aged"at 55 years old. The proposed rule proposed to increase the threshold from 55 years old to 62 years old to align the age with the Social Security age for retirement. Several commenters opposed increasing the threshold for being considered "aged" from 55 years of age to 62 years of age. These commenters recommended that the threshold stay at 55 with a maximum of 20, rather than 15 points, allowing anyone over 75 to obtain 20 points. One commenter noted that the basis for the proposed increase to 62, aligning the HIP age requirement with the Social Security age of retirement, does not reflect the realities Indian Country faces, in which the average American Indian or Alaska Native has a shorter lifespan and more medical issues. Another commenter stated that the program should target the elderly and disabled by giving them higher priority. The final rule retains the current threshold for "aged" at 55 in response to these comments. The

final rule retains the proposed maximum of 15 points for this factor to ensure that it is appropriately weighted against other factors so that tribes have more flexibility to address their lengthy waiting lists in a manner they determine best serves tribal members awaiting housing assistance.

M. Ranking Factor – Disability

One commenter supported the proposal to provide a set number of points if at least one disabled person is in the household, regardless of how many disabled persons are in the household. Another commenter opposed the proposal to provide a set number of points, stating that it does not account for the fact that households with two disabled members often experience high mortality rates and may put at a disadvantage those households where one disabled member dies before the household is served. The final rule provides for 10 points for any household in which there is at least one disabled member .

A few commenters stated that the proposed 10 points is not enough to account for disabled persons; one suggested 20 points should be provided for a disabled person. BIA ran several scenarios using different point values and determined that 10 points is appropriate to put this factor on equal footing with the other factors. As a whole, the rule attempts to balance the number of points available in each category to allow for households with different needs to remain competitive with each other in scoring, thereby allowing the tribe to prioritize among households with tied or close scores.

One commenter asked whether someone with fetal alcohol effects would be considered disabled under the rule. The rule defines “disabled” broadly to encompass a physical or intellectual impairment that substantially limits one or more major life activities.

N. Active Period for Applications

Several commenters supported the proposal of allowing applications to remain active for four years, rather than the current one year, because this change removes unnecessary regulatory and administrative burdens, removes a deterrent to reapplying, benefits applicants, and provides greater flexibility to tribes in providing housing services. One commenter stated that the change is not advantageous to the applicant or the HIP because the applicant's circumstances may change over the course of four years. The final rule incorporates the four-year period because applicants may annually update their applications to address any updated circumstances.

O. NEPA

A few commenters noted the typographical error in the title of the "National Environmental Policy Act." The proposed rule identified the Act as the "National Environmental Protection Act." The final rule corrects this error.

A few commenters also noted their view that all of the specific actions authorized by the HIP would be covered by a NEPA categorical exclusion and suggested adding language to 256.19 to clarify this. The final rule incorporates this change.

P. Funding

Nearly every commenter stated support of continued funding for the HIP and asserted that more funding is needed for the HIP. One commenter stated that the HIP targets a population in dire need of support and has had a significant impact on the lives of Indian people, but over the years, the funding in real dollars has dropped substantially. Another commenter stated that the households the tribe is serving through the HIP truly have no other options to improve living conditions. These commenters stated that there is a need for Congress and the Administration to work together to fund the HIP at a meaningful level; otherwise, the increases in funding limits, while appropriate and needed, may result in fewer families being served.

One commenter stated that funding for Category C, in particular, is needed. BIA recommends that tribes ask their regional HIP officers if additional funding for Category C is needed.

Another commenter stated that the HIP's funding formula methodology does not currently function well for tribes in its area because the income limits are too low. The final rule increases the current income limits but BIA has determined that increasing the limits further may duplicate other programs, rather than meeting the HIP's goal to meet the housing needs of the neediest.

A commenter stated that HIP funds should be leveraged with the U.S. Department of Energy (DOE) funding for energy efficiency. BIA encourages tribes to work with BIA, DOE, and other agencies to leverage funding.

A commenter expressed concern that the higher funding limits will mean fewer applications will be accepted and fewer households will receive benefits. BIA does not expect the rule's changes to the HIP to decrease the number of participants because the rule changes allow for better leveraging of federal funding, allowing each dollar to go farther.

Q. Other Comments

A few commenters addressed issues with the Federal Emergency Management Agency (FEMA) mapping. BIA suggests that tribes may want to consider contacting FEMA regarding mapping.

One commenter stated that households should be eligible for HIP assistance, even if prior assistance was received, if the useful life expectancy of the house has been exceeded and it otherwise qualifies as dilapidated. The final rule retains the restriction on previous assistance to

be eligible for the HIP in order to prioritize getting HIP assistance to those who have not received assistance before, in the interest of fairness.

A commenter suggested adding more items to the list of other income for which applicants must provide proof in applying for the HIP. The final rule does not incorporate this change because the income items listed are examples and are not an exhaustive list.

A commenter suggested that "your position on the priority list" should be the first item listed in 256.17, listing factors that affect the length of time it takes to do work on your house. The final rule accepts this edit because the position on the priority list is an important factor that participants often overlook. This commenter also suggested that "infrastructure availability" should be added to the list. The final rule adds this to the list as an example of "other unforeseen factors."

Commenters provided suggestions for additional non-substantive edits that the final rule does not incorporate. A few commenters suggested the Bureau create an advisory committee for updates to the HIP handbook. BIA plans to update the handbook and suggests that tribes and other interested parties work through their housing officers to provide comments.

IV. Procedural Matters

A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches

that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). It does not have any effect on small entities because only individuals and families are recipients of funding under the program governed by this rule. The Department provides funding through tribes to eligible individuals within service areas based on a priority ranking derived from a point system to identify those individuals and families most in need of housing assistance. While it is possible that small entities may be among the service providers performing renovations, repairs, and construction funded under this program, this rule will not foreseeably affect the demand for such services. Renovations, repairs, and construction performed using funding provided in this program must comply with applicable ordinances, including any permitting requirements.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Funding for the HIP comes from the Federal Government budget.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable "taking." A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule updates the implementation requirements for the HIP, which is a Federal program.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation with Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments," Executive Order 13175 (59 FR 22951, November 6, 2000), 512 DM 4 and 5, and the BIA Government-to-Government

Consultation Policy, we have held several listening sessions and consultation sessions with representatives of federally recognized tribes throughout the development of this rule. In 2010, BIA staff implementing the HIP opened a dialogue with Indian tribes because tribes indicated that the program as structured was not allowing them to make progress on their waiting lists of members with housing needs. BIA then held several listening sessions and incorporated comments received during those listening sessions into the rule. Following publication of the proposed rule, BIA hosted consultation sessions with Indian tribes throughout February 2015, including two sessions in Washington, DC to accommodate those attending the National American Indian Housing Council legislative conference and the National Congress of American Indian Executive Council Winter Session, one in Anchorage, Alaska, and one by teleconference. BIA has addressed the input received during those sessions in this final rule.

I. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., prohibits a Federal agency from conducting or sponsoring a collection of information that requires OMB approval, unless such approval has been obtained and the collection request displays a currently valid OMB control number. Nor is any person required to respond to an information collection request that has not complied with the PRA. In accordance with 44 U.S.C. 3507(d), BIA submitted the information collection and recordkeeping requirements of this rule to OMB for review and approval. BIA received no comments addressing the information collection requirements and made no revisions to its request. OMB has reviewed the request and approved the information collection.

The following describes the information collection requirements in the rule. The information collection requirements differ from those in the current rule in that applicants need

only submit a full application form every four years, but applicants must provide an update (in any format) annually if any information on the application changes. The application form associated with this information collection is also being updated. The revisions result in a net decrease of 4,000 hours because a full application is now required only once every four years, and applicants must only provide annual updates.

Title: Housing Improvement Program, 25 CFR part 256

OMB Control Number: 1076-0184.

Expiration Date: 10/31/2018.

Summary: This information collection requires individuals and families that are seeking funding assistance for repair, renovation, or replacement of existing homes or new housing, to provide certain information to establish their eligibility for the HIP administered by BIA. This new information collection approval will replace existing OMB Control Number 1076-0084 to accommodate revisions to the application form.

Frequency of Collection: On occasion

Description of Respondents: Indian tribal members.

Total Annual Responses: 10,000

Total Annual Burden Hours: 4,000

Total Annual Non-Hour Cost Burden: $ 20,000

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

K. Effects on the Energy Supply (E.O. 13211)

This final rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Drafting Information

The primary authors of this document are Les Jensen, Office of Indian Services, Bureau of Indian Affairs, Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action – Indian Affairs, Department of the Interior, and Sabrina McCarthy, Office of the Solicitor – Division of Indian Affairs.

List of Subjects in 25 CFR Part 256

Grant programs – housing and community development, Grant programs – Indians, Housing, Indians, Reporting and recordkeeping requirements.

For the reasons given in the preamble, the Department proposes to amend 25 CFR chapter I, subchapter K, to revise part 256 to read as follows:

PART 256—HOUSING IMPROVEMENT PROGRAM (HIP)

Subpart A — General Provisions

Sec.
256.1 Purpose.
256.2 Definitions.
256.3 Policy.
256.4 Information collection.
256.5 What is the Housing Improvement Program?

Subpart B — Determining Eligibility

256.6 Am I eligible for the Housing Improvement Program?
256.7 What housing services are available?
256.8 When do I qualify for Category A assistance?
256.9 When do I qualify for Category B assistance?
256.10 When do I qualify for Category C assistance?
256.11 When do I qualify for Category D assistance?
256.12 Who administers the program?

Subpart C — Applying for Assistance

256.13 How do I apply for the Housing Improvement Program?
256.14 How is my application processed?

Subpart D — Receiving Assistance

256.15 When will I hear if I have received funding?
256.16 What if I don't receive funding?
256.17 How long will I have to wait for work on my house?
256.18 Who decides what work will be done?
256.19 How are work plans prepared?
256.20 How will I find out what work is to be done?
256.21 Who does the work?
256.22 How are construction contractors or companies selected and paid?
256.23 Do I have to move out while work is done?
256.24 How can I be sure that construction work meets minimum standards?
256.25 How will I find out that the work is done?
256.26 Will I need flood insurance?
256.27 Is my Federal government-assisted house eligible for services?
256.28 I have a mobile home; am I eligible for help?
256.29 Can HIP resources be combined with other available resources?
256.30 Can I appeal actions taken under this part?

AUTHORITY: 25 U.S.C. 13, 5 U.S.C. 301, 25 U.S.C. 2 and 9, and 43 U.S.C. 1457.

Subpart A — General Provisions

§ 256.1 Purpose.

The purpose of the part is to define the terms and conditions under which assistance is given to Indians under the Housing Improvement Program (HIP).

§ 256.2 Definitions.

As used in this part 256:

Agency means the organizational unit of BIA that provides services to or with the governing body or bodies and members of one or more specified Indian tribes.

Appeal means a written request for review of an action or inaction of an official of BIA that is claimed to adversely affect the interested party making the request, as provided in part 2 of this chapter.

Applicant means an individual(s) filing an application for services under the HIP.

BIA means the Bureau of Indian Affairs in the Department of the Interior.

Category A means the HIP funding category for minor repair not to exceed limits in § 256.7 of this part.

Category B means the HIP funding category for renovation not to exceed limits in § 256.7 of this part.

Category C-1 means the HIP funding category to replace a house that cannot be brought up to standard housing condition for $60,000 or less.

Category C-2 means the HIP funding category for building new housing as defined in § 256.13(g)(1)-(5).

Category D means the HIP funding category for assistance as defined in § 256.11(a) - (c).

Certificate of Title or Ownership means a document giving legal right to a house constructed with HIP funds.

Child means a person under the age of 18 or such other age of majority as is established for purposes of parental support by tribal or state law (if any) applicable to the person at his or her residence, except that no person who has been emancipated by marriage can be deemed a child.

Cost effective means the cost of the project is within the cost limits for the category of assistance and adds sufficient years of service to the house to satisfy the recipient's housing needs.

Dilapidated housing means a house which in its present condition endangers the life, health, or safety of the residents.

Disabled means having a physical or intellectual impairment that substantially limits one or more major life activities.

Family means one or more persons living within a household.

Homeless means being without a home.

House means a building for human habitation that serves as living quarters for one or more families.

Household means persons living with the head of household who may be related or unrelated to the head of household and who function as members of a family.

Independent trades person means any person licensed to perform work in a particular vocation pertaining to building construction.

Indian means any person who is a member of any federally recognized Indian tribe.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Pub. L. 103-454, 108 Stat. 4791.

Overcrowding means a number of occupants per house that exceeds limits identified in § 256.10(d).

Permanent members of household means adults living in the household who intend to live there continuously and any children who meet the definition of *child* in this part.

Regional Director means the officer in charge of a BIA regional office or his/her authorized delegate.

Secretary means the Secretary of the Interior.

Service area means any of the following within a geographical area designated by the tribe and approved by the Regional Director to which services can be delivered:

(1) Reservations (former reservations in Oklahoma);

(2) Allotments;

(3) Restricted lands; and

(4) Indian-owned lands (including lands owned by corporations established pursuant to the Alaska Native Claims Settlement Act).

Servicing housing office means the tribal housing office or bureau housing office administering the HIP.

Standard housing means a house that meets the definition of *standard housing condition* in this part.

Standard housing condition means meets applicable building codes within that region and meets each of the following conditions:

(1) General construction conforms to applicable tribal, county, State, or national codes and to appropriate building standards for the region.

(2) The heating system has the capacity to maintain a minimum temperature of 70 degrees in the house during the coldest weather in the area and be safe to operate and maintain and deliver a uniform heat distribution.

(3) The plumbing system includes a properly installed system of piping and fixtures certified by a licensed plumbing contractor.

(4) The electrical system includes wiring and equipment properly installed to safely supply electrical energy for lighting and appliance operation certified by a licensed electrician according to the applicable electrical code.

(5) The number of occupants per house does not exceed these limits:

(i) Two-bedroom house: Up to four persons;

(ii) Three-bedroom house: Up to six persons;

(iii) Four-bedroom house: Adequate for all but the largest families.

(6) The first bedroom has up to 120 sq. ft. of floor space and additional bedrooms have up to100 sq. ft. of floor space each.

(7) The house site provides economical access to utilities and is easy to enter and leave.

(8) The house has access to school bus routes, if the household includes children who rely on school buses.

Substandard housing means any house that does not meet the definition of *standard housing condition* in this part.

Superintendent means the BIA official in charge of an agency office.

§ 256.3 Policy.

(a) The BIA housing policy is that every American Indian and Alaska Native should have the opportunity for a safe and decent home and suitable living conditions, which is consistent with the national housing policy. The HIP will serve the neediest of the needy Indian families who have no other resource for standard housing.

(b) Every American Indian or Alaska Native who meets the basic eligibility criteria defined in § 256.6 may participate in the HIP.

(c) The BIA encourages tribal participation in administering the HIP. Tribal involvement is necessary to ensure that the services provided under the program respond to the needs of tribes and program participants.

(d) The BIA encourages partnerships and leveraging with other complementary programs to increase basic benefits derived from the HIP, such as an agreement with:

(1) The Indian Health Service to provide water and sanitation facilities;

(2) The United States Department of Agriculture, Rural Development to leverage down payment assistance for a new unit; or

(3) Any other program and resource.

(e) The servicing housing office will issue a Certificate of Title or Ownership.

§ 256.4 Information collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3507 et seq. and assigned control number 1076-0184. The information is collected to determine applicant eligibility for services and eligibility to participate in the program. Response is required to obtain a benefit. You may comment to the Bureau at any time with regard to this information collection.

§ 256.5 What is the Housing Improvement Program?

The HIP is a safety-net program that provides grants for the cost of services to repair, renovate, or replace existing housing and/or provide housing. The program provides grants to the neediest of the needy Indian families who:

(a) Live in substandard housing or are homeless; and

(b) Have no other resource for assistance.

Subpart B — Determining Eligibility

§ 256.6 Am I eligible for the Housing Improvement Program?

You are eligible for the HIP if you meet all of the following criteria:

(a) You are a member of a federally recognized Indian tribe;

(b) You live in an approved tribal service area;

(c) Your annual income is 150 percent or less of the Department of Health and Human Services poverty income guidelines, which are available from your servicing housing office or the Department of the Interior website at www.bia.gov;

(d) Your present housing is substandard as defined in § 256.2;

(e) You meet the ownership requirements for the assistance needed, as defined in § 256.8, § 256.9, or § 256.10;

(f) You have no other resource for housing assistance;

(g) You have not previously received assistance relating to categories as defined in **§** 256.9 and **§** 256.10; § 256.11; and

(h) You did not acquire your present housing through past participation in a Federal government-sponsored housing program over the previous 20 year period.

§ 256.7 What housing services are available?

Four categories of assistance are available under the HIP, as outlined in the following table.

Type of assistance	**What it provides**	**Where to find information**
Category A	Up to $7,500 in safety or sanitation repairs to the house in which you live, which will remain substandard. Can be provided more than once, but not for more than one house and the total assistance cannot exceed $7,500. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	§ 256.8
Category B	Up to $60,000 in renovation, which will bring your house to standard housing condition, as defined in § 256.2 of this part. Can only be provided once. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	§ 256.9
Category C	A modest house that meets the criteria in § 256.10 of this part and the definition of standard housing in § 256.2 of this part and whose costs are determined by and limited to the criteria in § 256.19(b) and (c) of this part. Can only be provided once. (For	§ 256.10

Type of assistance	What it provides	Where to find information
	Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	
Category D	Assistance towards the purchase of a modest house that meets the definition of standard housing in § 256.2.	§ 256.11

§ 256.8 When do I qualify for Category A assistance?

You qualify for interim improvement assistance under Category A if it is not cost effective to repair the house in which you live and if either of the following is true:

(a) Other resources to meet your housing needs exist but are not immediately available; or

(b) You qualify for replacement housing under Category C, but there are no HIP funds available to replace your house.

§ 256.9 When do I qualify for Category B assistance?

You qualify for renovation assistance under Category B if you meet all of the following criteria:

(a) Your servicing housing office determines that it is cost effective to renovate the house.

(b) You occupy and own the house.

(c) Your servicing housing office determines that the renovation will bring the house to standard housing condition according to all applicable building codes.

(d) You sign a written agreement stating that, if you sell the house before satisfaction of the Payback Agreement you will be required to repay the tribe, tribal organization that administers the HIP, or BIA the remaining balance according to the terms of the Payback Agreement:

(1) The grant under this part will be voided; and

(2) At the time of settlement of the sale of the house, you will repay the tribe or tribal organization that operates the HIP or BIA the full cost of all renovations made under this part.

§ 256.10 When do I qualify for Category C assistance?

(a) You qualify for replacement housing assistance under Category C if you meet one of the three sets of requirements in the following table.

You qualify for Category C assistance if …	**And …**	**And …**
(1) You own the house in which you are living as defined in § 256.13(g)(1)-(5)	The house cannot be brought up to applicable building code standards and to standard housing condition for $60,000 or less. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project).	[No additional requirement].
(2) You do not own a house	You own land that is suitable for housing	The land has adequate ingress and egress rights and reasonable access to utilities.
(3) You do not own a house	You have a leasehold or the ability to acquire a leasehold on land that is suitable for housing and the leasehold is undivided and for not less than 25 years at the time you receive assistance	The land has adequate ingress and egress rights and reasonable access to utilities.

(b) If you qualify for assistance under paragraph (a) of this section, you must sign a written grant agreement stating that, if you sell the house within 10 years of assuming ownership:

(1) The grant under this part will be voided; and

(2) At the time of settlement of the sale of the house, you will repay the tribe or tribal organization that operates the HIP or BIA the full cost of the house.

(c) If you sell the house more than 10 years after you assume ownership, the following conditions apply:

(1) You may retain 10 percent of the original cost of the house per year, beginning with the eleventh year.

(2) If you sell the house after 20 years, you will not have to repay the tribe, tribal organization, or BIA.

(d) A modest house provided with Category C assistance must meet the standards in the following table.

Number of occupants	**Number of bedrooms[1]**	**Total square footage[1] (maximum)**
Up to 4 persons	2	1000
Up to six persons	3	1200
7 or more persons	4	1400

[1] Determined by the servicing housing office, based on composition of family. Total living space must comply with applicable American Disabilities Act requirements.

§ 256.11 When do I qualify for Category D assistance?

(a) You qualify for grant assistance under Category D if you apply for financing from tribal, Federal, or other sources of credit and have inadequate income or limited financial resources to meet the lender requirements for home ownership.

(b) The grant must not exceed the amount necessary to secure the loan and may be used for down-payment assistance, closing costs, and pre-home ownership counseling. Participation with other complementary housing programs is encouraged.

(c) The method of awarding the grant must ensure that the funds are used for the purpose intended.

§ 256.12 Who administers the program?

The HIP is administered by a servicing housing office operated by either a tribe (under a Pub. L. 93-638 contract or a self-governance annual funding agreement) or BIA.

Subpart C — Applying for Assistance

§ 256.13 How do I apply for the Housing Improvement Program?

(a) First, obtain an application, BIA Form 6407, from your servicing housing office or the BIA website.

(b) Second, complete and sign BIA Form 6407.

(c) Third, submit your completed and signed application to your servicing housing office.

(d) Fourth, furnish to the servicing housing office documentation proving your tribal membership. Examples of acceptable documentation include a copy of your Certificate of Degree of Indian Blood (CDIB) or a copy of your tribal membership card.

(e) Fifth, provide proof of income from all permanent members of your household.

(1) Submit signed copies of current 1040 tax returns from all permanent members of the household, including W-2s and all other attachments. Submit the social security number of the applicant only.

(2) Provide proof of all other income from all permanent members of the household. This includes unearned income such as social security, general assistance, retirement, and unemployment benefits.

(3) If you or other household members did not file a tax return, submit a signed notarized statement explaining why you did not.

(f) Sixth, furnish a copy of your annual trust income statement for your Individual Indian Money (IIM) account from your home agency. If you do not have an IIM account, furnish a statement from your home agency to that effect.

(g) Seventh, provide proof of ownership of the residence and land or potential leasehold interest:

(1) For fee property, provide a copy of a fully executed deed, which is available at your local county or parish court house;

(2) For trust property, provide certification of ownership from your home agency;

(3) For tribally owned land, provide a copy of a properly executed tribal assignment, certified by the tribe;

(4) For multi-owner property, provide a copy of a properly executed lease;

(5) For a potential lease, provide proof of ability to acquire an undivided leasehold (that is, you will be the only lessee) for a minimum of 25 years from the date of service; or

(6) For down-payment assistance, provide a description and the location of the house to be purchased, verification of your intent to purchase, and the sale price of the house.

(h) Eighth, if you seek down payment assistance, provide a letter from the institution where you have applied for mortgage financing that specifies:

(1) The down payment amount; and

(2) The closing costs required for you to qualify for the loan.

§ 256.14 How is my application processed?

(a) The servicing housing office will review your application. If your application is incomplete, the office will notify you, in writing, of what is needed to complete your application

and of the date by which it must be submitted. If you do not return your application by the deadline date, you will not be considered for assistance in that program year.

(b) The servicing housing office will use your completed application to determine if you are eligible for the HIP.

(1) If you are found ineligible for the program, the servicing housing office will advise you in writing within 45 days of receipt of your completed application.

(2) If you are found eligible for the program, the servicing housing office will assess your application for need, according to the factors and numeric values shown in the following table.

Factor	**Ranking factor and definition**	**Ranking description**	**Point value**
1	Annual household income: Must include income of all persons counted in Factors 2, 3, 4. Income includes earned income, royalties, and one-time income. A household with an income 151 percent of more of the Federal poverty guidelines is ineligible for the HIP.	Income as a percentage of the Federal poverty guidelines:	Points:
		0-25	25
		26-50	20
		51-75	15
		76-100	10
		101-125	5
		126-150	0
2	Aged person: person age 55 or older and must be living in the house. *Maximum points awarded under this factor is 15,*	Years of age:	Points:
		Less than 55	0

	regardless of the number of years over age 55. Thus, 15 points will be added to the score for a resident who is 70 years old or older.	55 and older	1 point per year over age 54, up to maximum of 15 points
3	Disabled individual: One or more disabled persons living in the house. Must fit under established definition of "disabled as in § 256.2." *Maximum points awarded under this factor is 10, regardless of the number of disabled residents.*	If a there is a disabled resident	10
4	Dependent Children: Must be under the age of 18 or such other age established for purposes of parental support by tribal or state law (if any). Must live in the house and not be married. *Maximum points awarded under this factor is 15.*	Number of dependent children:	Points:
		1	3
		2	6
		3	9
		4	12
		5 or more	15
5	Other conditions: ·Veteran ·Homeless or Dilapidated house ·Overcrowded conditions *Maximum points awarded under this factor is 15.*	If any of the conditions are present	5 for each condition that applies
6	Applicants with an approved financing package	If applicant has approved financing	25

(c) The servicing housing office will develop a list of the applications received and considered for the HIP for the current program year. The list will include, at a minimum, all of the following:

(1) The number of applications received and, of those, the number considered.

(2) The rank assigned to applicants in order of need, from highest to lowest, in accordance with tribal approval and knowledge of need, based on the total numeric value assigned using the factors in paragraph (b) of this section. (In case of a tie, the family with the lower income per household member will be listed first.)

(3) The estimated allowable costs of the improvements, renovations, and replacement projects for each applicant and for the entire priority list. This data must identify which applicants will be served based on the amount of available funding, starting with the neediest applicant and continuing until the available funding is depleted.

(4) A list of the applicants not ranked, with an explanation of why they weren't ranked (such as the reason for ineligibility or the reason for incomplete application).

(d) The servicing housing office submits to the regional office an annual fiscal year report that includes all of the following:

(1) Number of eligible applicants;

(2) Number of applicants who received service;

(3) Names of applicants who received service; and

(4) All of the following for each applicant that received service:

(i) Date of construction start;

(ii) Date of construction completion;

(iii) Cost; and

(iv) HIP category.

Subpart D — Receiving Assistance

§ 256.15 When will I hear if I have received funding?

Your servicing housing office will inform you whether you will receive funds in writing within 45 days after it completes the list required by § 256.14(c).

(a) If funding is available, the office will send you complete information on how to obtain HIP services.

(b) If funding is not available, the office will send you instructions on how to update your application for funding for the next available program year.

§ 256.16 What if I don't receive funding?

If you don't receive funding, your servicing housing office will retain and consider your application for 3 more years. During this 4-year period, you must ensure that the information on your application is still accurate and provide an annual written update if any information has changed.

§ 256.17 How long will I have to wait for work on my house?

How long it takes to do work on your house depends on:

(a) Your position on the priority list;

(b) Whether funds are available;

(c) The type of work to be done;

(d) The climate and seasonal conditions where your house is located;

(e) The availability of a contractor; and

(f) Other unforeseen factors, such as infrastructure availability.

§ 256.18 Who decides what work will be done?

The servicing housing office will determine what work is to be done on your house or whether your house will be replaced. The servicing housing office also provides the priority list

annually to the Indian Health Service if the Indian Health Service is responsible for verifying availability or feasibility of water and wastewater facilities.

§ 256.19 How are work plans prepared?

(a) First, a trained and qualified representative of your servicing housing office will visit your house to identify what renovation and or replacement will be done under the HIP. The representative will ensure that flood, National Environmental Policy Act (NEPA) and earthquake requirements are met, including the determination that the renovation or replacement is appropriately treated as a categorical exclusion.

(b) Second, based on the list of renovations or replacement to be done, your servicing housing office will estimate the total cost of renovation to your house. Cost estimates will be based on locally available services and product costs, or other regional-based, industry-recognized cost data, such as that provided by the MEANs or Marshall Swift. If the house is located in Alaska, documented, reasonable, substantiated freight costs, in accordance with Federal Property Management Regulations (FPMR 101–40), not to exceed 100 percent of the cost of materials, can be added to the cost of the project.

(c) Third, your servicing housing office will determine which HIP category the improvements to your house meet, based on the estimated cost of renovation or replacement. If the estimated cost to renovate your house is more than $60,000, your servicing housing office will recommend your house for replacement or refer you to another source for housing. The other source does not have to be for a replacement house; it may be for government-subsidized rental units or other sources for standard housing.

(d) Fourth, your servicing housing office will develop a detailed, written report, called a scope of work, that identifies what renovation or construction work on your house will be

accomplished and how. The scope of work is used to inform potential bidders of what work is to be done. When the work includes new construction, the scope of work will be supplemented with a set of construction plans and specifications. The construction plans must:

(1) Meet the occupancy and square footage criteria in § 256.10 (d); and

(2) Provide complete and detailed instructions to the builder.

§ 256.20 How will I find out what work is to be done?

The servicing housing office will notify you in writing what work is being scheduled under the HIP. You will be requested to approve the scheduled work by signing a copy of the notice and returning it to the servicing housing office. Work will start after you return the signed copy to the servicing housing office.

§ 256.21Who does the work?

Your house will be renovated or replaced by either:

(a) A licensed and bonded independent contractor or construction company; or

(b) A tribe that operates the HIP under an Indian Self-Determination and Education Assistance Act agreement.

§ 256.22 How are construction contractors or companies selected and paid?

The servicing housing office must follow Federal procurement or other Bureau-approved tribal procurement policy. Generally, your servicing housing office develops a “bid specification” or statement of work, which identifies the work to be performed. The appropriate contracting office uses the “bid specification” to provide information and invite bids on the project to interested parties. The contracting office selects the winning bidder after technical review of the bids by and written recommendation from the servicing housing office, and after determination that the bidder is qualified and capable of completing the project as advertised.

(a) Partial payments to independent contractors will not exceed 80 percent of the value of the completed and acceptable work.

(b) Recommendation for final payment will be made after final inspection and after all provisions of the contract have been met and all work has been completed.

§ 256.23 Do I have to move out while work is done?

(a) You will be notified by your servicing housing office that you must vacate your house only if:

(1) It is scheduled for major renovations requiring that all occupants vacate the house for safety reasons; or

(2) It is scheduled for replacement, which requires demolition of your current house.

(b) If you are required to vacate the premises during construction, you are responsible for:

(1) Locating other lodging;

(2) Paying all costs associated with vacating and living away from the house; and

(3) Removing all your belongings and furnishings before the scheduled beginning work date.

§ 256.24 How can I be sure that construction work meets minimum standards?

(a) At various stages of construction, a trained and qualified representative of your servicing housing office or a building inspector will review the work to ensure that it meets construction standards and building codes. Upon completion of each stage, further construction can begin only after the inspection occurs and approval is granted.

(b) Inspections of construction and renovation will occur, at a minimum, at the following stages:

(1) Upon completion of inspection footings and foundations;

(2) Upon completion of inspection rough-in, roughwiring, and plumbing; and

(3) At final completion.

§ 256.25 How will I find out that the work is done?

Your servicing housing office will advise you, in writing, that the work has been completed in compliance with the project contract. Also, you will have a final walk-through of the house with a representative of your servicing housing office. You will be requested to verify that you received the notice of completion of the work by signing a copy of the notice and returning it to your servicing housing office.

§ 256.26 Will I need flood insurance?

You will need flood insurance if your house is located in an area identified as having special flood hazards under the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 87 Stat. 975). Your servicing housing office will advise you.

§ 256.27 Is my Federal government-assisted house eligible for services?

No. The intention of this program is to assist the neediest of the needy, who have never received services from any other Federal entity.

§ 256.28 I have a mobile home; am I eligible for help?

Yes. If you meet the eligibility criteria in § 256.6 and funding is available, you can receive any of the HIP services identified in § 256.7. If you request Category B services and your mobile home has exterior walls less than three inches thick, you must be considered for Category C services.

§ 256.29 Can HIP resources be combined with other available resources?

Yes. HIP resources may be supplemented with other available resources (e.g., in-kind assistance; tribal or housing authority; and any other leveraging mechanism identified in § 256.3(d)) to increase the number of HIP recipients.

§ 256.30 Can I appeal actions taken under this part?

You may appeal action or inaction by a BIA official, in accordance with 25 CFR part 2.

Dated: NOV 0 2 2015

Kevin K. Washburn,
Assistant Secretary – Indian Affairs.