

# Managing Rural Development Compliance

**Presented by:**



**ZEFFERT & ASSOCIATES**

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180516*



## The Goal of this Course...

...is to provide information for all interested personnel to assist in effectively providing housing for persons under Rural Development housing programs.

## The Site and Compliance Managers' Roles

Good site managers are vitally important. They must maintain and document on-going compliance. Failure to maintain compliance can result in loss of RD funding and other penalties.

### Where We Get Direction

A key to references used in this manual

#### RD

##### Formal guidance:

- **HB-2-3560**  
"Multi-Family Housing Asset Management Handbook"
  
- **HUD Handbook 4350.3**  
"Occupancy Requirements of Subsidized Multifamily Housing Programs"

##### Format used in the references:

**HB-2-3560 (paragraph/page#)**

**4350.3 (chapter-paragraph/chapter-page#)**

## Introduction

### RD's Mission

**RD's Mission Statement**  
[www.rurdev.usda.gov](http://www.rurdev.usda.gov)

"To increase economic opportunity and improve the quality of life for all rural Americans."

### RD Regulations

**7 CFR 3560      HB-2-3560 1.1 page 1-1**

The 3560 regulation (7 CFR 3560) and Asset Management Handbook (HB-2-3560) became effective on February 24, 2005. This replaced the long standing 1930-C Handbook and consolidated hundreds of pages of old regulations into a more usable format.

It is important to remember that the handbooks published by RD are based on the 3560 regulation. If there is ever a conflict, the regulation is the final authority. Throughout this training course, we will give references to both the handbook and the regulation.

"The guidance provided by this handbook is intended to be consistent with all applicable laws, Executive Orders, and Departmental regulations, including other Agency regulations. Nothing contained in this handbook should be construed to supersede, rescind, or otherwise amend such laws, Executive Orders, and regulations."  
**HB-2-3560 1.1 page 1-1**

## The Three Handbooks Developed from 7 CFR 3560

**HB-2-3560 1.2 page 1-1**



**1. HB-1-3560: Loan Origination.** This handbook covers the requirements and procedures for processing loan and grant applications for multi-family housing projects, selecting projects for Agency funding, and closing the loans and grants for these projects.

### Our primary resource for this course:

**2. HB-2-3560: Asset Management.** This handbook provides multi-family housing staff with guidance about the Agency's procedures for overseeing borrowers' performance in meeting their responsibilities under the program. Its goal is to help Loan Servicers in Field Offices provide consistent, effective oversight of projects financed by the Agency to ensure that they are operated in accordance with applicable regulatory and administrative requirements. This role is defined as asset management.

**3. HB-3-3560: Project Servicing.** This handbook addresses the requirements and procedures for servicing loan accounts, allowable servicing actions borrowers can request, project preservation, prepayment, and Agency actions in the event of compliance violations or project default.

### Programs Covered

This handbook presents the Agency's asset management procedures for:

- Section 515 Multi-family Projects
  - Rural rental housing (including congregate housing and group homes)
  - Rural Cooperative Housing
- Section 514/516 Farm Labor Housing
  - Off-farm labor housing
  - On-farm labor housing

**Supplemental Information: programs covered in this training****Section 515 Housing Programs****Family Properties**

A family property is a rental property developed for occupancy by eligible very low-, low-, and moderate-income households.

Nonelderly and elderly households may occupy the housing.

Household income is the only tenant characteristic, except under extraordinary circumstances such as tenant displacement, which is given preference in selecting among eligible applicants for occupancy.

Priority is also given to those needing features of an accessible unit if one becomes available.

Occupancy may not be restricted to particular groups of eligible households and may include elderly households.

**Elderly Properties**

An elderly project is a rental property that is developed for occupancy solely by eligible elderly households, which include a tenant or co-tenant who is disabled or age 62 years or older.

Persons with disabilities and their families are permitted to live in elderly housing.

**Congregate Properties**

Congregate properties are rental properties developed for occupancy by eligible very low-, low-, or moderate-income elderly households, individuals with disabilities and families who require some supervision and central services but are otherwise able to care for themselves.

Congregate properties consist of private apartments and central dining facilities in which a number of allowable pre-established services are provided to tenants.

These properties are not designed to be nursing homes and, therefore, are not allowed to pay for the cost of medical- or healthcare-related services.

When leasing units, priority may be given to eligible elderly households who qualify for the services provided by the facility.

**Group Homes**

A group home is housing that is occupied by eligible very low-, low-, and moderate-income elderly persons or individuals with disabilities who share living space within a rental unit and in which a resident assistant may be required.

**Rural Cooperative Housing**

Section 515 loans may be used to finance rural cooperative housing projects operated by nonprofit consumer cooperatives for the benefit of eligible very low-, low-, and moderate-income members, who will own and manage the project.

**Section 514/516 Housing Programs****The Section 514/516 Farm Labor Housing program**

Provides funds to support the development of housing for farm labor. Section 514/516 assistance differs from the Section 515 loans in the following ways:

The objective of the program is to provide housing for farm-workers;

There are no rural restrictions; and

Agency grants are available to support the development of these projects.

**Off-Farm Labor Housing**

The Agency is authorized to make loans and grants for financing off-farm labor housing to broad-based nonprofit organizations; nonprofit organizations of farm-workers; Federally-recognized Indian tribes, agencies or political subdivisions of state or local government; and public agencies (such as local housing authorities).

Section 514 loans can be made to limited partnerships in which the general partner is a nonprofit entity.

**On-Farm Labor Housing**

On-farm labor housing is designed to provide adequate housing for farm-workers involved in a specific farming operation. Individual farmers, family farm corporations or partnerships, or associations of farmers may develop these projects but must operate them on a nonprofit basis.

To qualify for occupancy, an individual or a household must simply be employed as part of the farming operation. There is no income restriction governing occupancy.

However, immediate family members of individuals with an ownership interest in the farm are prohibited from living in this housing on the property.

## Property Maintenance

7 CFR 3560.103 HB-2-3560 5.1 and 5.2 page 5-1 to 5-3

### Asset Preservation

The existing portfolio of multi-family housing properties constitutes a major asset of the Government and the Agency, but the value of this asset depends upon the quality of its upkeep.

**HB-2-3560 Chapter 5** describes the responsibilities of borrowers to maintain the physical condition of the project and of the Agency to exercise appropriate oversight of these responsibilities. The chapter describes the components of adequate physical maintenance, the role of the management plan, and the performance of a physical inspection of the project.

### 7 CFR 3560.103 HB-2-3560 5.1 and 5.2 page 5-1

The Agency has issued performance standards that describe the physical condition of a properly managed project. The Agency's interest in protecting the physical condition of projects that it has financed includes:

- Providing decent, safe, and sanitary affordable housing to the occupants
- Protecting and enhancing the security of its investment
- Assuring compliance with all applicable State and local laws.

### Maintenance Systems and Procedures:

#### HB-2-3560 5.3 C pages 5-2

**Work orders.** Managers must know what has happened from the time a complaint has been received or a problem has been noted, to an inspection confirming the condition has been corrected. The Agency requires the project to have a work-order system that tracks the date a complaint is received, the inspection to verify the complaint, a report describing the required repair or corrective action, the assignment of the repair, the completion report, and final inspection noting satisfactory completion of the work.

**Energy conservation.** Energy conservation efforts are an ongoing responsibility of project management. The Agency requires managers to establish effective systems to reduce energy consumption. These may include energy audits to determine cost effective techniques of energy conservation, energy-efficient lighting, water-saving fixtures, low-flow toilets, energy-efficient appliances, insulation, caulking and weather-stripping, storm doors and windows, and regular cleaning and replacement of filters and other equipment.

**Tenant damages.** The Agency requires management to establish a policy and implement a system to obtain reimbursement for damage caused by the tenant to the property beyond normal wear and tear. The policy is to be stated in the tenant's lease.

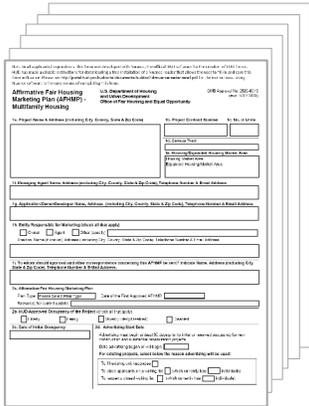
**Response to calls.** Good upkeep requires a speedy response to complaints or unforeseen problems. The Agency requires managers to establish a system for responding to tenant complaints or to unexpected malfunctions or damage, such as leaks, broken windows, etc.

**Inspections.** Frequent, regular inspections are a major component of an effective maintenance system. The Agency requires management, at a minimum, to perform an annual inspection of each occupied unit and to inspect each unit at move-in and move-out. Inspecting a unit with the tenant at move-in and move-out establishes the condition of the unit at the time the tenant takes possession, and may help clarify responsibility for any damages that have occurred in the unit during the occupancy period.

**Preventive maintenance.** Most maintenance work can be predicted and scheduled—this is typically described as preventive maintenance. The Agency requires managers to spell out procedures for scheduling routine tasks, such as garbage and trash removal, snow and ice removal, grounds upkeep, routine painting, and minor repairs. Procedures are also required for the routine maintenance of equipment consistent with service information provided by the manufacturer—biweekly or monthly routine oiling, adjusting, replacement of filters, safety checks of alarms, and outside lighting, etc.

**Marketing**

**Affirmative Marketing**



**HB-2-3560 6.17 page 6-25 Form HUD 935.2A**

Borrowers with **four or more** units are required to prepare and maintain an Affirmative Fair Housing Marketing Plan (AFHMP). This is done on form HUD 935.2A, which lays out a plan establishing how the borrower will meet fair housing responsibilities.

**AFHMP and Civil Rights**

**HB-2-3560 Attachment 3-A 3.a and 7 CFR 3560.104**

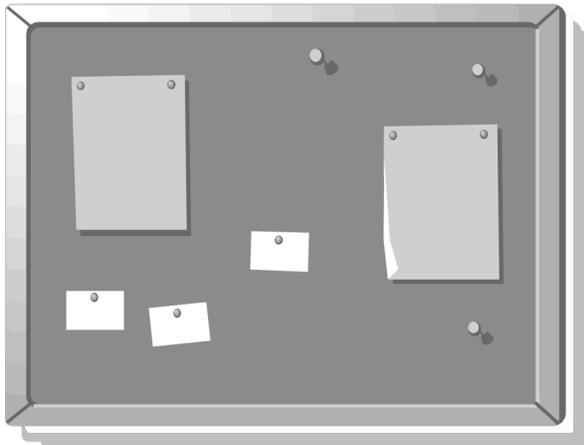
Borrowers will not discriminate based on applicants or tenants race, color, religion, sex, national origin, disability, or familial status.

**Content of the AFHMP**

**HB-2-3560 6.17 page 6-25**

At a minimum, the AFHMP will address the following:

- Outreach efforts of the property
- Marketing strategies
- Education and training of all staff on civil rights laws



The approved AFHMP should be posted in a prominent location like the property office, community room, laundry room or other location where applications are received.

**HB-2-3560 Attachment 3-A 3.a and 7 CFR 3560.104**

The AFHMP should ensure special outreach to those that are not likely to apply. Management must also determine which methods of marketing are best suited to reach very-low and low-income persons. Equal Housing Opportunity statements, slogans and logos must be used on all marketing.

Advertising by newsprint or electronic media must occur **at least annually, even if the wait list is full**. Marketing must **not** be solely word of mouth.

**Updating the AFHMP**

**4350.3 4-12 / 4-26 to 29 Form HUD-935.2A Line 8 AN 916 (1930-C)**

**Unnumbered Letter, April 6, 2017**

According to the Unnumbered Letter dated April 6, 2017, it is required that Borrowers review their AFHMP every five years, or when there are significant changes in the demographics of the project or the local housing market, or the local jurisdiction's Consolidated Plan has been updated. The AFHMP plan will be reviewed and approved by Rural Development.



## The Application Process

**HB-2-3560 6.18 page 6-25**

The purpose of the application process is to 1. Determine applicant eligibility, 2. Provide complete Information to RD, and 3. Rightfully determine wait-list placement.

### Application Forms

**HB-2-3560 6.18 page 6-25**

RD does not mandate an application format, so the borrower may develop their own application. It must meet basic RD requirements. The borrower must retain applications for at least three years or until the next compliance review.

### Minimum Application Requirements

**HB-2-3560 Exhibit 6-5 6.18 page 6-26 to 6-27**

At a minimum, the following information must be gathered on the application:

- Name and Address
- Complete Income Information
- Complete Household Information
- Special Needs
- Acknowledgement of Primary Residence
- Social Security Numbers
- Adjustments to Income
- Signature and Date
- Race, Ethnicity, Gender, Disclosure Notice

The application should have a section to collect race, national origin, and gender information. This is not required, but is encouraged.

*Ethnicity options are:*

- Hispanic or Latino
- Not Hispanic or Latino

*Race options are:*

- American Indian/Alaska Native
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

*Genders are:*

- Male
- Female

### Application - Suggestions

The application should ask about all the income, asset types and allowable deductions (if applicable) listed in the RD & HUD regulations.



**Attachment 6-I** of the HB-2-3560 provides a checklist that asks many of the questions that will need to be gathered at application regarding eligibility, income and deductions. **Attachment 6-J** provides a checklist of required file documentation.



**Consistent file order makes for better audits and management of the files.**

**Application Fees**

**HB-2-3560 6.18 page 6-27B**

Requiring application fees of applicants is *discouraged* by RD, but if they are charged they must be limited to the exact cost of services.

**Maintaining Waiting Lists**

**HB-2-3560 6.18 page 6-27 to 6-28**

The following procedure applies to placing applicants on the waiting list:

- Place all applications on the waiting lists; Be sure to document final disposition.
- Include dates and times of all events on the waiting list to assist with prioritizing.
- If the application is incomplete, notify the applicant within 10 Days.
- Don't forget to include race and ethnicity data provided by the applicant.
- Confirm that you have received a completed application with the applicant.

Once a completed application is received, the property has 10 days to inform the applicant household of its status. This procedure must be spelled out in the property's Management plan

All electronic waiting lists must be printed

**HB-2-3560 6.18(2) page 6-28 to 6-29**

Applicants are prioritized based on their income level, then date of application. Priority is NOT based on household income within an RD income level. Households of differing income levels are prioritized in the following order: 1. **Very Low**, 2. **Low**, and 3. **Moderate** – income applicants. See "Income Limits" in the next section for specifics on the income limits.



**A property's Limits:**  
**Very-Low Income \$20,000    Low Income \$32,000**

Household A applies on 1/15/2013. Their income is \$23,000  
 Household B applies on 1/25/2013. Their income is \$18,000  
 Household C applies on 1/30/2013. Their income is \$15,000.

The next unit should be offered to household:

**Rejection of Applications**

**HB-2-3560 6.19 page 6-29**

When an applicant is rejected (for instance because of criminal activity or drug abuse history), the owner must notify the applicant in writing that they have been rejected, and why. The notification must notify them that they have the right to appeal within 10 calendar days. The notice must be in other languages for non-English speaking persons. The notice must also inform them of their rights under the Fair Credit Reporting Act.

## Eligibility Requirements

### Basic Occupancy Requirements

**7 CFR 3560.152 HB-2-3560 6.1 and 6.2 on page 6-1**

To be admitted to multi-family housing, applicants must:

- Be at or below income limits set by RD.
- Meet the program definition of an *eligible household*.
- Meet the objective criteria in management's "selection criteria".

### Selection Criteria

**3560.154 (d) (1) HB-2-3560 6.2 on page 6-1 & Appendix 1 page 88**

Management's additional eligibility requirements must be included in the property's Management Plan and Occupancy Rules submitted to the Agency.

The criteria must be in writing and the criteria must be applied consistently.

### Immigration Status

**Federal Register Vol. 70, No 34 / Tuesday February 22, 2005**

An interim final rule was published on November 26, 2004 (69 CFR-69032-69176) which added requirements for citizenship eligibility and these requirements are included in the 3560 regulations. However, on February 22, 2005 the agency decided to delay the implementation of these citizenship requirements in order to harmonize its procedures with HUD under 42.U.S.C 1436a.

### Social Security Numbers

**HB-2-3560 6.11 page 6-18**

Applicants must provide the borrower with Social Security Numbers for every tenant or co-tenant in the household. Social Security numbers must be verified only once for each resident. If the applicant does not have the documentation, the applicant shall have 60 days to submit acceptable documentation; the 60-day period can be extended another 60-days for elderly applicants.

### Income Eligibility Requirements

**HB-2-3560 6.2 page 6-1**



Income limits can be found on the web:

**[http://www.rurdev.usda.gov/HSF-Direct\\_Income\\_Limits.html](http://www.rurdev.usda.gov/HSF-Direct_Income_Limits.html)**

Important note: Unlike HUD and Tax Credits, eligibility for RD programs is based on ADJUSTED INCOME. If an RD property has other programs on board, usually the HUD or LIHTC limits will apply and eligibility will be based on GROSS INCOME.

**HB-2-3560 6.18(2) page 6-28 to 6-29**

1. The **very-low** income limit – 50 % of AMI
2. The **low** income limit – 80 % of AMI
3. The **moderate** income limit – add \$5,500 to the low-income limit

Note: Unless the property has received a waiver from the Agency to rent to over-income households, above moderate-income households are NOT eligible.



### Completing the Puzzle...Income Limits

**RD/LIHTC** When selecting income limits the most conservative limit must be selected which will satisfy all programs involved.

**Eligibility of Adult Students**

**HB-2-3560 6.5 A on page 6-4**

**Unnumbered Letter dated January 11, 2007 and 11-3-11**  
 Effective January 30<sup>th</sup>, 2006, HUD had adopted strict rules relating to adult students. The rule changes the eligibility requirements and what is counted as income. RD has followed suit in an Unnumbered Letter in January of 2007. ANY ineligible adult student in a household disqualifies the entire household for assistance. Student status must be determined at each certification.



To be eligible for assistance, any adult who attends an institute of higher learning (full- OR part-time) must be one of the following (**Note that the focus is on adults age 18-23**):

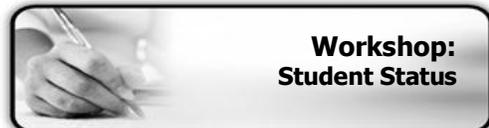
- A dependent of the household living with parent
- Over age 23
- A veteran
- Married
- A parent with dependent child(Ren)
- A disabled individual who was receiving assistance prior to November 30, 2005
- Be **1) Independent** from parents **OR 2. Have parents** who are income-eligible

**Completing the Puzzle...Student Eligibility**

**LIHTC/RD**

The tax credit student eligibility rules are completely different than the RD rules. For instance, the Tax Credit & Bond program eligibility rules focus on households made up of FULL-TIME students of any age, while RD rules apply to individual PART-TIME AND FULL-TIME students through age 23. Therefore there is no practical way to combine the rules, and households or individuals that meet one set of rules may be completely ineligible under the other.

A household must meet BOTH requirements.



Janelle (age 21) is applying for an RD unit. Janelle is a part-time student and will be the only household member. She does not have any dependents and has never lived on her own before as she has always lived with her parents. However, she is no longer claimed on her parents' tax return. It has been verified that Janelle's parents will provide her \$500 a month for living expenses as Janelle is not employed and has never had a job or been in the military. Her parents supply an affidavit that they are over the HUD Low-income limits for the county that they live in. Their tax return demonstrates that Janelle is not claimed as a dependent and that they are indeed over the Low-limit.

Does Janelle meet the RD student requirements? **Yes No**

Why?

## Verifications

### Collecting Data

**HB-2-3560 6.8 page 6-7**

Each applicant must provide the income, expense, and household information needed to enable the borrower to make income determinations. The borrower must verify information provided by the applicant prior to admission.

### Verification Requirements

**HB-2-3560 6-11.A page 6-15 and 16**

All earned and unearned income, assets, and household characteristics that affect eligibility or tenant rent, must be verified.

There are 3 acceptable methods, usually in this order of preference:

1. Third party verification
2. Review of documents that household members supply
3. Household written statement

*Good professionals learn the fine art of including in the file the "just right" amount of paper. Too little paperwork is unacceptable and too much unnecessary paperwork creates confusion.*

Verification of employment income, as well as any household income from sources other than employment, must be verified by the borrower prior to submission of Form RD 3560-8 to the Agency.

- Written verifications provided by third-party sources or documents prepared by third-party sources are generally preferred.
- Oral verifications, if accepted, must be documented carefully.
- When it is not immediately possible to obtain the written verification from the income source, the income may be **temporarily** verified by actually examining the income checks, check stubs, or other reliable data the person possesses which indicates gross income. Third-party verification of income and employment, as applicable, is required whenever it is possible or available.

### Lifespan of Verifications

**HB-2-3560 6-11.A page 6-16**

Written income-related verifications are valid for 90 days and may be valid for an additional 90 days with oral re-verification at the end of the 90-day period. In no case may information that is older than 180 days be used.



**Determining Income**

**Household Size**

**3560.153**

Everyone who resides in the unit will be on the 3560-8, even if their income is not counted. Unit size may be based on these residents. "Family" members are counted toward the income limits and their income is included.

**Included as Family Members...**

Some persons who do not live in a unit must be counted:

- Children away in foster care
- Children in joint custody who are in unit at least 50% of the time
- Children who are away at school
- Unborn children
  - o Note: Self-Affidavit is the only acceptable means of establishing pregnancy – see Appendix 3.
- Children who are in the process of adoption
- Temporarily absent members (work or in hospital)

**HB-2-3560 6.9.A.3 page 6-8**

For persons **permanently confined** to hospital or nursing home, the household decides if they want to count the absent individual. If they choose to include them, they count toward the number of persons for the income limits and all of their income is included. If they choose NOT to include them, the person does not count toward income limits and their income is excluded. The absent member cannot be listed as "Head", "Co-head", or "Spouse". We must count household members in the military who have a spouse or a child in the unit, even if they are assigned out of town.

**Excluded as Family Members...**

**1. Live-in attendants for elderly or disabled**

**Glossary**

"A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:

*24 CFR 5.403*

1. Is determined to be essential to the care and well-being of the persons; **and**
2. Is not obligated for the support of the persons; **and**
3. Would not be living in the unit except to provide the necessary supportive services."

**"a live-in aide may never be a dependent"**



The aide is not on the lease and leaves the unit if the tenant does.



**UPDATE: CHG 4**

**4350.3 3-6.E.3/3-8**

Foster Children and adults are now counted as household members. They are included when determining household size for income limits as well as unit size.

**“Annual” and “Adjusted” Income**

**HB-2-3560 6.9.A.1 pages 6-7 and 6-8**

Two income definitions are used: annual income and adjusted income. Whenever income determinations are made, it is essential that borrowers use the correct income definition and consider income from the appropriate household members.

**Annual income** Annual income is used as the base for computing adjusted income. Income of all household members should be considered when computing annual income. **HB-2-3560, Attachment 6-A, Annual Income Inclusions and Exclusions** can be used to determine which sources of income to count and which to exclude.

**Adjusted income** Adjusted income is used to determine whether an applicant is income eligible to reside in multi-family rental housing or to receive rental subsidies.

**Note: HUD and Tax Credit eligibility is based on gross annual income and may affect how you do business if you have these programs at your RD property.**

See RD Handbook-2-3560 Chapter 6 Section 2 6.8 & 6.9 on pages 6-7 to define income, asset and deduction for determining income and calculating rent.

You must also become familiar with **Attachment 6A** (Income Inclusions and Exclusions; **Attachment 6-B** (Zero Income Verification Checklist), **Attachment 6-C** (Allowable Deductions) and **Attachment 6-D** (Family Assets).

NOTE: *RD 7 CFR 3560.153* tells us that annual income will be calculated in accordance with 24 CFR 5.609. Adjusted income will be calculated in accordance with 24 CFR 5.611. These regulations are explained in **HUD Handbook 4350.3 Chapter 5**. For your convenience, we will include references to this section of the HUD Handbook and **Attachments 6-A, B, C, D** from the **RD HB-2-3560**



**Income Includes...**

**HB-2-3560 6.9.A.2 page 6-8**

Amounts ANTICIPATED for next 12 months and amounts not specifically excluded by regulation. Include income from assets to which **any** family member had access.

**Methods for Projecting Income**

**HB-2-3560 6.9 page 6-8**

- **Current** income and family circumstances may be used to estimate household’s income over the next twelve (12) months unless there is verifiable evidence of a likely change in circumstances.



A teacher who makes \$1,300 monthly during the 9 months of the school year and \$600 during the summer.

$$\begin{array}{r}
 \$1,300 \times \underline{\quad} = \text{[ ]} \\
 + 600 \times \underline{\quad} = \text{[ ]} \\
 \text{Total} = \text{[ ]}
 \end{array}$$

**Historical** information may be used to estimate income that is anticipated to be received for less than twelve (12) months. For example, if one of the household members is a seasonal worker, the income attributable to that worker should be based upon past history, rather than annualizing current income.

**Example – Annualizing Short-Term Annual Income**

A family member only works during the summer months. She earns an average of \$4,000 during that time. You confirm with the applicant that the same seasonal pattern is expected next year.

Use Historical data to project income for the coming twelve (12) months.

Annual Income =

**Zero Income**

**HB-2-3560 6.9.A.4 page 6-9 Attachment 6-B**

“It is the policy of Rural Development **not** to accept a tenant certification for an applicant or tenant with zero income unless all income is exempted by regulation.”



If the tenant or applicant experiences **regular lay-offs**, as part of his or her employment, the tenant or applicant will not be certified as a zero income tenant. The tenant will be certified based on their annual income.

Third party verifications must be obtained from the employer. If the tenant or applicant typically receives **unemployment** during periods of layoff, the unemployment income is included in the income calculation. The tenant will not be re-certified when laid off unless the layoff is inconsistent with the income history of the tenant.

In cases where an applicant or tenant is claiming they have no household income, nor can the tenant or applicant anticipate a source of income, it will be necessary for the applicant or tenant to demonstrate financial capability to meet other basic living expenses and the rent. This amount must include income for essential living expenses and any nonessential items being paid. The basis for this income must be documented in the file. Guidance for the verification of zero income is found in **Attachment 6-B**.

The borrower must review the circumstances of the tenant **quarterly** to ascertain if circumstances have changed. The borrower must remind the tenant that the lease specifically states that it is the tenant’s responsibility to immediately report changes in income to management.

**\* Changes per HUD 4350.3 REV 1 CHG 3**

**Whose Income is Counted?**

<b>Members</b>	<b>HB-2-3560 Attach 6-A 4350.3 Fig 5-2 / 5-7</b>	
	<b>Earned Income</b>	<b>Unearned &amp; Asset</b>
Head, Spouse & Co-Head	Yes	Yes
Other Adult	Yes	Yes
Dependent Child Under 18	No	Yes
Dependent Student, 18 +	Yes (up to \$480)	Yes
Temporarily Absent member	Yes	Yes
Permanently in Nursing Home	Family Choice	Family Choice
* Foster Adult	<b>Yes*</b>	<b>Yes*</b>
* Foster Child	No	<b>Yes*</b>
<b>Non-members</b>		
Live-in Attendant	No	No

**Annual Income Includes: Overview****4350.3 Exhibit 5-1 / 1 to 2**

1. Employment
2. Self-Employment
3. Income from Assets
4. Social Security and Other Benefits
5. Payments in Lieu of Earnings
6. Welfare Assistance
7. Periodic allowances (child support, gifts)
8. Military Pay
9. Student Financial Assistance (for section 8 recipients)

**Net Family Assets Include: Overview****4350.3 5-7 A-G / 5-21 to 5-38 Exhibit 5-2**

1. Cash and checking & savings accounts.
2. Revocable trusts.
3. Equity in real property.
4. Stocks, bonds, T-bills, CDs, mutual funds & money market accounts.
5. IRA, 401(k) & Keogh Accounts.
6. Retirement & pension funds
7. Whole life insurance.
8. Personal property held as an investment.
9. Lump-sum, one-time receipts
10. A mortgage or deed of trust held in a household member's name.

**Imputing Income from Assets****4350.3 5-7 F / 5-25 to 27**

Use the greater of the actual income received or the "imputed" income. Only impute income if the assets exceed \$5,000.

Imputed income: actual CASH value of all assets X the current HUD Passbook Rate  
(Currently .06%).

**Previously Disposed Assets****4350.3 5-7 G 8 / 5-36 to 38**

A special rule applies to assets disposed of for less than fair market value in the last 2 years. If the market value of the asset was \$1,000 more than the amount received.

- Disposed asset value = cash value less amount received.
- **Do not count assets lost in foreclosure, bankruptcy, divorce or separation settlements.**

Previously Disposed Asset

4350.3 Example page 5-38

Jane Doe "sold" a house worth \$89,000 to her daughter for \$10,000.

Reasonable realtor and legal fees are determined to be \$1,800.

\$77,200 must be counted as an asset for 2 years after the sale

**(\$77,200 = \$89,000 - \$1,800 - \$10,000)**

**Adjusted Income**

**Allowable Deductions**

<b>Exhibit 6-1 of the HB-2-3560 Allowable Deductions from Annual Income</b>		
<b>Deductions</b>	<b>Elderly</b>	<b>Nonelderly</b>
1. Dependent Deduction	<b>Yes</b>	<b>Yes</b>
2. Child Care Expense	<b>Yes</b>	<b>Yes</b>
3. Elderly Household	<b>Yes</b>	<b>No</b>
4. Disability Assistance	<b>Yes</b>	<b>Yes</b>
5. Medical Expenses	<b>Yes</b>	<b>No</b>

**Dependent Deduction**

**HB-2-3560 6.9.C.1 page 6-10  
HUD 4350.3 5-10 A / 5-38**

This is a \$480 (per dependent) annual allowance.

A dependent is someone who is:

- Under 18 years of age;
- A person with disabilities; or
- A full-time student of any age.

A dependent can never be:

- Head, spouse, or co-head.
- Foster child, a child who is unborn or has not yet joined the family, or a live-in aide.

Documentation must be gathered to prove that an adult is a full-time student if they are to be considered dependents.



Judy, age 45, is applying for a unit and has the following household members;

- Sue, Judy's daughter, age 10
- Marsha, Judy's disabled daughter, age 26
- Fannie, Judy's foster child, age 5
- Carter, Judy's foster son who is in the process of adoption, age 2

Check the boxes for the above household members that will receive a \$480 dependent deduction.

## Child Care Expense

**HB-2-3560 6.9.C.2 page 6-10  
HUD 4350.3 5-10 B / 5-40 & 41**

Anticipated unreimbursed expenses for the care of children under age 13 (including foster children) may be deducted if:

- The expenses enable a family member to work or go to school (part or full-time).
- No adult family member is available to provide care.
- The amount that allows the adult to work must not exceed income received from work.

The money cannot be paid to a family member living in the unit and the expenses must reflect reasonable charges. The amount that allows adult to work must not exceed income received from work. There is no limit on reasonable costs that allow an adult to look for work or attend school. Only \$480 will be allowed annually to enable an adult FT Student (who is not a head, spouse or co-head) to attend school, because \$480 is the amount counted as income.

## Elderly Household Deduction

**HB-2-3560 6.9.C.3 page 6-10 and 11  
HUD 4350.3 5-10 E / 5-45 and 46**

To be considered an *elderly household*, the head of household, spouse or sole member of a household who is party to the lease must be 62 years of age or older, or an individual with a disability. A single \$400 deduction is taken from annual income for *elderly households*.

## Disability Assistance

**HB-2-3560 6.9.C.4 page 6-11 and 12  
HUD 4350.3 5-10 C / 5-42 to 44**

Reasonable expenses for the care of an individual with disabilities in excess of three percent of annual income may be deducted from annual income if the expenses:

- Enable the individual with disabilities or another household member to work;
- Are not reimbursable from insurance or any other source; and
- Do not exceed the amount of income earned by the person who is able to work as a result of the expenses.

Along with other forms of documentation, to qualify for this deduction, applicants must identify the individual with a disability on the application.

### Typical Disability Assistance Expenses

**HB-2-3560 6.9.C.3 Box page 11**

- Care attendant to assist an individual with disabilities with activities of daily living directly related to permitting the individual or another household member to work.
- Special apparatus, such as wheelchairs, ramps, and adaptations to vehicles or workplace equipment, if directly related to permitting the individual with disabilities or another household member to work.

## Medical Expenses

**HB-2-3560 6.9.C.5 page 6-12  
HUD 4350.3 5-10 D / 5-45 & 46**

To get this allowance, the head, spouse, or co-head must be at least 62 or disabled. It includes un-reimbursed medical expenses of ALL family members. It includes all anticipated expenses during the 12 months following certification/recertification that are not reimbursed by an outside source (such as insurance).

The owner may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.

NOTE: (see 6-9 C.) "One of the most challenging aspects of determining allowable medical expenses is estimating a household's medical expenses for the coming year. While some anticipated expenses can be documented easily (for example, Medicare or other health insurance premiums and ongoing prescriptions), others need to be estimated. The borrower should use historical information about medical bills to estimate future expenses. However, the estimates should be realistic. For example, if the household has a significant medical bill, the borrower would count only that portion of the bill that is likely to be paid during the coming year."

**How to calculate:**

**Total disability and medical expenses less 3 % of gross annual income**

**Typical Medical Expenses**

**HB-2-3560 6.9.C.5 box page 6-12**

1. Services of physicians other healthcare providers;
2. Services of hospitals other healthcare facilities;
3. Medical premiums;
4. Prescription and nonprescription medicine;
5. Dental expenses;
6. Eyeglasses and eye examinations;
7. Medical or health products or apparatus (hearing aids, wheel chairs, etc.);
8. Live-in or periodic medical care (e.g., visiting nurses or care attendants);
9. Bandages, syringes, continence shields, and other nonprescription items recommended by a physician; and
10. Periodic payments on accumulated medical bills.

**Example – Special Calculation for Families Who Are Eligible for Disability Assistance and Medical Expense Deductions**

The following is basic information on the family:

Head (retired/disabled)—	SS/pension income	\$16,000
Spouse (employed)—	employment income	+ \$4,000
Total Annual Income	\$20,000	
Total disability assistance expenses	\$ 500	
Total medical expenses	\$1,000	

Determine if the medical and disability assistance expenses combined exceed 3% of the family's total annual income.

Total disability medical and disability assistance expenses	\$1,500
Minus 3% of total annual income	<u>-\$600</u>
<b>Allowable medical expenses deduction:</b>	<b>\$900</b>

## Determining Rent

### Unit Rents

**HB-2 3560 7.4 B on pages 7-6 through 8**

The following rent types may apply to a household, depending on the make-up of the property.

- Basic Rent:** The amount of rent that is determined must be collected to meet the project's needs. In units with no rental assistance, this will be the lowest rent that can be paid.
- Note Rent:** The highest allowable rent. Some properties only have Note Rents.
- Rental Assistance Rent:** In units with RA, the RA makes up the difference between the Net Tenant Contribution and the Basic Rent.
- Overage:** For tenants whose Net Tenant Contribution is OVER the basic rent, the difference is paid back to RD.

### Calculating Rent

**HB-2 3560 7.4 on page 7-4**

The **Net Tenant Contribution** is the GREATER of the following:

- ◆ The basic rent, unless assistance is being paid  
When assistance is paid:
- ◆ 30% of monthly adjusted income, less any UA
- ◆ 10% of monthly gross income, less any UA
- ◆ For public assistance recipients: the portion of the assistance designated for

## Recertification

**7 CFR 3560.158**

The recertification process is designed to ensure continuing eligibility.

**HB-2-3560 6.28 page 6-37**

A certification is good for one year unless changes occur. The effective date of tenant certification is the first of the month. If the move-in is after the first, the effective date will be the first of the following month.

### Determining When a Recertification is Required

**HB-2-3560 6.28(B) on page 6-38**

A certification must be completed at least annually. If the household experiences an increase in income of **\$100 or more per month**, a recertification must be completed. If the tenant experiences a decrease in income of **\$50 or more per month** and requests a recert the manager must complete one.

Once a change in income or other event is reported that will affect rent, 3<sup>rd</sup>-party verification must be implemented within 30 days. The recertification will be effective on the first of the month following completion of verification.

#### Example #1:

A tenant reports a \$220 increase in monthly income on March 19<sup>th</sup>. Verification must be gathered no later than April 18<sup>th</sup> (March 19+30 days). The recertification and rent increase will be effective on May 1<sup>st</sup>.

#### Example #2:

One of two tenants in a household experiences a job loss on November 2<sup>nd</sup>. They report the decrease in income on November 3<sup>rd</sup>. The manager confirms the job loss on November 5<sup>th</sup>. The recertification and rent decrease will be effective December 1<sup>st</sup>.

### Certification Steps

**HB-2-3560 6.28 page 6-37 to 6-38**

Notify the tenant of the upcoming recertification. Give 75 to 90 days' notice. In the notice, specify the information that will be required to complete the recertification.

Give a 30 day notice if the household fails to respond to the first notice. Again, specify what information is needed. Give them a **timeframe to reply**. State the **consequences** of failure to comply with the request.

### Execution of the New Certification

**HB-2-3560 6.28(A) (2) page 6-37**

At recertification time, all information will be re-verified exactly as it was in the initial move-in. The Form RD 3560-8 will again be completed. Once again all income, deductions and tenant payment will be calculated.

### Tenant and Borrower Requirements

**HB-2-3560 6.28(B) and (B) (2) on page 6-38**

**The Tenant** must:

- Provide income and household information
- Authorize Borrower to verify information
- Report all changes.

**The Borrower** must:

- Verify Household information.
- Review all changes
- Submit Tenant Certification within 10 days of effective date.

## Monitoring Methods and Activities

The Agency uses two basic types of monitoring methods:

- **Desk reviews.** These reviews involve examining project reports submitted by the borrower. Generally, Loan Servicers perform these reviews. <sup>(S)</sup>
- **On-site reviews.** These reviews are conducted at the project and involve the inspection of both project conditions and records. Loan Servicers will often draw on the technical expertise of other staff to assist in performing these reviews. <sup>(S)</sup> The specific reviews that fall into each category are summarized in Exhibit 9-2. Each of these reviews is described in greater detail in subsequent sections of this chapter. <sup>(S)</sup>

When RD reviews the properties waiting lists and application procedures, they will ask the following questions:

- Is there adequate documentation?
- Are there enough applications available for the units?
- Are applicants being placed on the waiting list appropriately?
- Does the application process meet fair housing requirements?
- Is the process timely?
- Are the notifications of appeal rights being given?
- Do the applications meet RD minimum standards?



### RD AN No. 4814

On January 18, 2017, RD published an administrative notice to inform State Directors, Program Directors, Borrowers and Management Agents of the Agency's policies on the implementation and administration of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), enacted on March 7, 2013, under the 42 U.S.C. 14043e-11.

The AN provided additional guidance and clarified that the RD implementation and policies would follow those outlined in the Notice, and in HUD's Final Rule, dated November 16, 2016. RD's definitions pertaining to the Violence Against Women Reauthorization Act of 2013 are to be defined by HUD under 24 CFR part 5.2003.

### **A Few Words of Encouragement**

It is a challenge to learn this program well, but the more effort something takes, the more gain is realized. RD is active in most states and qualified personnel are in demand. Not all jobs are portable and also beneficial to Society. We strongly feel that RD housing-related jobs are.