

corporation, is legally precluded from distributing any gains or profits to its members, and is authorized to undertake housing development activities; or

(4) A consortium of units of government and/or private nonprofit organizations which is otherwise eligible to receive and administer HPG funds and which meets the following conditions:

(i) Be comprised of units of government and/or private nonprofit corporations that are close together, located in the same state, and serve areas eligible for FmHA or its successor agency under Public Law 103-354 housing assistance; and

(ii) Have executed an agreement among its members designating one participating unit of government or private nonprofit corporation as the applicant or designating a legal entity (such as a Council of Governments) to be the applicant.

Overcrowding. The guidelines in the table in this definition are designed to assist grantees in implementing occupancy standards. Part 1930, subpart C, exhibit B, paragraph VID2, of this chapter (available in any Rural Development State or District Office) gives further guidance. The table follows:

Number of bedrooms	Ideal number of persons
0	2
1	2
2	4
3	6
4	8
5	10

Rental properties. Rental properties are defined as single-unit or multi-unit dwellings used for occupancy by tenants, owners, or members of an owner's immediate family.

Replacement housing. The replacement of existing, individual owner occupied housing where repair and rehabilitation assistance is not economically feasible or practical. The term replacement housing does not apply to housing preservation. The overall condition of the unit or dwelling must meet RHS Thermal Standards for new or existing structures and applicable development standards for new or existing housing recognized by RHS in part 1924, subpart A, of this chapter or

standards contained in any of the voluntary national model codes acceptable upon review by RHS. Properties included on or eligible for inclusion on the National Register of Historic Places are subject to the standards and conditions of §1944.673 prior to replacement.

RHS. RHS means the Rural Housing Service, or a successor agency.

Rural area. The definition in 7 CFR part 3550 applies.

Tenant. Any person who resides in a single- or multi-unit rental property.

Very low-income. An adjusted annual income that does not exceed the very low-income limit according to size of household as established by HUD for the county of MSA where the property is located. Maximum very low-income limits are set forth in 7 CFR part 3550.

[58 FR 21894, Apr. 26, 1996, as amended at 61 FR 39851, July 31, 1996; 62 FR 26209, May 13, 1997; 67 FR 78329, Dec. 24, 2002]

EFFECTIVE DATE NOTE: At 69 FR 69105, Nov. 26, 2004, §1944.656 was amended by revising the definition of "Overcrowding", effective Feb. 24, 2005. For the convenience of the user, the revised text is set forth as follows.

§ 1944.656 Definitions.

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Overcrowding. Guidance is provided at 7 CFR 3560.155(e). These guidelines should result in an ideal range of persons per housing unit.

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§ 1944.657 Restrictions on lobbying.

All applicants must comply with FmHA Instruction 1940-Q (available in any FmHA or its successor agency under Public Law 103-354 office) which prohibits applicants of Federal grants from using appropriated funds for lobbying the Federal Government in connection with a specific grant.

§ 1944.658 Applicant eligibility.

(a) To be eligible to receive a grant, the applicant must:

(1) Be an organization as defined in §1944.656 of this subpart;

(2) Have the necessary background and experience on the part of its staff or governing body with proven ability to perform responsibility in the field of

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low-income rural housing development, repair and rehabilitation, or have other business management or administrative experience which indicates an ability to operate a program providing repair and rehabilitation financial assistance as well as for replacement housing;

(3) Legally obligate itself to administer HPG funds, provide an adequate accounting of the expenditure of such funds in compliance with the terms of this regulation, the grant agreement, and 7 CFR parts 3015 or 3016 (available in any FmHA or its successor agency under Public Law 103-354 office), as appropriate, and comply with the grant agreement and FmHA or its successor agency under Public Law 103-354 regulations; and

(4) If the applicant is engaged in or plans to become engaged in any other activities, provide sufficient evidence and documentation that they have adequate resources, including financial resources, to carry on any other programs or activities to which they are committed without jeopardizing the success and effectiveness of the HPG project.

(b) An applicant will *not* be considered eligible if it is a nonprofit entity *and* its proposal is based *solely* on an identity of interest, as defined in §1924.4(i) of subpart A of part 1924 of this chapter, between the applicant and the owner(s) of the proposed dwelling or co-op to be rehabilitated or repaired.

[58 FR 21894, Apr. 26, 1993, as amended at 62 FR 26209, May 13, 1997]

§ 1944.659 Replacement housing.

Replacement housing applies only to existing, individual owner occupied housing. Replacement housing does *not* apply to rental properties (single-unit or multiple-unit) or to cooperative housing projects. The grantee is responsible for determining the extent of the repairs and rehabilitation prior to any assistance given to an individual homeowner. If the cost of such repairs and rehabilitation is not economically feasible, then the grantee may consider replacing the existing housing with replacement housing, subject to the following:

(a) The HPG grantee:

(1) Shall document the total costs for all repairs and rehabilitation of the existing housing; and

(2) Shall document the basis for the determination that the costs for all repairs and rehabilitation for the existing housing are not economically feasible.

(b) The individual homeowner:

(1) Must meet all requirements of §1944.661;

(2) Must lack the income and repayment ability to replace their existing home without the assistance of the HPG grantee;

(3) Must have been determined by the HPG grantee and RHS to be unable to afford a loan under section 502 for replacement housing; and

(4) Must be able to afford the replacement housing on terms set forth by the HPG grantee.

(c) The existing home:

(1) Must be demolished as part of the process of providing replacement housing. It will be determined by the grantee and individual homeowner when is the best time for demolition; and

(2) May not be sold to make way for the replacement housing.

(d) The replacement housing:

(1) May be either new housing or a dwelling brought onto the site of the existing housing;

(2) May use no more than \$15,000 in HPG funds;

(3) Must meet all applicable requirements of 7 CFR 3550.57; and

(4) May not be sold within 5 years of completion of the project.

(e) Any moneys received by the homeowner from selling salvaged material after demolishing the existing home must be used towards the replacement housing.

[62 FR 26209, May 13, 1997]

§ 1944.660 Authorized representative of the HPG applicant and FmHA or its successor agency under Public Law 103-354 point of contact.

(a) FmHA or its successor agency under Public Law 103-354 will deal only with authorized representatives designated by the HPG applicant.

(b) The State Director will designate either the State Office and/or the District Office as the processing office and/or the servicing office for the HPG