

“Replacement housing” to read: “The overall condition of the unit or dwelling must meet Thermal Standards adopted by the locality/jurisdiction for new or existing structures and applicable development standards for new or existing housing recognized by RHS in subpart A of part 1924 or standards contained in any of the voluntary national model codes acceptable upon review by RHS.”, effective Jan. 10, 2008.

**§ 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 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:

**§ 1944.660**

(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 program. The State Director's selection may be based on staffing, total program size, number of preapplications 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 sub-

**7 CFR Ch. XVIII (1-1-08 Edition)**

part, 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: