

SUBCHAPTER K—HOUSING

PART 256—HOUSING IMPROVEMENT PROGRAM (HIP)

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Subpart A—General Provisions

§ 256.1 Purpose.

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

§ 256.2 Definitions.

As used in this part:

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

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

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

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

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

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

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

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

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

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

Child means a person under the age of 18 or such other age of majority as is established for purposes of parental support by tribal or state law (if any) applicable to the person at his or her

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residence, except that no person who has been emancipated by marriage can be deemed a child.

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

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

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

Family means one or more persons living within a household.

Homeless means being without a home.

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

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

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

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

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

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

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

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

Secretary means the Secretary of the Interior.

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

(1) Reservations (former reservations in Oklahoma);

(2) Allotments;

(3) Restricted lands; and

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

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

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

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

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

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

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

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

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

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

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

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

(6) The first bedroom has up to 120 sq. ft. of floor space and additional bedrooms have up to 100 sq. ft. of floor space each.

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

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

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

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

§ 256.3 Policy.

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

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

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

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

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

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

(3) Any other program and resource.

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

§ 256.4 Information collection.

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

the Bureau at any time with regard to this information collection.

§ 256.5 What is the Housing Improvement Program?

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

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

(b) Have no other resource for assistance.

Subpart B—Determining Eligibility

§ 256.6 Am I eligible for the Housing Improvement Program?

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

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

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

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

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

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

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

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

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

§ 256.7 What housing services are available?

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

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Type of assistance	What it provides	Where to find information
Category A	Up to \$7,500 in safety or sanitation repairs to the house in which you live, which will remain substandard. Can be provided more than once, but not for more than one house and the total assistance cannot exceed \$7,500. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	§ 256.8.
Category B	Up to \$60,000 in renovation, which will bring your house to standard housing condition, as defined in § 256.2 of this part. Can only be provided once. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	§ 256.9.
Category C	A modest house that meets the criteria in § 256.10 of this part and the definition of standard housing in § 256.2 of this part and whose costs are determined by and limited to the criteria in § 256.19(b) and (c) of this part. Can only be provided once. (For Alaska, freight cost not to exceed 100 percent of the cost of materials can be added to the cost of the project.)	§ 256.10.
Category D	Assistance towards the purchase of a modest house that meets the definition of standard housing in § 256.2.	§ 256.11.

§ 256.8 When do I qualify for Category A assistance?

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

- (a) Other resources to meet your housing needs exist but are not immediately available; or
- (b) You qualify for replacement housing under Category C, but there are no HIP funds available to replace your house.

§ 256.9 When do I qualify for Category B assistance?

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

- (a) Your servicing housing office determines that it is cost effective to renovate the house.
- (b) You occupy and own the house.
- (c) Your servicing housing office determines that the renovation will bring

the house to standard housing condition according to all applicable building codes.

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

- (1) The grant under this part will be voided; and
- (2) At the time of settlement of the sale of the house, you will repay the tribe or tribal organization that operates the HIP or BIA the full cost of all renovations made under this part.

§ 256.10 When do I qualify for Category C assistance?

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

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

(b) If you qualify for assistance under paragraph (a) of this section, you must sign a written grant agreement stating

that, if you sell the house within 10 years of assuming ownership:

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

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

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

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

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

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

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

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

§ 256.11 When do I qualify for Category D assistance?

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

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

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

§ 256.12 Who administers the program?

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

Subpart C—Applying for Assistance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The down payment amount; and
- (2) The closing costs required for you to qualify for the loan.

§ 256.14 How is my application processed?

(a) The servicing housing office will review your application. If your appli-

cation is incomplete, the office will notify you, in writing, of what is needed to complete your application and of the date by which it must be submitted. If you do not return your application by the deadline date, you will not be considered for assistance in that program year.

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

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

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

Factor	Ranking factor and definition	Ranking description	Point value
1	Annual household income: Must include income of all persons counted in Factors 2, 3, 4. Income includes earned income, royalties, and one-time income. A household with an income 151 percent of more of the Federal poverty guidelines is ineligible for the HIP.	Income as a percentage of the Federal poverty guidelines:	Points:
		0-25 26-50 51-75 76-100 101-125 126-150	25. 20. 15. 10 5. 0.
2	Aged person: person age 55 or older and must be living in the house. <i>Maximum points awarded under this factor is 15, regardless of the number of years over age 55. Thus, 15 points will be added to the score for a resident who is 70 years old or older.</i>	Years of age: Less than 55 55 and older	Points: 1 point per year over age 54, up to maximum of 15 points.
3	Disabled individual: One or more disabled persons living in the house. Must fit under established definition of "disabled as in § 256.2." <i>Maximum points awarded under this factor is 10, regardless of the number of disabled residents.</i>	If a there is a disabled resident.	10.
4	Dependent Children: Must be under the age of 18 or such other age established for purposes of parental support by tribal or state law (if any). Must live in the house and not be married. <i>Maximum points awarded under this factor is 15.</i>	Number of dependent children:	Points:
		1 2 3 4 5 or more	3. 6. 9. 12. 15.
5	Other conditions: <ul style="list-style-type: none"> • Veteran. • Homeless or Dilapidated house. • Overcrowded conditions. <i>Maximum points awarded under this factor is 15</i>	If any of the conditions are present.	5 for each condition that applies.

Factor	Ranking factor and definition	Ranking description	Point value
6	Applicants with an approved financing package	If applicant has approved financing.	25.

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

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

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

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

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

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

- (1) Number of eligible applicants;
- (2) Number of applicants who received service;
- (3) Names of applicants who received service; and
- (4) All of the following for each applicant that received service:
 - (i) Date of construction start;
 - (ii) Date of construction completion;
 - (iii) Cost; and
 - (iv) HIP category.

Subpart D—Receiving Assistance

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

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

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

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

§ 256.16 What if I don't receive funding?

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

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

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

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

§ 256.18 Who decides what work will be done?

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

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

§ 256.19 How are work plans prepared?

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

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

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

(d) Fourth, your servicing housing office will develop a detailed, written report, called a scope of work, that identifies what renovation or construction work on your house will be accomplished and how. The scope of work is used to inform potential bidders of what work is to be done. When the work includes new construction, the

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scope of work will be supplemented with a set of construction plans and specifications. The construction plans must:

- (1) Meet the occupancy and square footage criteria in § 256.10 (d); and
- (2) Provide complete and detailed instructions to the builder.

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

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

§ 256.21 Who does the work?

Your house will be renovated or replaced by either:

- (a) A licensed and bonded independent contractor or construction company; or
- (b) A tribe that operates the HIP under an Indian Self-Determination and Education Assistance Act agreement.

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

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

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

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

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

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

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

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

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

(1) Locating other lodging;

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

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

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

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

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

(1) Upon completion of inspection footings and foundations;

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

(3) At final completion.

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

Your servicing housing office will advise you, in writing, that the work has

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

§ 256.26 Will I need flood insurance?

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

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

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

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

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

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

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

§ 256.30 Can I appeal actions taken under this part?

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