

program. The State Director's selection may be based on staffing, total program size, number of pre-applications anticipated, type of applicants, or similar criteria. The State Director must publish this designation each year at the time the FEDERAL REGISTER is published informing the public of the open period for acceptance of preapplications as outlined in § 1944.678 of this subpart.

§ 1944.661 Individual homeowners—eligibility for HPG assistance.

The individual homeowners assisted must have income that meets the very low- or low-income definitions, be the owner of an individual dwelling at least 1 year prior to the time of assistance, and be the intended occupant of the dwelling subsequent to the time of assistance. The dwelling must be located in a rural area and be in need of housing preservation assistance. Each homeowner is required to submit evidence of income and ownership for retention in the grantee's files.

(a) *Income.* Determination of income will be made in accordance with 7 CFR 3550.54(c). All members of the household, as defined in § 1944.656 of this subpart, must be included when determining income. Grantees must use certifications, may require additional information from the homeowner, and should seek advice from their attorney.

(b) *Ownership.* Evidence of ownership may be a photostatic copy of the instrument evidencing ownership. Methods for assuring the intention of the homeowner to continue to occupy the unit after assistance will be established by the grantee. Any of the following will satisfy or fulfill this requirement of ownership:

(1) Full marketable title.

(2) An undivided or divided interest in the property to be repaired, rehabilitated, or replaced when not all of the owners are occupying the property. HPG assistance may be made in such cases when:

(i) The occupant has been living in the house for at least 1 year prior to the date of requesting assistance;

(ii) The grantee has no reason to believe the occupant's position of owner/occupant will be jeopardized as a result

of the improvements to be made with HPG funds; and

(iii) In the case of a loan, and to the extent possible, the co-owner(s) should also sign the security instrument.

(3) A leasehold interest in the property to be repaired, rehabilitated, or replaced. When the potential HPG recipient's "ownership" interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure without increasing the recipient's lease cost.

(4) A life estate, with the right of present possession, control, and beneficial use of the property.

(5) Land assignments may be accepted as evidence of ownership only for American Indians living on a reservation, when historically the permits have been used by the tribe and have had the comparable effect of a life estate.

(c) *Other evidence of ownership.* The following items may be accepted as evidence of ownership if a recorded deed cannot be provided:

(1) Any legal instrument, whether or not recorded, which is commonly considered evidence of ownership.

(2) Evidence that the person(s) receiving assistance from the HPG grantee is listed as the owner of the property by the local taxing authority and is responsible for any real estate taxes.

(3) Affidavits by others in the community that the person(s) receiving assistance from the HPG grantee has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

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

§ 1944.662 Eligibility of HPG assistance on rental properties or co-ops.

(a) *Ownership.* The owner(s) of rental properties or co-ops must own the dwelling at the time of receiving assistance from the HPG grantee. The dwelling must be located in a rural area and be in need of housing preservation assistance. Evidence of ownership may be a photostatic copy of the

§ 1944.663

7 CFR Ch. XVIII (1-1-05 Edition)

instrument evidencing ownership. Owners of rental properties and co-ops are required to submit evidence of ownership for retention in the grantee's files. Any of the following will satisfy or fulfill this requirement of ownership:

- (1) Full marketable title.
- (2) An undivided or divided interest in the property to be repaired or rehabilitated.
- (3) A leasehold interest in the property to be repaired or rehabilitated. Ownership interest in the property is based on a leasehold interest. The lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure without increasing the recipient's lease cost.

(4) Land assignments may be accepted as evidence of ownership only for American Indians living on a reservation, when historically the permits have been used by the tribe and have had the comparable effect of a life estate.

(b) *Tenant eligibility.* The following requirements must be met in order for a unit within a rental property or co-op to be assisted with HPG funds:

- (1) The tenant must have income that meets the very low- or low-income definition.
- (2) The tenant must be the intended occupant of the unit, but is not required to have resided previously in the dwelling.
- (3) Any owner(s) who receives assistance from an HPG grantee or a member of the immediate family of the owner(s), who also resides in the unit within the dwelling to be repaired or rehabilitated is eligible to have their unit repaired or rehabilitated, if they are income eligible and meet all other requirements.

(c) *Identity of interest.* When an identity of interest, as defined in §1924.4(i) of subpart A of part 1924 of this chapter, exists between a nonprofit entity and the owner(s) of a dwelling, the property is not eligible for assistance.

§1944.663 Ownership agreement between HPG grantee and rental property owner or co-op.

HPG assistance may be provided by a grantee with respect to rental properties or co-ops only if the following conditions are met by the rental property owner(s) or by the co-op during a minimum 5 year restrictive period beginning on the date agreed upon in the agreement between the grantee and the rental property owner (or co-op). The HPG grantee is responsible for preparing, executing, and monitoring for compliance, the ownership agreement with the owner(s) of the rental property or the co-op. The rental property owner(s) or the co-ops are required to enter into an ownership agreement with the grantee to assure compliance with the requirements of this section.

(a) *Ownership agreement.* At a minimum, the ownership agreement must include the following clauses:

(1) The owner(s) agrees to make the units repaired or rehabilitated available for occupancy to very low- or low-income persons for a period of not less than 5 years, such restrictive period beginning on the date agreed upon in the agreement between the grantee and the rental property owner(s) or co-op.

(2) The owner(s) agrees to pass on to the tenants any reduction in the debt service payments resulting from the HPG assistance provided by the HPG grantee to the owner(s).

(3) The owner(s) of rental properties agrees not to convert the units to condominium ownership. In the case of co-ops, the owner(s) agrees not to convert the dwelling(s) to condominium ownership or any form of cooperative ownership not eligible under this section. This paragraph (a)(3) is subject to the restrictive period noted in paragraph (a)(1) of this section.

(4) The owner(s) agrees not to refuse to rent a unit to any person solely because the person is receiving or is eligible to receive assistance under any Federal, State, or local housing assistance program.

(5) The owner(s) agrees that the units repaired or rehabilitated will be occupied or available for occupancy by persons of very low- or low-income.

(6) The owner(s) agrees to enter into and abide by written leases with the