

4. have an adverse effect either on competition or service to small communities.

Scope of Request

Each waiver request will be considered only for the airplanes operated by the petitioning air carrier on the date the request was submitted to the FAA. The FAA's analysis will take into account the total circumstances of the petitioning air carrier, including all actions taken up to the date of the request.

Publication

Upon completion of the review and determination that the petition of the air carrier is complete in accordance with the criteria described above, a summary of the petition will be published in the **Federal Register** for public comment for a minimum of 14 days. A docket will be opened that contains the petition, any other pertinent information, and any comments received.

Response

After the close of the comment period, the FAA may grant a waiver after considering whether granting such waiver would be in the public interest and if granting such waiver fulfills the statutory intent of phasing out Stage 2 airplanes. In making such a finding, the statute requires the FAA to consider the effect of granting such waiver on competition in the air carrier industry, the effect on small community air service, and any other information submitted by the petitioning air carrier. Also, the FAA will not act upon a waiver request until the petitioning air carrier meets the 85% Stage 3 airplane fleet requirement, which must be met no later than July 1, 1999, to get a waiver. If the results of the analysis show that the petitioning air carrier has met the criteria, the FAA will prepare documentation to grant the request for waiver. If the analysis shows that the petitioning air carrier has failed to meet the criteria, the FAA will prepare documentation to deny the request. A copy of the approval or denial document will be placed in the docket, and it will be made available for public inspection.

Length of Waiver

Any waiver granted will be for the shortest possible time as required by the circumstances presented by the petitioning air carrier, but in no case will the waiver permit the operation of any Stage 2 airplane subject to § 91.853 after December 31, 2003. If the petitioning air carrier cannot achieve compliance within the time frame

granted in a waiver, the petitioning air carrier must submit a new request that will be evaluated under the same criteria as the original request. New requests that fail to provide more information than the original will be denied.

Dual-Certificated Airplanes

The FAA is taking this opportunity to remind operators about the special procedures available for noise compliance by dual-certificated airplanes.

Certain Boeing 747 airplanes received dual noise certification, and the appendices of the Airplane Flight Manuals (AFM) for these airplanes contain the weights and flap settings for both Stage 2 and Stage 3 operations. The FAA considers all such airplanes to be Stage 2 airplanes for compliance purposes unless and until one of three options is chosen by the operator. These options are:

1. The aircraft is designated in the operations specifications, paragraph A26, as restricted to Stage 3 operation when operating to or from any airport in the contiguous 48 United States;
2. The operator surrenders the dual certification to the FAA or Boeing through amendment of the AFM by supplemental type certificate. The AFM would then contain only the operating limits for Stage 3 operation; or
3. If an operator demonstrates to the FAA that the configurations listed in the AFM for Stage 2 and Stage 3 operations are identical at the maximum gross takeoff weight of the airplane, the airplane may be designated Stage 3.

Only Boeing 747 airplanes that had previously received dual type certification are eligible to use these compliance options. These compliance options are available for use during the interim compliance period. After December 31, 1999, one of these options must be chosen for each dual-certificated Boeing 747 or the airplane will not be eligible for inclusion on the U.S. operations specifications of the operator.

Issued in Washington, DC, on February 24, 1998.

James D. Erickson,

Director of Environment and Energy.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

RIN 1076-AD52

Housing Improvement Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the procedures governing the Housing Improvement Program (HIP). The Bureau of Indian Affairs has revised the procedures to clarify and simplify the conditions and terms for providing housing assistance and to allow additional flexibility in administering the program. The new procedures will encourage innovation in providing housing assistance to eligible individuals.

EFFECTIVE DATE: April 1, 1998.

FOR FURTHER INFORMATION CONTACT: June Henkel, Division of Housing Assistance, Bureau of Indian Affairs, Department of the Interior, telephone (202) 208-2721.

SUPPLEMENTARY INFORMATION: This final rule is published under authority delegated the Secretary of the Interior to the Assistant Secretary-Indian Affairs in the Departmental Manual at 209 DM 8. This final rule, revising regulations which govern the HIP grant process as codified at 25 CFR part 256, was preceded by the publication of the NPRM in the **Federal Register** on July 15, 1996 (Vol. 61, No. 136, page 36829), with a 60-day comment period, and the Notice of Proposed Transfer of Funds to Tribal Priority Allocations in the **Federal Register** on September 4, 1996 (Vol. 61, No. 172, page 46660), with a 45-day public comment period.

I. Background

Current regulations provide for an emphasis on the repair and renovation of existing housing and for the award of Housing Improvement Program appropriations to Indian tribes based on a distribution formula which uses the current tribal housing inventory of need as its basis. These regulations seek to clarify and simplify the terms and conditions under which the program is operated. A funding distribution methodology was omitted from the proposed regulations based on the intention of identifying a Housing Improvement Program appropriations distribution formula for use in the Tribal Priority Allocation system. Comments received from tribes in that consultation process did not support either of the proposed alternatives.

Limited available appropriations for the program require the continued use of a needs based distribution methodology, viable annual work plans and compliance with the intent of the program. A total of 37 written comments were received from tribes, tribal entities, individuals and Federal agencies. The comments were consolidated and the Department's responses are summarized below. Public comments and subsequent responses are arranged by section of the proposed rule as printed in the **Federal Register** on July 15, 1996.

II. Review of Public Comments

1. *General comment:* The proposed regulations appear to be unduly rigid.

Response: The BIA agrees that the regulations as proposed do not provide a flexible framework for operation of the HIP and that there is too much emphasis on procedures and process-oriented tasks, at the expense of program performance and achievement of program goals. The final regulations are restated in a manner to provide program operational flexibility within defined parameters and to encourage innovative program implementation and methodologies while meeting the policies, objectives and goals of the program.

Section 256.2 Definitions

2. *Comment:* The definition of "cost effective" should be included in § 256.2.

Response: The rule has been revised to include the definition of 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 dwelling to satisfy the recipient's housing needs well into the future.

3. *Comment:* The definition of "decent home and suitable living environment" should be included in § 256.2.

Response: Section 256.2 has not been revised because each servicing housing office will interpret the definition of decent home and suitable living environment on a case by case basis depending on the needs of a specific family.

4. *Comment:* The definition of "independent trades person" should be included in § 256.2.

Response: The rule has been revised to include the definition of Independent trades person means any person possessing the ability to perform work in a particular vocation.

5. *Comment:* The definition of "Indian" should be included in § 256.2.

Response: The definition of Indian was unintentionally omitted from the definition section of the proposed rule.

The rule has been revised to include the definition of Indian means any person who is a member of any of those tribes listed in the **Federal Register** pursuant to 25 CFR part 83, as recognized by and receiving services from the Bureau of Indian Affairs.

6. *Comment:* In § 256.2, add definition for manufactured housing, using the existing definition and descriptions using Housing and Urban Development manuals and regulations to add a clear and approved definition and to aide in defining what is allowable for expenditures for manufactured housing. A related comment suggested the addition of definitions for mobile, manufactured and modular housing.

Response: The rule has not been revised to include the requested definitions for mobile, manufactured and modular housing because housing units under the rule must meet or exceed the definition for "standard housing" provided in § 256.2. That definition provides for the general construction of a housing unit, whether manufactured, modular or stick-built, to conform to applicable tribal, county, state or national codes. In the case of manufactured housing, the Housing and Urban Development, regulations, 24 CFR part 3280 applies.

7. *Comment:* In § 256.2, add the definition for "ownership" as provided in the current rule, which would also clarify § 256.9 of the rule.

Response: § 256.2 of the rule has not been revised to include a definition for "ownership" because the revision clarifying § 256.9 is considered adequate for the rule.

8. *Comment:* In § 256.2, add the definition for "permanent members of household" means adults living in the household that intend to live there continuously from now on and any children defined as a child in this part.

Response: The rule has been revised to include the definition as requested.

9. *Comment:* The definition of "standard housing" should be included in § 256.2.

Response: The rule has been revised to include the definition of standard housing means a dwelling in a condition which is decent, safe and sanitary so that it meets the following minimum standards:

(a) General construction conforms to applicable tribal, county, state or national codes and to appropriate building standards for the region;

(b) The heating system has the capacity to maintain a minimum temperature of 68 degrees in the dwelling during the coldest weather in the area. It must be safe to operate and

maintain and deliver a uniform distribution of heat;

(c) The plumbing system includes a properly installed system of piping and fixtures;

(d) The electrical system includes wiring and equipment properly installed to safely supply electrical energy for lighting and for the operation of appliances;

(e) Occupants per dwelling do not exceed these limits:

(1) Two-bedroom dwelling: Up to three persons;

(2) Three-bedroom dwelling: Up to six persons;

(3) Four-bedroom dwelling: Adequate for all but the very largest families;

(f) Bedroom size: The first bedroom must have at least 120 square feet of floor space, additional bedrooms must have a minimum of 100 square feet of floor space each;

(g) Two exceptions to standard housing will be permitted:

(1) Where one or more of the utilities are not available and there is no prospect of the utilities becoming available; and

(2) In areas of severe climate, house size may be reduced to meet applicable building standards of that region.

(vii) The house site must be chosen so that access to utilities is most economical, the ingress and egress are adequate and aesthetics and proximity to school bus routes are considered.

10. *Comment:* In § 256.2, add the definition for "substandard housing means condition(s) exist that threaten the health and/or safety of the occupants."

Response: § 256.2 of the rule has been revised to include: "Substandard housing means condition(s) exist that do not meet the definition of standard housing in this part of the rule."

11. *Comment:* The definition of "applicant" in § 256.2 should include minor children living with a non-Indian parent. Indian children are being punished by not being allowed to receive Housing Improvement Program assistance.

Response: The definition of applicant has not been revised because once program services are provided under the rule, the recipient is not eligible to receive such services a second time, precluding receipt of housing assistance upon reaching the age of majority. The definition is adequate to identify applicants for the purposes of this rule.

12. *Comment:* The definition of handicapped in § 256.2 should be revised to reflect the definition of "disabled".

Response: The definition of handicapped has been revised as requested.

13. *Comment:* The definition of "household" in § 256.2 should include the word "all" between means and persons, to identify "all" persons living with the head of the household and who function as members of a family.

Response: The definition of household has not been revised because the definition is adequate to identify the household members for purposes of this rule.

14. *Comment:* The definition of "service area" in § 256.2 should be revised to reflect that the service area is determined by the tribe through tribal resolution and not by the Area Director.

Response: The definition of service area has not been revised because the definition is adequate to identify that "service area" is determined by the tribe.

Section 256.3 Policy

15. *Comment:* We believe the national housing policy has been changed to delete the referenced objective. If so, we recommend revising § 256.3(a) of the rule to read: "The Bureau of Indian Affairs housing policy is that every American family should have the opportunity for a decent home and suitable living environment. To the extent possible, the program will serve the neediest of the needy Indian families."

Response: Section 256.3(a) of the rule has been revised to delete the referenced objective.

16. *Comment:* Section 256.3(a) of the rule should be revised to replace the words "neediest of the needy" with "eligible HIP applicants" or "The program will serve the neediest of the needy Indian families having no other resources for standard housing."

Response: Section 256.3(a) of the rule has been revised to read: The program will serve the neediest of the needy Indian families who have no other resource for standard housing.

17. *Comment:* Section 256.3(a) of the rule states that to the extent possible, the program will serve the neediest of the needy, however the rule excludes the neediest of the needy who live in substandard mobile homes and/or who do not own their own land. There should be some way to service these people.

Response: Section 256.23 of the rule, as rewritten, clarifies that families living in mobile homes are not excluded from the program. Section 256.23 of the rule, as written, provides for needy families who do not own their own land, but who can obtain a leasehold of the land to participate in the program.

18. *Comment:* Section 256.3(a), (c) and (d) of the rule should be revised to

accommodate Pub. L. 93-638 changes. In (d), the formula language should be removed. This could be handled administratively through policy or possibly through statute.

Response: Section 256.3(a) and (c) of the rule have not been revised because Pub. L. 93-683, which provides for tribal operation of the Housing Improvement Program, is codified in section 900 of the rule. Section 256.3(d) of the rule has not been revised because the formula language is removed from the rule.

19. *Comment:* Section 256.3(b) of the rule should be revised to omit the vague and confusing phrase "provided services can be delivered to the geographic area within which the participant resides."

Response: Section 256.3(b) of the rule has been revised as requested.

20. *Comment:* Section 256.3(b) of the rule should be revised to note that participation is dependent on need and eligibility regardless of tribal membership.

Response: Section 256.3(b) of the rule has not been revised as requested because the rule establishes that participation in the program is dependent on membership in a Federally recognized Indian tribe and meeting basic program eligibility criteria. Receipt of services under the program is based on priority of need, regardless of tribal affiliation and the rule has been revised to reflect this.

21. *Comment:* Section 256.3(b) of the rule stipulates that every Indian, regardless of tribal affiliation, living on the Pueblo of Laguna Reservation is eligible for Housing Improvement Program services. Section 256.7(b)(1) and (c)(1) and (2) impose the requirement that a participant must own or have leasehold of the home and/or land on which a home is to be constructed. This is in direct conflict with the Pueblo of Laguna Constitution, Article IX, Section 7, Prohibitions on Assignments, which states that "no assignment shall ever be granted to any person not a member of the Pueblo of Laguna."

Response: Section 256.3(b) of the rule has not been revised because the intent of the rule is to ensure that all otherwise eligible home/land owners/leaseholders living within the same service area have the same opportunity for participation in and receipt of program services.

Section 256.4 Information Collection

22. *Comment:* The public reporting burden estimate of thirty minutes is too low.

Response: The public reporting burden estimate of thirty minutes has

not been revised because the estimate, used for the last six years, received no comments in response to the request for comments concerning the Housing Improvement Program Information Collection, published in the **Federal Register** on February 6, 1997 and is adequate for the reporting requirement.

Section 256.5 What Is the Housing Improvement Program?

23. *Comment:* The phrase "basic building standards" in § 256.5 of the rule should be replaced with "standard housing."

Response: For purposes of consistency with the added definitions of "standard housing" and "substandard housing" in § 256.2, the rule has been revised to read: "The Housing Improvement Program provides a grant to fund services to repair, renovate, replace or provide housing for the neediest of the needy Indian families having substandard housing or who are without housing and have no other recourse for assistance."

24. *Comment:* The answer to What is the Housing Improvement Program in § 256.5 of the rule might be better answered by explaining that it is a construction program, under authority of the Snyder Act and defined by these regulations for the purpose of providing housing assistance to the most needy of the eligible American Indians and Alaska Native People.

Response: Section 256.5 of the rule has not been revised because the program is not a construction program and is considered adequate for the rule.

Section 256.6 Am I Eligible for the Housing Improvement Program?

25. *Comment:* Section 256.6 should include all criteria that would make an applicant ineligible for the program. These include the factors of home ownership and land assignments; the present housing is substandard and was not subsidized with government funds; there is no other resource for housing assistance; and, non-receipt of program assistance including down payment assistance and excluding category A, since October 1, 1986.

Response: Section 256.6 of the rule has been revised to include these paragraphs in § 256.6:

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

(e) You meet the ownership requirements for the assistance needed, as defined in § 256.7;

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

(g) You have not received assistance after October 1, 1986, for repairs and renovation, replacement or housing, or

down payment assistance available before the effective date of this rule; and

(h) You did not acquire your present housing through participation in a Federal government sponsored housing program that includes provision for such assistance.

26. *Comment:* Section 256.6(c) should be modified to provide for the use of tribal, county or state income guidelines.

Response: Section 256.6(c) of the rule has not been revised because the intent of the rule is to establish uniform operating procedures for the national program. Provision for various income guidelines would result in disparate treatment. The use of the Health and Human Services poverty income guidelines is adequate for the purposes of the rule.

27. *Comment:* Several commentators recommend that the annual income level of 125 percent of the Health and Human Services Poverty Income Guidelines specified in § 256.6(c) should be increased to reflect a higher annual income level, making it comparable to the Indian Community Development Block Grant (ICDBG) guidelines.

Response: § 256.6(c) of the rule has not been revised because the intent of the rule is to identify the neediest of the needy and focus the delivery of program services to applicants who cannot qualify for other housing resources.

Section 256.7 What Are the Housing Improvement Program Categories for Which I Am Eligible?

28. *Comment:* Several comments were received concerning the deletion of the down payment assistance category in § 256.7 of the rule, such as the following: Due to the fact that our Tribe does not have a residential reservation, tribal members have no alternative but to purchase fee land in order to provide a home for their families. In the past, the down payment assistance category provided tribal members an opportunity to purchase a safe and sanitary home for their families, whom otherwise would not have had the necessary down payment requested by most mortgage lenders. A number of Tribes have begun to look for down payment assistance in order to make home ownership affordable for low-income tribal members.

Response: We have not restored the down payment assistance category to § 256.7 because its deletion refocuses the intent of the rule, which is to assist homeowners and those without homes, who do not have the resources nor the potential to obtain the resources, to have a standard home. Families who have

sufficient financial resources and are able to make mortgage payments fall outside the parameters of the intended program recipients.

29. *Comment:* Although the increase of moneys allowed to be spent on each home allows for more work it will decrease the number of homes we will be able to service. As the funding dollars get smaller and our portion of the pie is smaller, we will be limited to a realistic figure of helping 2 or 3 families per year.

Response: Section 256.7 of the rule provides for needed flexibility within the program to provide for the variation in regional costs and for reaction to increased costs for construction materials and labor and has not been revised. While it is true that the number of families assisted by the program is dependent on the amount of funding available, the cost of the services provided under the program is dependent on the cost of construction materials and labor to provide a standard dwelling. In the past, project cost estimates exceeding program cost limits required that Tribes seek waiver of the program rule in order to provide the required services. Although it is important to provide program services to as many eligible families as possible, it is equally important to ensure that the limited number of families receiving one-time services under the program are provided thorough and quality services, regardless of cost, resulting in long-term benefit to the family. Elimination of the cost limit does not mean that more moneys can be spent on a category C project for the purpose of providing the recipient family with a dwelling which exceeds one for which they qualify or which exceeds the definition of a modest, standard dwelling. The amount of funding appropriated by Congress for the program can increase or decrease in the future depending on tribally-defined priorities.

30. *Comment:* Section 256.7 of the rule poses a misleading question for the offered response and should be restated to reflect what housing services are available under the Housing Improvement Program.

Response: Section 256.7 of the rule has been revised to read: What housing services are available under the Housing Improvement Program? We have revised § 256.7 to make it an overview of the assistance categories. Details of how to qualify for each category of assistance are now contained in §§ 256.8 through 256.11. This arrangement allows for a clearer explanation of the qualification criteria.

31. *Comment:* The cost limitations in § 256.7 of the rule need to be increased.

Over the past few years, building materials have been hit by inflation harder than any other category. This is especially true for lumber. Combined with the fact that most reservations are located in rural areas, it is obvious that cost limitations must be watched closely.

Response: Section 256.8 (formerly § 256.7) has not been revised because the rule as written accommodates increased costs for materials and labor for two of the three project categories and is considered adequate for the rule. The BIA agrees that such costs must be watched closely and revisions made, as necessary.

32. *Comment:* The word "are" in § 256.7(a) of the rule should be revised to "may" resulting in eliminating the assumption of eligibility for this assistance.

Response: Section 256.8 (formerly § 256.7(a)) has been revised to clarify the rule and further explain the circumstances for receipt of this assistance.

33. *Comment:* Section 256.7(a) of the rule should be changed to better define the circumstances when the category of assistance should be used. Specifically, the commentator suggests that the rule be changed to include the conditions: That it is not cost effective to renovate the dwelling; that there is another resource which would meet the housing need but it is not immediately available; or, there are no other available resources other than the Housing Improvement Program, but there are no available funds to replace your house.

Response: Section 256.8 (formerly § 256.7(a)) of the rule has been revised to provide clarification and more explicit guidance for the purpose and use of this category of assistance.

34. *Comment:* Several commentators recommend that the funding limit of \$2,500 in § 256.7(a) of the rule be increased to \$5,000 to allow for meeting current cost increases and geographic location should not be cause to disqualify a person from having a decent home.

Response: Section 256.8 (formerly § 256.7(a)) retains the \$2,500 limit because it is the intent of the rule to provide short-term relief from conditions that are a hazard to the safety and health of the recipient, who anticipates obtaining standard housing in the near future. In cases requiring repairs that exceed the \$2,500 limit, obtaining other resources or requesting a waiver of this rule may remedy the situation.

35. *Comment:* Several commentators recommend the cost limit of \$35,000 for housing repairs and improvements in

§ 256.7(b) of the rule should be increased to \$45,000.

Response: We have retained the \$35,000 limit because it provides an increase of \$15,000, or 75 percent of the former category cost limitation, and is considered adequate for the rule. The BIA will monitor category b project costs to ensure the cost limitation remains adequate for the rule.

36. *Comment:* Section 256.7(b)(1) of the rule requires that the applicant be "the owner of the dwelling" and needs to include provision for the applicant with a leasehold, of not less than 10 years.

Response: Section 256.9(b) (which replaces § 256.7(b)(1)) has been revised to read:

(b) You must either:

(1) Own the house; or

(2) Lease the house with:

(i) An undivided leasehold (i.e., you are the only lessee); and

(ii) The leasehold will last at least 25 years from the date that you receive the assistance;

37. *Comment:* Section 256.7(b)(2) of the rule should emphasize inclusion of "applicable building and energy code standards" and "applicable building code standards" should be defined.

Response: We have not revised this provision (now located at § 256.9(c)) because the phrase "building code standards" encompasses energy code standards, which typically are climate dependent and, as written, provides sufficient emphasis on building code standards and is adequate for the rule. "Applicable building code standards" can be tribal, local, state and/or national code standards and it is the responsibility of the servicing housing office to have knowledge of and determine which standards are applicable.

38. *Comment:* Section 256.7(b)(3) of the rule provides that if the dwelling is sold within 5 years of the date of completion of the repairs, the grant will be voided and repayment of the full cost of repairs will be made to the Bureau of Indian Affairs. The rule does not address payment to the tribal housing office when services have been provided by the tribe under a Pub. L. 93-638 contract or self-governance compact and the grant is voided. This needs to be consistent throughout the rule.

Response: We have not revised this provision (now located at § 256.9(d)(2)) because the tribe has already received and expended the funding that is being

recaptured by the federal government. The funding will be redistributed for use in the Housing Improvement Program, using applicable federal guidelines, to one or more eligible Tribes within the recapturing area.

39. *Comment:* Section 256.7(b)(3) of the rule should be revised to include a specified time frame for occupying the dwelling once construction is completed.

Response: We have not revised this provision (now located at § 256.9(d)(2)) because the issue of where an individual Indian lives is outside the scope of the rule. Indeed, such a rule would be contradictory to the intent of the Federal government to emphasize and support tribal sovereignty.

40. *Comment:* Is the payback revision in § 256.7(b)(3) of the rule "if sold within 5 years of repairs" very realistic or fair? Would a timeframe of 2-3 years be more appropriate or would a payback based on some objective measure of increased value which actually resulted in cash return to the client be more appropriate?

Response: We have not revised this provision (now in § 256.9(d)(2)) because the intent of the rule is to provide protection for the homeowner and the Federal government and to prevent avenues for windfall profits or unwarranted improvements to substandard housing and is considered adequate for the rule.

41. *Comment:* In § 256.7(b)(3) of the rule, change the amount of time for the grant agreement to 10 years with the full amount due for the first five years and the last five years prorated.

Response: We have not revised the timeframe (now in § 256.9(d)(2)) because the current agreement is considered adequate for the rule.

42. *Comment:* The use of the word "modest" in § 256.7(c) provides the opportunity for potential misuse of funds and requires further clarification.

Response: Further clarification of the term "modest" (now used in the table in § 256.7) can be found in the definition for standard housing in § 256.2.

43. *Comment:* To maintain continuity and avoid confusion, § 256.7(c) of the rule should be revised to read: "Category C—down payment assistance is eliminated." Then, Category D should be added as § 256.7(d).

Response: To avoid confusion, the following descriptors have been added: interim improvements, repairs and renovation, and replacement housing, to §§ 256.7-256.11.

44. *Comment:* In § 256.7(c) of the rule, what is the dollar limit for a modest replacement home?

Response: Section 256.7(c) of the rule does not specify a dollar limitation for a modest replacement home. Use of a specific cost limit for use throughout Indian Country has proven unrealistic because the costs for construction of similar dwellings in different parts of the country vary significantly due to varying costs of building materials and labor. The rule provides the required flexibility needed by each servicing housing office to determine and contain the cost of a modest home, based on its square footage and local or regional building materials and labor costs.

45. *Comment:* Several commentaries concerned elimination of the Occupancy and Square Footage Chart (Table A) in § 256.7(c) of the rule to provide more flexibility in program administration and because the square footage requirements are too restrictive.

Response: We have retained the table, now located in § 256.11, because the rule as written provides adequate program administration flexibility through unrestricted cost limitations, while providing for a modest dwelling as defined by the parameters of the occupancy and square footage chart.

46. *Comment:* Would like to see a cost limit and consideration for family composition in § 256.7(c) of the rule, since the square footage chart is not adequate for a family of four, consisting of a husband, wife, one female child and one male child.

Response: Table A, now located in § 256.11, has been revised to accommodate this family composition.

47. *Comment:* The phrase "in which you are living" should be deleted from § 256.7(c)(1) of the rule since some dwellings are in such condition as to be unsuitable for occupancy or the rule should be modified to address the issue.

Response: This provision, now located in § 256.10(a), has not been revised because it is the intent of the rule to ensure delivery of program services to applicants with no other recourse for housing assistance.

48. *Comment:* Suggest that § 256.7(c)(1) of the rule be revised to provide that the term of the leasehold interest is not less than 25 years at the time of receipt of assistance.

Response: We have revised this provision, now located in the table in § 256.10, to read as follows:

If you	And	And
Lease the house in which you live.	Your leasehold is undivided and for not less than 25 years at the time that you receive assistance.	The house cannot be brought up to applicable building code standards within the Category B cost limit.

We have also made a corresponding revision to the same table for another provision formerly in § 256.7(c). It now reads as follows:

If you * * *	And * * *	And * * *
Do not own a house	Have a leasehold on land that is suitable for housing and the leasehold is undivided and for not less than 25 years at the time that you receive assistance.	The land has adequate ingress and egress rights.

49. *Comment:* Recommend that § 256.7(c)(3) of the rule is revised to include procedures for repayment, as when a participant sells a home within the timeframe requiring repayment, to clarify roles and responsibilities.

Response: This provision, now located in § 256.10(b) has not been revised because the procedure is outside the scope of this rule. The servicing housing office has a responsibility to be familiar with applicable tribal or federal government procedures for recapturing funds.

50. *Comment:* In § 256.7(c)(3) of the rule, when a beneficiary inherits the home within the 10 years, and does not live in the home, but rents the home, is the renting of the home subject to repayment or considered the same as selling the home?

Response: This provision, now located in § 256.10(b), does not require repayment when a beneficiary inherits the home nor does inheritance of the home constitute the sale of the home. Repayment only becomes an issue when the home is sold.

Section 256.8 Who Administers the Housing Improvement Program?

51. *Comment:* In § 256.8 of the rule, the designation of the "servicing housing office" as the entity administering the program in the service area is not acceptable as it does not provide for tribal operation of the program under a Pub. L. 93-638 contract or a self-governance annual funding agreement.

Response: Section 256.12 (which replaces § 256.8) has been revised to clarify that the "servicing housing office," a generic description of the servicing entity, provides for a Tribe or the Bureau to operate the Housing Improvement Program.

Section 256.9 How do I Apply for the Housing Improvement Program?

52. *Comment:* Section 256.9(e) of the rule should be revised to reflect that proof of income must be provided from

all "permanent" members of the household as defined in § 256.2.

Response: Section 256.13(e) (formerly § 256.9(e)) of the rule has been revised as requested.

53. *Comment:* Section 256.9(e)(1) of the rule requires submission of signed copies of current 1040 tax returns from all members of the household, but the IRS does not require filing if you make less than \$2,500.

Response: Section 256.13(e)(3) (formerly § 256.9(e)(3)) provides for the submission of a signed, notarized statement explaining why a tax return was not filed and is sufficient for the rule.

54. *Comment:* Section 256.9(e)(2) of the rule also should include provision for income received from Bureau of Indian Affairs, General Assistance programs, operated by Tribes through Pub. L. 93-638 contract and Self-governance annual funding agreements.

Response: Section 256.13(e)(2) (formerly § 256.9(e)(2)) has been revised as requested.

55. *Comment:* Section 256.9(e)(3) of the rule should provide for submission of a statement for household members over the age of 18. Coordinators should have the option to request additional information for dependent children, depending on the household situation, without having the applicant get verification from all family members, ages 0 through 18 years.

Response: Section 256.13(e)(3) (formerly § 256.9(e)(3)) has not been revised because the intent is to identify the income of the household, including dependent children. A statement signed by the head of household regarding income of dependent children is considered adequate for the rule.

56. *Comment:* In § 256.9(f) of the rule, how long a period of time should the statement cover?

Response: Section 256.13(f) (formerly § 256.9(f)) has been revised to specify an annual trust income statement or a statement that there is no account.

57. *Comment:* In § 256.9(g) and § 256.9(g)(1) of the rule, the terms "sole

possessory interest" and "exclusive possessory agreement" are confusing. The attachment to the application has a section titled "Item E—Land Information," which explains various land status descriptions. These definitions seem a more concise, detailed explanation for land status terms and should be reflected in the rule.

Response: Section 256.13(g) (which replaces § 256.9(g)) has been revised to read: "Seventh, you must provide proof of ownership of the residence and/or land:

(1) For fee patent property, you must provide a copy of a fully executed Warranty Deed, which is available at your county court house; or

(2) For trust property, you must provide a copy of certification from your home agency;

(3) For tribally-owned land, you must provide a copy of a properly executed tribal assignment that has been certified by the agency; or

(4) For multi-owner property, you must provide a copy of a properly executed lease."

58. *Comment:* Section 256.9(g)(4) of the rule provides that "For multi-owner property, you must provide a copy of a properly executed lease for not less than twenty-five (25) years." This results in inconsistency with the payback timeframes for each category.

Response: Section 256.13(g)(4) (which replaces § 256.9(g)(4)) has not been revised because the payback and lease timeframes are not related. The length of the lease provides assurance that the family receiving the Federal assistance, upon taking possession of the dwelling, will have not less than 25 years of use of the dwelling.

59. *Comment:* Section 256.9(h) of the rule requiring the applicant to obtain a copy of the flood plain map is inappropriate. The delivery of program services to dwellings located in an area having special flood hazards is dependent on the applicant obtaining flood insurance. Therefore, the servicing housing office should have appropriate

access to the flood insurance rate map(s) (FIRMs) associated with its servicing area and be responsible for determining whether the dwelling is located in such an area and for notifying the applicant, when appropriate, that flood insurance must be obtained.

Response: The Bureau agrees and has removed § 256.9(h), § 256.9(h)(1), § 256.9(h)(2) of the rule and revised § 256.14, accordingly.

Section 256.10 What are the steps that must be taken to process my application for the Housing Improvement Program?

60. *Comment:* Section 256.10 of the rule should specify that the tribe should be fully involved in the application, prioritization and decision making process. This section should also include the addition of the Housing Improvement Program Committee and an explanation of their responsibilities in rating and ranking applications.

Response: Section 256.14 (which replaces § 256.10) has not been revised as the commentor suggested because it is the responsibility of the servicing housing office to develop the list of applications considered and/or received for that program year and, based on evaluation of the neediness of the applicant, to develop the priority list of families that will receive Housing Improvement Program services for the program year. However, we note that under § 256.12(a) (formerly § 256.8(a)) a Tribe pursuant to a Self-governance annual funding agreement or Self-determination contract can operate the Housing Improvement Program.

61. *Comment:* Section 256.10 of the rule should be revised to include a requirement that the servicing housing office verify the availability/feasibility of water and wastewater facilities for each site prior to issuing the "Priority List". Coordination between the Indian Health Service and the Bureau of Indian Affairs is extremely important to ensure that homes will not be built at locations that cannot be provided essential health-related facilities.

Response: Section 256.14 (which replaces § 256.10) has not been revised as suggested because the definition for standard housing, in § 256.2 of the rule has provision for two exceptions to standard housing, including the absence of one or more utilities where there is no prospect of the utilities becoming available. However, § 256.16 (formerly § 256.12) has been revised to include provision for communication and coordination between the servicing housing office and the organization responsible for verifying the availability/feasibility for water and wastewater facilities.

62. *Comment:* Section 256.10(a) of the rule should be revised to allow the servicing housing office to determine whether to return an incomplete application and to establish a deadline date by which the application must be completed.

Response: We have revised § 256.14(a) (which replaces § 256.10(a)) as requested.

63. *Comment:* Section 256.10(b)(1) of the rule should be revised to correspond with the official records schedule, which does not address the retention of ineligible applicant files. It is suggested that all ineligible applications and supporting documentation be returned to the applicants upon determination of ineligibility and that those applications not be used to develop workload and housing needs assessments.

Response: Section 256.14(b)(1) (which replaces § 256.10(b)(1)) has been revised to eliminate the use of these applications to develop workload and housing needs assessments. Applications will be handled in accordance with the official records schedule.

64. *Comment:* Section 256.10(b)(2) of the rule, Table B, Priority Ranking Factors, should be revised to provide additional points for "aged persons" to ensure that single, fixed-income elderly applicants are awarded sufficient points for priority placement on the priority list.

Response: Section 256.14(b)(2) (which replaces § 256.10(b)(2)) has not been revised because the ranking factors as provided in the rule is adequate to provide priority ranking for low-income and aged applicants.

65. *Comment:* Section 256.10(b)(2) of the rule, Table B, Priority Ranking Factors, Ranking Factor 3, should be revised to require only one document to establish a condition of disability to reduce the burden to the applicant.

Response: Table B, which is now located in § 256.14(b)(2), has not been revised because the Bureau of Indian Affairs does not issue its own statement of disability condition for purposes of this grant program. The requirement to provide two independent statements of condition of disability for determination of point award for this ranking factor is considered adequate for the rule.

66. *Comment:* Section 256.10(d) of the rule should be revised to specify that the servicing housing office will develop a list of all applicants for the program year and provide a status of the application. In addition, the rule should be revised to specify that "In the case of a tie, the family with the lower income will be 'listed' first, since it is not known whether funding is available to

provide Housing Improvement Program services."

Response: We have revised § 256.14(c) (which replaces § 256.10(d)) as requested and in response to the general comment to make the rule more flexible and less procedural.

67. *Comment:* Section 256.10(e) of the rule should be revised to provide for the "Inventory of Housing Improvement Program Applicants (IOHA)." The suggested LEHIPA is only a list of eligible applicants. The preferred inventory is a complete listing of all applications taken for that program year and their status, providing a good program audit trail. Additionally, the rule should provide for comparison of the IOHA to the amount of funds available for project construction, since some Tribes must use a portion of the program funding to help cover administrative costs. Those applicants that will be served are considered the current Priority List.

Response: Section 256.14(c)(4) (formerly § 256.10(e)) has been revised to provide for the suggested listing, elimination of the LEHIPA, and comparison to available funding and in response to the general comment to make the rule more flexible and less procedural.

68. *Comment:* Section 256.10(e) of the rule should be revised to specify that the servicing housing office will research and develop only those projects on the priority list that stand a good chance of being funded.

Response: Section 256.14(c)(4) (formerly § 256.10(e)) has been revised to identify that cost estimates will be provided for eligible applicants and in response to the general comment to make the rule more flexible and less procedural.

69. *Comment:* Section 256.10(g) of the rule should be revised to require that applications for the program are updated annually. While it may be convenient to request that an applicant merely submit a letter confirming that their application is still accurate, interested applicants should be required to reapply each funding year in order to receive assistance. An annual system of updating applications seems to provide accurate, updated information from all sources and ensures that eligibility is sustained. This will ensure that the program remains up-to-date, accurate and fair to all. However, the rule should be sufficiently flexible to afford Tribes the option to determine if and when applications are carried over, for not more than one year, once they have been through the prioritization process to accommodate extenuating circumstances.

Response: Section 256.14(d)(2) (which replaces § 256.10(g)) has been revised to accommodate annual updating of applications with a one year carryover option, and in response to the general comment to make the rule more flexible and less procedural. Accordingly, § 256.10(h) of the rule is now found in § 256.14(e) of the rule.

70. *Comment:* Section 256.10(g)(3) of the rule is vague and should be revised to specify when an application "must" be updated.

Response: Section 256.10(d)(2) (which replaces § 256.10(g)(3)) has been revised as requested and in response to the general comment to make the rule more flexible and less procedural. Accordingly, § 256.10(h) of the rule is now found in § 256.14(e) of the rule.

71. *Comment:* Section 256.10(h) of the rule should be revised to provide information on where servicing housing offices are to submit their annual reports and to whom the reports should be submitted in the case of for Pub. L. 93-638 contracting and self-governance annual funding agreement Tribes.

Response: Section 256.14(e) (which replaces § 256.10(h)) of the rule has been revised to identify that annual reports are submitted to the servicing area office and in response to the general comment to make the rule more flexible and less procedural. The general designation of servicing area office is used to accommodate area specific procedures for receiving annual reports from Tribes.

Section 256.11 How Long Will I Have to Wait for the Improvement, Repair, or Replacement of my Dwelling to be Done?

72. *Comment:* Section 256.11 of the rule should be revised to include: (1) Availability of a contractor; (2) position on the priority list as two additional factors that affect the length of time that it takes to accomplish the work project.

Response: Section 256.15 (which replaces § 256.11) has been revised to include the requested factors.

73. *Comment:* Section 256.11 of the rule should be revised to include "other extenuating circumstances" or "other unforeseen factors" to more accurately depict actuality.

Response: Section 256.15 (which replaces § 256.11) has been revised to include (f) Other unforeseen circumstances.

Section 256.12 Who is Responsible for Identifying What Work Will Be Done on my Dwelling?

74. *Comment:* Section 256.12 of the rule should be revised to include

provision for consultation with the homeowner.

Response: Section 256.16 (which replaces § 256.12) has not been revised because it is the responsibility of the servicing housing office to identify the work required to provide a dwelling which meets the definition of standard housing, as identified in § 256.2 of the rule, and to communicate this information to the homeowner.

Section 256.13 What Will the Servicing Housing Office do to Identify What Work is to be Done on my Dwelling?

75. *Comment:* How can a tribe with a limited amount of funding available for administration and operation of the program be expected to have the necessary funding needed to perform the activities identified in § 256.13 of the rule?

Response: Section 256.17 (which replaces § 256.13) identifies what activities must be performed to ensure that the objectives of the Housing Improvement Program are met. It is incumbent on the servicing organization to ensure that there are adequate resources for the administration and conduct of the program.

76. *Comment:* Section 256.13 of the rule refers to a trained and qualified representative from the servicing housing office. Who determines what the qualifications and training needs of the housing representative are?

Response: Section 256.17 (which replaces § 256.13) does not specify what the qualifications and training needs of the housing representative are because it is outside the function of the Housing Improvement Program. Federal government employees must meet or exceed the qualifications, education, and/or training requirements established for the position. The hiring organization is responsible for assessing the qualifications and/or training needs of its housing representative(s) to ensure adequate operation of the Housing Improvement Program.

77. *Comment:* Section 256.13(c) of the rule requires that the representative approve dwellings estimated to require \$35,000 or more in repairs for replacement. The rule should be revised to provide some flexibility for cases where the cost estimate only exceeds the \$35,000 limit by a small percentage.

Response: Section 256.17(c) (which replaces § 256.13(c)) of the rule has not been revised because the intent is to ensure that services provided under the program are not curtailed due to costs and will result in a dwelling that is completely repaired or replaced and to the extent possible, a home which will

meet the long term needs of the recipient.

78. *Comment:* Section 256.13(c) of the rule should be revised to emphasize that program services are to provide standard housing, which is not limited to replacement housing and includes referral to other housing resources. Beginning with the second sentence, revise the rule to read: "If the estimated cost to repair your dwelling is \$35,000 or more, the representative must approve your dwelling for replacement or may refer you to another housing source. The other source does not have to be for a replacement home, it may be for government subsidized rental units."

Response: Section 256.17(c) (which replaces § 256.13(c)) has been revised beginning with the second sentence to read: "If the estimated cost to replace your dwelling is \$35,000 or more, the representative must approve your dwelling for replacement or refer you to another source for housing. The other source does not have to be for a replacement home; it may be for government subsidized rental units or other sources for standard housing."

79. *Comment:* Section 256.13(d)(1) of the rule requires compliance with the occupancy and square footage criteria in Table A of the rule. The servicing housing office and tribe should be allowed to determine the square footage of each dwelling based on available funds and not be limited to the criteria in Table A.

Response: Section 256.17(d)(1) (formerly § 256.13(d)(1)) has not been revised because the criteria identified in Table A, now in § 256.11 of the rule, provides the parameters for the modest dwelling which may be provided to the recipient of the Housing Improvement Program grant and is considered adequate for the rule.

Section 256.14 How Will I Be Advised of What Work is To Be Done?

Section 256.18 replaces § 256.14. No comments were received.

Section 256.15 Who Performs the Improvements, Repairs, or Replacement of My Dwelling?

80. *Comment:* Section 256.15 should include provision for tribal construction companies and tribal "force account" construction. What if an eligible applicant is an unemployed carpenter or other skilled craftsman?

Response: Section 256.19 (which replaces § 256.15) has been revised to include provision for tribal repair and construction trades persons, tribal home building contractors and tribal construction companies. The rule does not preclude use of a "force account."

Section 256.20 of the rule is revised accordingly.

Section 256.16 How Are These Repairs or Construction Trades Persons, Home Building Contractors or Construction Companies Selected and Paid?

81. *Comment:* Section 256.16 of the rule should provide for bidder advertisement and selection by a Bureau approved tribal procurement policy.

Response: Section 256.20 (which replaces § 256.16) has been revised to include provision for Federal procurement and other Bureau approved tribal procurement policy.

82. *Comment:* Section 256.16 of the rule should be revised to clarify that the appropriate contracting office selects the winning bidder, after technical review by and written recommendation from the servicing housing office, and after determination that the bidder is qualified and capable of completing the project.

Response: Section 256.20 (which replaces § 256.16) has been revised to provide clarification that the appropriate contracting office selects the winning bidder.

83. *Comment:* Section 256.16(d)(2) of the rule provides that final payment will be made to the contractor after the final inspection and after all provisions of the contract have been met, including punch-up items. This phrase "punch-up items" should be replaced with "punch list."

Response: Section 256.20(d)(2) (which replaces § 256.16(d)(2)) has been revised as requested.

Section 256.17 Will I Have To Vacate My Dwelling While Repair Work or Replacement of My Dwelling Is Being Done?

84. *Comment:* In § 256.17 of the rule, there should be some provision to assist families with relocation, assuming that we will serve the neediest of the neediest.

Response: Section 256.21 (which replaces § 256.17) has not been revised because the funding appropriated for the program is provided for the needed repairs and replacement of housing and does not provide for this type of assistance. Regretfully, these temporary relocation costs must be defined as the participant's responsibility. We suggest that other sources for this assistance be pursued.

Section 256.18 How Can I Be Sure That the Work That Is Being Done on My Dwelling Meets Minimum Construction Standards?

85. *Comment:* The phrase "applicable minimum construction standards" in

§ 256.18(a) of the rule should be revised to read: "applicable building codes", to provide one definitive phase used throughout the rule.

Response: Section 256.22(a) (which replaces § 256.18(a)) has not been revised because the terms are not inclusive.

86. *Comment:* Section 256.18(b) of the rule delineating inspections at specific stages of construction should be omitted and reference should be made to the "applicable building code regulations" for new construction.

Response: Section 256.22 (which replaces § 256.18(b)) of the rule has not been revised because it provides a necessary and flexible framework for the servicing housing office to schedule one or more inspections based on the scope of the project, as well as providing direction for three specific instances when an inspection is mandatory.

87. *Comment:* Section 256.18(b) of the rule should be revised to include the usual inspections required as per building codes, such as: (1) Foundation; (2) Concrete slab or under-floor; (3) Plumbing, mechanical and electrical; (4) Frame and masonry; (5) Insulation and vapor barrier; (6) Lath and/or wallboard; (7) Other: The servicing housing office may require any other inspection to ascertain compliance with the building code; and, (8) Final.

Response: Section 256.22 (which replaces § 256.18(b)) has not been revised because it provides a necessary and flexible framework for the servicing housing office to schedule one or more inspections based on the scope of the project, as well as providing direction for three specific instances when an inspection is mandatory.

88. *Comment:* Section 256.18(b) of the rule should be revised to read: "Inspections under categories A, B, and C will be made as needed to ensure that applicable minimum construction standards and building codes are applied."

Response: We have not revised § 256.22(b) (formerly § 256.18(b)) because the purpose for review of the construction in § 256.22(a) (formerly § 256.18(a)) is considered adequate for the rule.

Section 256.19 How Will I Be Advised That the Repair Work or Replacement of My Dwelling Has Been Completed?

89. *Comment:* Section 256.19 of the rule requires the servicing housing office to notify the Housing Improvement Program recipient, in writing, that work on the project has been completed. To cut down on paperwork, a phone call would suffice.

Response: Section 256.23 (which replaces § 256.19) has not been revised because written communication is recognized as an appropriate means of official notification. A copy of the notice signed by the recipient also provides the servicing housing office with acknowledgment of receipt of the notice. The requirement to provide a written notification does not preclude additional communication with the recipient regarding the status of the work project.

Section 256.20 How Many Times Can I Receive Improvements, Repairs, or Replacement Services Under the Housing Improvement Program?

90. *Comment:* Section 256.20(b) of the rule should be revised to change October 1, 1986 to October 1, 1990.

Response: Section 256.24(b) (which replaces § 256.20(b)) has not been revised because the specified date corresponds with the congressionally mandated redirection of the program.

Section 256.21 Will I Need Flood Insurance?

91. *Comment:* Based on the fact that we are serving the "neediest of the needy", we question whether any of our participants would be able to afford flood insurance, as specified in § 256.21 of the rule. It is very difficult and expensive to obtain home insurance on our reservation due to land issues.

Response: Section 256.25 (which replaces § 256.21) has not been revised because Pub. L. 93-234, as amended, 87 Stat. 975, prohibits the expenditure of Federal funds for any purpose in an area identified as having special flood hazards, unless there is adequate flood insurance.

92. *Comment:* In § 256.21 of the rule, who may waive the requirement for flood insurance if the grantee cannot afford it? Also, the rule does not explain that a house should be raised above the flood plain when circumstances permit.

Response: The Pub. L. 93-234, as amended, prohibition cannot be waived. The servicing housing office is responsible for knowledge of applicable building standards.

93. *Comment:* Section 256.21, How long should the homeowner keep flood insurance in effect?

Response: Section 256.25 (which replaces § 256.21) does not specify the length of time that the flood insurance should be kept in effect because it is outside the authority of the rule. However, the servicing housing office should be familiar with and able to advise applicants of the specific requirements under the Flood Protection Act of 1973.

Section 256.22 Is my Federal Government-Assisted Dwelling Eligible for Services Under the Housing Improvement Program?

94. *Comment:* We oppose § 256.22 of the rule excluding repairs being made to homes that were purchased with "Government subsidized funds". Most housing on Indian reservations is purchased through federally subsidized programs sponsored by the Departments of Agriculture, Housing and Urban Development, and Veterans Affairs. Over time these homes may become substandard and neither the home nor the owner may be eligible for other housing assistance programs.

Response: Section 256.26 (which replaces § 256.22) has been revised to exclude only those homes purchased through Federal government-sponsored home programs for which other housing assistance is available.

95. *Comment:* Section 256.22 of the rule appears to make Housing and Urban Development owned housing ineligible for the Housing Improvement Program. The rule should be revised to include such homes in the program or to provide exceptions for the older, substandard Housing and Urban Development housing that is not eligible for any other housing assistance programs, or when the home has been paid-off, is under new ownership and the new owner otherwise qualifies for the Housing Improvement Program.

Response: Section 256.26 (which replaces § 256.22), as revised, excludes homes purchased through Federal government sponsored home programs for which other housing assistance is available. Housing and Urban Development owned housing is eligible for housing assistance through tribally designed housing programs under Pub. L. 104-330, Native American Housing Assistance and Self-Determination Act of 1996.

Section 256.23 Are Mobile Homes Eligible for Services Under the Housing Improvement Program?

96. *Comment:* Section 256.23 of the rule excludes services to applicants with a mobile home, but these are the dwellings that often have the health and safety deficiencies and eventually require replacement.

Response: Section 256.27 (which replaces § 256.23) is not intended to exclude applicants living in a mobile home from participation in the program, but is intended to eliminate repairs and renovations to mobile units. Typically, these repairs and renovations do not meet the definition of cost effective, as defined in § 256.2 of the rule. The rule

has been revised to focus the question on the services available to the eligible applicant and has been revised to read:

"§ 256.27 Can I receive Housing Improvement Program services if I am living in a mobile home? Yes. If you meet the eligibility criteria in § 256.6 of the rule and there is sufficient funding available, you can receive any of the Housing Improvement Program services as identified in § 256.7, except that if you require Category B services and your mobile home has exterior walls of less than three inches, you must be provided Category C services."

97. *Comment:* Section 256.23 of the rule specifies that mobile, or modular homes are no longer eligible for assistance under the revised regulations. Manufactured housing, including mobile homes, which are required to meet Department of Housing and Urban Development building code standards in 24 CFR part 3280, should be included in the services provided under the Housing Improvement Program. The rule should be revised to provide for manufactured housing, including modular homes, with the axles and tongue removed and installed on a concrete foundation.

Response: Many comments were received concerning § 256.23 of the rule. The majority of these comments opposed the exclusion of mobile homes from the Housing Improvement Program. The rule, now in § 256.27, as revised, addresses the eligibility of applicants living in a mobile home and clarifies which services cannot be provided to sub-standard mobile homes. Section 256.2 of the rule, as revised to include the definition for standard housing, satisfies the comments for provision for manufactured housing, including modular housing, when that housing meets the definition of standard housing. Practically, this includes, but is not limited to: the manufactured housing meeting Department of Housing and Urban Development building code standards in 24 CFR part 3280; that the axles and tongue are removed; and, that the unit is installed on a concrete foundation.

Section 256.24 Can Housing Improvement Program Resources Be Supplemented With Other Available Resources?

98. *Comment:* Section 256.24 of the rule should be revised to read: "Yes. Housing Improvement Program resources may be supplemented through other available resources to increase the number of Housing Improvement Program recipients."

Response: Section 256.28 (which replaces § 256.24) has been revised as requested.

99. *Comment:* Sections 256.24(a) and 256.24(b) of the rule should be deleted to enable the servicing housing office to determine if supplemental funds can be used to exceed the Housing Improvement Program limits in order to meet the needs of the recipient.

Response: Sections 256.24(a) and § 256.24(b) of the rule have been omitted as requested. However, § 256.28, as revised in response to the previous comment, restricts any increase in resources for the purpose of increasing the number of Housing Improvement Program recipients. This restriction is to ensure that the improvements, repairs, renovations, replacements and housing provided under the program can not be construed to be extravagant or unnecessary, while offering these services to as many eligible recipients as possible. If additional resources are available to exceed program limits, the tribe may wish to establish an entirely separate tribal housing program, that does not use Housing Improvement Program funding, and therefore does not need to adhere to the rules of the Housing Improvement Program.

III. Findings and Certifications

The major purpose of the revision has been to provide simplified administrative guidelines and to make the program more flexible and responsive to the needs of tribes and the intended recipients of the program.

The Department of the Interior has certified to the Office of Management and Budget (OMB) that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

This rule is not a significant regulatory action under Executive Order 12866, and therefore will not be reviewed by the Office of Management and Budget.

In accordance with Executive Order 12630, the Department of the Interior has determined that this rule does not have significant takings implications.

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department of the Interior has determined that this rule does not have significant federalism effects.

The Office of Management and Budget has approved the information collection requirements in part 256 under 44 U.S.C. 3507 *et seq.* and assigned control number 1076-0084. The information is collected to determine applicant eligibility for services and eligibility to participate in the program based on the

criteria referenced in § 256.10 and in Table B. The public reporting burden for this form is estimated to average 30 minutes per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and reviewing the form. Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to the Bureau of Indian Affairs, Information Collection Clearance Officer, MS 4140-MIB, 1849 C Street, N.W., Washington, DC 20420, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Response is required to obtain a benefit under 25 CFR part 256. The information is confidential and protected under The Privacy Act of 1974, 5 U.S.C. 522a, as amended, and for use only in conjunction with official U.S. government business relating to the Housing Improvement Program.

Applicants are informed of the necessity to provide the confidential information and must sign a written Privacy Act statement, which authorizes the use of the information. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The Department of the Interior has determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The primary author of this document is Ms. June Henkel, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, Washington, DC.

List of Subjects in 25 CFR Part 256

Indians; Indian—housing.

For the reasons set forth in the preamble, part 256 of Title 25, Chapter I of the Code of Federal Regulations is revised as set forth below.

PART 256—HOUSING IMPROVEMENT PROGRAM

Sec.

- 256.1 Purpose.
- 256.2 Definitions.
- 256.3 Policy.
- 256.4 Information collection.
- 256.5 What is the Housing Improvement Program?
- 256.6 Am I eligible for the Housing Improvement Program?
- 256.7 What housing services are available under the Housing Improvement Program?

- 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 What are the occupancy and square footage standards for housing provided with Category C assistance?
- 256.12 Who administers the Housing Improvement Program?
- 256.13 How do I apply for the Housing Improvement Program?
- 256.14 What are the steps that must be taken to process my application for the Housing Improvement Program?
- 256.15 How long will I have to wait for the improvement, repair, or replacement of my dwelling to be done?
- 256.16 Who is responsible for identifying what work will be done on my dwelling?
- 256.17 What will the servicing housing office do to identify what work is to be done on my dwelling?
- 256.18 How will I be advised of what work is to be done?
- 256.19 Who performs the improvements, repairs, or replacement of my dwelling?
- 256.20 How are these repairs or construction trades persons and home building contractors selected and paid?
- 256.21 Will I have to vacate my dwelling while repair work or replacement of my dwelling is being done?
- 256.22 How can I be sure that the work that is being done on my dwelling meets minimum construction standards?
- 256.23 How will I be advised that the repair work or replacement of my dwelling has been completed?
- 256.24 How many times can I receive improvements, repairs, or replacement services under the Housing Improvement Program?
- 256.25 Will I need flood insurance?
- 256.26 Is my Federal government assisted dwelling eligible for services under the Housing Improvement Program?
- 256.27 Can I receive Housing Improvement Program services if I am living in a mobile home?
- 256.28 Can Housing Improvement Program resources be supplemented with other available resources?
- 256.29 What can I do if I disagree with actions taken under the Housing Improvement Program?

Authority: 25 U.S.C. 13

§ 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 current organizational unit of the Bureau that provides direct services to 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 the inaction of an

official of the Bureau of Indian Affairs that is claimed to adversely affect the interested party making the request, as provided in part 2 of this chapter.

Applicant means an individual or persons on whose behalf an application for services has been made under this part.

Area Director means the officer in charge of a Bureau of Indian Affairs area office, or his/her authorized delegate.

Bureau means the Bureau of Indian Affairs.

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 other 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 dwelling to satisfy the recipient's housing needs well into the future.

Disabled means legally blind; legally deaf; lack of or inability to use one or more limbs; chair or bed bound; inability to walk without crutches or walker; mental disability in an adult of a severity that requires a companion to aid in basic needs, such as dressing, preparing food, etc.; or severe heart and/or respiratory problems preventing even minor exertion.

Family means one or more persons maintaining a household.

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 possessing the ability to perform work in a particular vocation.

Indian means any person who is a member of any of those tribes listed in the **Federal Register** pursuant to 25 CFR part 83, as recognized by and receiving services from the Bureau of Indian Affairs.

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.

Permanent members of household means adults living in the household that intend to live there continuously from now on and any children defined as a *child* in this part.

Secretary means the Secretary of the Interior.

Service area means the reservations (former reservations in Oklahoma), allotments, restricted lands, and Indian-

owned lands (including lands owned by corporations established pursuant to the Alaska Native Claims Settlement Act) within a geographical area designated by the tribe and approved by the Area Director to which equitable services can be delivered.

Service housing office means the Tribal Housing Office or Bureau Housing Assistance Office administering the Housing Improvement Program in the service area in which the applicant resides.

Standard housing means a dwelling in a condition which is decent, safe and sanitary so that it meets the following minimum standards:

(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 68 degrees in the dwelling during the coldest weather in the area. It must be safe to operate and maintain and deliver a uniform distribution of heat;

(3) The plumbing system includes a properly installed system of piping and fixtures;

(4) The electrical system includes wiring and equipment properly installed to safely supply electrical energy for lighting and for the operation of appliances;

(5) Occupants per dwelling do not exceed these limits:

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

(ii) Three-bedroom dwelling: Up to seven persons;

(iii) Four-bedroom dwelling: Adequate for all but the very largest families;

(6) Bedroom size: The first bedroom must have at least 120 square feet of floor space, additional bedrooms must have a minimum of 100 square feet of floor space each.

(7) Two exceptions to standard housing will be permitted:

(i) Where one or more of the utilities are not available and there is no prospect of the utilities becoming available; and

(ii) In areas of severe climate, house size may be reduced to meet applicable building standards of that region.

(8) The house site must be chosen so that access to utilities is most economical, the ingress and egress are adequate, and aesthetics and proximity to school bus routes are considered.

Substandard housing means condition(s) exist that do not meet the definition of *standard housing* in this part of the rule.

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

§ 256.3 Policy.

(a) The Bureau of Indian Affairs housing policy is that every American family should have the opportunity for a decent home and suitable living environment. The Housing Improvement Program will serve the neediest of the needy Indian families who have no other resource for standard housing.

(b) Every Indian who meets the basic eligibility criteria defined in § 256.6 is entitled to participate in the program. Participation is based on priority of need, regardless of tribal affiliation.

(c) Tribal participation in and direct administration of the Housing Improvement Program is encouraged to the maximum extent possible. Tribal involvement is necessary to ensure that the services provided under the program are responsive to the needs of the tribes and the program participants.

(d) Partnerships with complementary improvement programs are encouraged to increase basic benefits derived from the Housing Improvement Program fund. An example is the agreement with Indian Health Services to provide water and sanitation facilities for Housing Improvement Program houses.

§ 256.4 Information Collection.

The information collection requirements contained in § 256.9 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 *et seq.* and assigned clearance number 1076-0084. The information is collected to determine applicant eligibility for services and eligibility to participate in the program based on the criteria referenced in §§ 256.9 and 256.10. Response is required to obtain a benefit. The public reporting burden for this form is

estimated to average thirty minutes per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and reviewing the form.

§ 256.5 What is the Housing Improvement Program?

The Housing Improvement Program provides a grant to fund services to repair, renovate, replace or provide housing for the neediest of the needy Indian families having substandard housing or who are without housing and have no other recourse for assistance.

§ 256.6 Am I eligible for the Housing Improvement Program?

You are eligible for the Housing Improvement Program if:

(a) You are a member of a Federally recognized American Indian tribe or Alaska Native village;

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

(c) Your annual income does not exceed 125 percent of the Department of Health and Human Services poverty income guidelines. These guidelines are available from your servicing housing office;

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

(e) You meet the ownership requirements for the assistance needed, as defined in § 256.7(b);

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

(g) You have not received assistance after October 1, 1986, for repairs and renovation, replacement or housing, or down payment assistance; and

(h) You did not acquire your present housing through participation in a Federal government-sponsored housing program that includes provision for the assistance referred to in paragraph (g) of this section.

§ 256.7 What housing services are available under the Housing Improvement Program?

There are three categories of assistance available under the Housing Improvement Program, as outlined in the following table

Type of assistance	What it provides	Where to find information
Category A—Interim improvements	Up to \$2,500 in housing repairs to the house in which you live	§ 256.8.
Category B—Repairs and renovation	Up to \$35,000 in repairs and improvement to your house	§ 256.9.
Category C—Replacement housing	A modest dwelling that meets the criteria in § 256.11	§ 256.10–11.

§ 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 renovate the dwelling 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 Housing Improvement Program funds available to replace your house.

§ 256.9 When do I qualify for Category B assistance?

You qualify for repairs and renovation assistance under Category B if you meet the requirements of this section.

(a) Your servicing housing office must determine that it is cost effective to repair and renovate the house.

(b) You must either:

(1) Own the house; or

(2) Lease the house with:

(i) An undivided leasehold (i.e., you are the only lessee); and

(ii) A leasehold that will last at least 25 years from the date that you receive the assistance.

(c) The servicing housing office must determine that the repairs and

improvements will make the house meet applicable building code standards.

(d) You must sign a written agreement stating that, if you sell the house within 5 years of the completion of repairs:

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

(2) At the time of settlement, you will repay BIA the full cost of all repairs 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 four sets of requirements in the following table.

You qualify for Category C assistance if * * *	And * * *	And * * *
You own the house in which you are living	The house cannot be brought up to applicable code standards for \$35,000 or less.	
You lease the house in which you are living	Your leasehold is undivided and for not less than 25 years at the time that you receive assistance.	The house cannot be brought up to applicable building code standards for \$35,000 or less.
You do not own a house	You own land that is suitable for housing	The land has adequate ingress and egress rights.
You do not own a house	You have a leasehold on land that is suitable for housing and the leasehold is undivided and for not less than 25 years at the time that you receive assistance.	The land has adequate ingress and egress rights.

(b) If you qualify for assistance under paragraph (a) of this section, you must sign a written 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, you will repay 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 the first 20 years, you will not have to repay BIA.

§ 256.11 What are the occupancy and square footage standards for housing provided with Category C assistance?

Housing provided with Category C assistance will meet the standards in the following table.

Number of occupants	Number of bedrooms	Total house square footage (maximum)
1-3	*2	900
4-6	*3	1050
7+	*4	**1350

*Determined by the servicing housing office, based on composition of the family.

**Adequate for all but the very largest families.

§ 256.12 Who administers the Housing Improvement Program?

The Housing Improvement Program is administered by a servicing housing office operated by:

(a) A Tribe, under a Pub. L. 93-638 contract or a self-governance annual funding agreement; or

(b) The Bureau of Indian Affairs.

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

(a) First, you must obtain an application, BIA Form 6407, and a Privacy Act Statement from your nearest servicing housing office.

(b) Second, you must complete and sign BIA Form 6407 and the Privacy Act Statement.

(c) Third, you must submit your completed application and signed Privacy Act Statement to your servicing housing office. Submission to the nearest BIA housing office does not preclude tribal approval of the application.

(d) Fourth, you must furnish documentation proving 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, you must provide proof of income from all permanent members of your household.

(1) You must submit *signed* copies of current 1040 tax returns from all permanent members of the household, including W-2's and all other attachments.

(2) You must 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, you must submit a signed notarized statement explaining why you did not.

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

(g) Seventh, you must provide proof of ownership of the residence and/or land:

(1) For fee patent property, you must provide a copy of a fully executed Warranty Deed, which is available at your local county court house;

(2) For trust property, you must provide certification from your home agency;

(3) For tribally owned land, you must provide a copy of a properly executed

tribal assignment, certified by the agency; or

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

§ 256.14 What are the steps that must be taken to process my application for the Housing Improvement Program?

(a) The servicing housing office must review your application for completeness. If your application is incomplete, the office will notify you, in

writing, what is needed to complete your application and the date it must be submitted. If you do not complete your application by the deadline date, you will not be eligible for assistance in that program year.

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

(1) If you are found ineligible for the Housing Improvement Program or

otherwise do not qualify 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 Housing Improvement 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 descriptors
1	Annual Household income <ul style="list-style-type: none"> Must include income of all persons counted in Factors 2, 3, 4. Income includes earned income, royalties, and one-time income. 	Income/125% FPIG—(% of 125% of FPIG) 0–25 40. 26–50 30. 51–75 20. 76–100 10. 101–125 0.	Points—(Maximum=40)
2	Aged Persons <ul style="list-style-type: none"> For the benefit of persons age 55 or older, and Must be living in the dwelling. 	Years of Age Less than 55 0. 55 and older 1 point per year of age over 54.	Points Points—(Maximum=20)
3	Disabled Individual <ul style="list-style-type: none"> Any one (1) disabled person living in the dwelling. (The percentage of disability must be based on the average (mean) of the percentage of disabilities identified from two sources (A+B) of statements of conditions which may include a physician's certification, Social Security or Veterans Affairs determination, or similar determination).. 	% of Disability—(A%+B%/2). 100% 20. or 10. less than 100%.	
4	Dependent Children <ul style="list-style-type: none"> 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 dwelling and not be married 	Dependent Child—(Number of Children) 1 0. 2 1. 3 2. 4 3. 5 4. 6 or more 5.	Points—(Maximum=5)

*FPIG means Federal Poverty Income Guidelines.

(c) The servicing housing office will develop a list of the applications considered and/or received for the Housing Improvement Program for the current program year. The list will include, at a minimum, sufficient information to determine:

- (1) The current program year;
- (2) The number of applications considered and/or received;
- (3) The eligible applicants, ranked in order of need, from highest to lowest, based on the total numeric value assigned according to the factors shown in Table B. (In the case of a tie, the family with the lower income will be listed first);
- (4) The estimated allowable costs of the improvements, repairs or replacement projects for the eligible applicants and the "Priority List," identifying which applicants will be served based on the amount of available funding, starting with the most needy applicant and continuing until the

amount of available funding is depleted; and

(5) The applicants not ranked, with an explanation (such as reason for ineligibility or reason for incomplete application).

(d) Your servicing housing office will inform you in writing within 45 days of completion of the listing whether funding is available to provide Housing Improvement Program services to you in that program year.

(1) If funding is available, you will be provided appropriate information concerning the availability of Housing Improvement Program services.

(2) If funding is not available, you will be advised, in writing, and provided appropriate information concerning submission for the next available program year. At the option of your servicing housing office and when extenuating circumstances exist, your application can be carried forward, for one year, into the next program year. You will be advised that you must

provide written confirmation that the information in your application is still accurate and that you must provide current income documentation for that application to be considered in the next program year.

(e) Your servicing housing office will prepare an annual report identifying construction work undertaken during the fiscal year and related construction expenditures. The annual report is due to the servicing area office on the fifteenth day after the end of the fiscal year. The report, at a minimum, will contain:

- (1) Number of Eligible Applicants;
- (2) Number of Applicants Provided Service;
- (3) Names of Applicants Provided Service;
- (4) For Each Applicant Provided Service:
 - (i) Date of Construction Start;
 - (ii) Date of Construction Completion, if applicable;
 - (iii) Cost;

(iv) HIP Category.

§ 256.15 How long will I have to wait for the improvement, repair, or replacement of my dwelling to be done?

The length of time that it takes to accomplish the work to be done on your dwelling is dependent on:

- (a) Whether funds are available;
- (b) The type of work to be done;
- (c) The climate and seasonal conditions where your dwelling is located;
- (d) The availability of a contractor;
- (e) Your position on the priority list; and
- (f) Other unforeseen factors.

§ 256.16 Who is responsible for identifying what work will be done on my dwelling?

The servicing housing office is responsible for identifying what work is to be done on your dwelling or whether your dwelling will be replaced. This includes responsibility to communicate and coordinate, through provision of the current Priority List, with the Indian Health Service, when it is the organization responsible for verifying the availability/feasibility of water and wastewater facilities.

§ 256.17 What will the servicing housing office do to identify what work is to be done on my dwelling?

(a) First, a trained and qualified representative of your servicing housing office must visit your dwelling to identify what improvements or repairs are to be done under the Housing Improvement Program. The representative must ensure that flood, National Environmental Protection Act (NEPA) and earthquake requirements are met.

(b) Second, based on the list of improvements or repairs to be done, the representative must estimate the total cost of improvements or repairs to your dwelling. Cost estimates must 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 dwelling 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, the representative must determine which Housing Improvement Program category the improvements to your dwelling meet, based on the estimated cost of improvements or repairs. If the estimated cost to repair your dwelling is more than \$35,000, the representative must approve your

dwelling for replacement or refer you to another source for housing. The other source does not have to be for a replacement home; it may be for government-subsidized rental units or other sources for standard housing.

(d) Fourth, the representative must develop a detailed, written report, also called "bid specifications" that identifies what and how the improvement, repair, or construction work is to be accomplished at the dwelling.

(1) When the work includes new construction, the "bid specifications" will be supplemented with a set of construction plans. The plans must not exceed the occupancy and square footage criteria identified in § 256.7. The plans must be sufficiently detailed to provide complete instructions to the builder for the purpose of construction.

(2) "Bid Specifications" are also used to inform potential bidders of what work is to be done.

§ 256.18 How will I be advised of what work is to be done?

You will receive written notice from the servicing housing office of what work is being scheduled under the Housing Improvement Program. You will be requested to concur with the scheduled work by signing a copy of the notice and returning it to the servicing housing office. No work will be started until the signed copy is returned to the servicing housing office.

§ 256.19 Who performs the improvements, repairs, or replacement of my dwelling?

Independent or tribal repair or construction trades persons, home building contractors, or construction companies will perform the improvements, repairs, or replacement of your dwelling.

§ 256.20 How are these repairs or construction trades persons, home building contractors, or construction 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) Payments to the winning bidder are negotiated in the contract and based on specified delivery of services.

(1) Partial payments will not exceed 80 percent of the value of the completed work.

(2) Final payment will be made after final inspection and after all provisions of the contract have been met, including punch list items.

§ 256.21 Will I have to vacate my dwelling while repair work or replacement of my dwelling is being done?

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

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

(2) It is scheduled for replacement which requires the demolition of your current dwelling.

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

(1) Locating other lodging;

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

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

§ 256.22 How can I be sure that the work that is being done on my dwelling meets minimum construction standards?

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

(b) Inspections are, at a minimum, made at the following stages of construction:

(1) Footings;

(2) Closed in, rough wiring and rough plumbing; and

(3) At final completion.

§ 256.23 How will I be advised that the repair work or replacement of my dwelling has been completed?

The 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 dwelling with your servicing housing office representative. 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 the servicing housing office representative.

§ 256.24 How many times can I receive improvements, repairs, or replacement services under the Housing Improvement Program?

(a) Under Interim Improvements, Category A, you can receive services under the Housing Improvement Program more than one time, for improvements to the dwelling in which you are living to improve the safety or sanitation of the dwelling:

(1) For not more than a total cost of \$2,500;

(2) For not more than one dwelling.

(b) Under Repairs and Renovation, Category B, after October 1, 1986, you may receive services one time, for repairs to the dwelling that you own and occupy that requires not more than \$35,000 to make the dwelling meet applicable building code standards.

(c) Under Replacement Housing, Category C, after October 1, 1986, you may receive services one time, for a modest replacement home.

§ 256.25 Will I need flood insurance?

You will need flood insurance if your dwelling 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. 977). Your servicing housing office will advise you.

§ 256.26 Is my Federal government-assisted dwelling eligible for services under the Housing Improvement Program?

Yes. You may receive services under the Housing Improvement Program if your home was purchased through a Federal government sponsored home program that does not include provision for housing assistance.

§ 256.27 Can I receive Housing Improvement Program services if I am living in a mobile home?

Yes. If you meet the eligibility criteria in § 256.6 and there is sufficient funding available, you can receive any of the Housing Improvement Program services identified in § 256.7. If you require Category B services and your mobile home has exterior walls of less than three inches, you must be provided Category C services.

§ 256.28 Can Housing Improvement Program resources be supplemented with other available resources?

Yes. Housing Improvement Program resources may be supplemented through other available resources to increase the number of Housing Improvement Program recipients.

§ 256.29 What can I do if I disagree with actions taken under the Housing Improvement Program?

You may appeal action or inaction by an official of the Bureau of Indian Affairs, in accordance with 25 CFR Part 2. You may appeal action or inaction by tribal officials through the appeal process established by the servicing tribe.

Dated: February 24, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98-5300 Filed 2-27-98; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-95-009]

RIN 2115-AE47

Drawbridge Operation Regulations; Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the regulations governing the Route 82 Bridge at mile 16.8 which crosses the Connecticut River, between East Haddam and Haddam, Connecticut. The change will provide openings for recreational vessels on the hour and half-hour only, from 15 May through 31 October between 9 a.m. and 9 p.m. Commercial vessels will continue to be granted bridge openings at all times. This change was requested by Connecticut Department of Transportation (CONNDOT) to provide relief from traffic delays caused by frequent unscheduled bridge openings. This action will ease vehicular traffic delays and still meet the reasonable needs of navigation.

This rule also requires bridge owners to install clearance gauges at the AMTRAK Old Saybrook-Old Lyme Bridge, the CONRAIL Middletown-Portland Bridge, and the Route 82 Bridge to assist mariners in determining if their vessels can pass under the bridges and thereby reduce the number of unnecessary openings.

DATES: This final rule is effective April 1, 1998.

ADDRESSES: Documents as indicated in this preamble, except for the seven comments commenting on the proposed rulemaking which are missing, are available for inspection or copying at the First Coast Guard District Office,

Battery Park Bldg., New York, New York 10004-5073, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7069.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Arca, project officer, First Coast Guard District, Bridge Branch. The telephone number is (212) 668-7069.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 4, 1995, the Coast Guard published a notice of proposed rulemaking entitled "Drawing Operation Regulations; Connecticut River, Connecticut" in the **Federal Register** (60 FR 22014). The Coast Guard received seven letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background

The Route 82 Bridge has vertical clearance of 22' above mean high water (MHW) and 25' above mean low water (MLW) in the closed position. The Coast Guard previously published a temporary final rule (57 FR 24191; June 2, 1992) that required the bridge to open for recreational vessels on the hour and half-hour only, from 22 May through 31 October, 1992, between 9 a.m. and 9 p.m. on Fridays, Saturdays, Sundays, and Federal holidays. No comments were received during the comment period. Upon expiration of the temporary final rule, the bridge reverted to the general operating regulation contained in 33 CFR section 117.5 which requires drawbridges to open promptly and fully for the passage of vessels when a request to open is given. The Town of East Haddam and CONNDOT requested that the Coast Guard change the special operating regulations for the Route 82 Bridge. The original request was for hour and half-hour openings on Fridays, weekends and holidays from 9 a.m. to 9 p.m. during the recreation boating season. Subsequently, the request was expanded to include weekdays to have a uniform schedule every day of the week. The new rule will require the Route 82 Bridge to provide openings for recreational vessels on the hour and half-hour, daily from 15 May to 31 October, between 9 a.m. and 9 p.m. Openings for commercial vessels will be required on signal at all times. The rule will accommodate the reasonable needs of navigation while providing for the needs of land transportation. Clearance gauges are being required to assist mariners in determining whether bridge openings will be required for passage,