

## HOTMA Policy Supplement

### Overview

While full compliance with HOTMA is mandatory by January 1, 2025, PHAs select a HOTMA compliance date sometime in 2024 on which to begin fully applying all HOTMA provisions to their programs. All transactions with an effective date on or after that date must follow HOTMA regulations and the PHA's updated policies.

While the majority of HOTMA provisions cannot be implemented until the Housing Information Portal (HIP) and the PHA's software is ready, HUD encourages PHAs to implement certain specific provisions of HOTMA that do not require HIP implementation irrespective of the PHA's HOTMA compliance date. HUD described which provisions of HOTMA may be implemented early in FAQs published February 22, 2024. **All other provisions of HOTMA are not applicable until the PHA's HOTMA compliance date.**

The following details discretionary policies which HUD allows PHAs to implement prior to their HOTMA compliance date. Early adoption of such policies is optional. The PHA may adopt some, all, or none of the policies listed below prior to their HOTMA compliance date.

(Note: Although HUD's 2/22/24 FAQs list Zero Income Reviews (as described in Section J.8 of revised Notice PIH 2023-27) as an area where PHAs may adopt HOTMA policies prior to the PHA's implementation date, HOTMA did not make any significant changes in this area. The PHA may continue to use their current zero income policies. Therefore, no policy decision point has been listed below.)

## OHA HOTMA Policies

### **I. Asset Limitation**

Section A.1 of Notice PIH 2023-27 provides guidance with respect to the application of the HOTMA asset limitation at admissions, annual, and interim reexaminations. A family is out of compliance with the asset limitation if they have either of the following: net family assets that exceed \$100,000 as adjusted annually for inflation or if the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell a property that is suitable for occupancy by the family as a residence. For the Public Housing and Section 8 programs, PHAs must deny admission of an applicant if they are determined to not meet the requirements of the asset limitation. PHAs may adopt a written policy of total non-enforcement, enforcement, or limited enforcement for annual and interim reexaminations.

**New Admissions Discretion:** None

**Implementation date:** January 1, 2024

**Annual and Interim reexamination Discretion:**

**Implementation date:** OHA's HOTMA Compliance Date

#### OHA Policy

All families who are found to be out of compliance at reexamination will have up to six (6) months to demonstrate they have cured non-compliance. If the family demonstrates they have come back into compliance within that period, the OHA will not initiate termination or eviction proceedings. The OHA will inform families of their right to request a reasonable accommodation for persons with disabilities for additional time to demonstrate that they have cured non-compliance.

### **II. Earned Income Disallowance (EID)**

Since HOTMA removed the statutory authority for the EID as of January 1, 2024, regardless of the PHA's HOTMA compliance date, the PHA must not enroll any new families in the EID. This is mandatory. The EID is only available to families that were eligible for and participating on the program as of December 31, 2023, or before; no new families are to be added on or after January 1, 2024. If a family was receiving the EID prior to or on December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. PHA policies governing the EID are applicable only to such families.

**Discretion:** None

**Implementation date:** January 1, 2024

### **III. Form HUD-9886-A**

Section J.1 of Notice PIH 2023-27 provides that PHAs were able to begin having families sign the new HUD-9886-A on January 1, 2024. While the PHA is not required to update its policies to begin using the new Form HUD-9886-A, the new form refers to the family's ability to revoke consent with respect to the PHA's ability to access financial records from financial institutions, unless the PHA establishes policies that revocation of consent will result in a denial of admission or termination of assistance. As such, if the PHA will begin using the new Form HUD-9886-A prior to the PHA's compliance date and adoption of such policy, the PHA should also implement policies governing revocation of consent at the same time.

**Implementation date:** January 1, 2024

#### OHA Policy

-Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

-The OHA has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with OHA policy. In order for a family to revoke their consent, the family must provide written notice to the OHA. Within 10 business days of the date the family provides written notice, the OHA will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the OHA will notify their local HUD office.

### **IV. Mandated and Discretionary use of HUD's Enterprise Income Verification System**

Section J.3 of Notice PIH 2023-27 clarifies that PHAs must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs are no longer required to use EIV to verify tenant employment and income information during an interim reexamination of family composition and income. PHAs are still required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

**Implementation date:** OHA's HOTMA Compliance Date

#### OHA Policy

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the OHA will obtain EIV income and IVT reports for all annual reexaminations for all families. The OHA will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the OHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

## **V. Safe Harbor Income Determinations**

Section J.4 of Notice PIH 2023-27 allows PHAs to use income determinations from other means-tested federal public assistance programs to verify annual income. These are known as Safe Harbor income determinations. PHAs that choose to adopt this policy before migrating to HIP must list the annual income from the other program's determination in Section 7 of the HUD-50058 for the head of household using the "Other Non-Wage Sources" income code.

**Implementation date:** OHA's HOTMA Compliance Date

### OHA Policy

When available and applicable, the OHA may accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The OHA will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the OHA will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the OHA will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the OHA will obtain third-party verification of all sources of income and assets (as applicable).

The OHA will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the OHA will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;
- State the family size
- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and
- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the OHA does not receive any acceptable income determination documentation or is unable to obtain documentation, then the OHA will revert to third-party verification of income for the family.

## **VI. Decreases in Adjusted Income**

Section I.1 of Notice PIH 2023-27 allows PHAs to establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income.

**Implementation date:** OHA's HOTMA Compliance Date

### OHA Policy

The OHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

## **VII. Increases in Adjusted Income Regulations**

Section I.2 of Notice PIH 2023-27 contains updated guidance for interim reexaminations due to increases in family's adjusted income. PHAs must conduct an interim reexamination of family income when the family's adjusted income has changed by an amount that will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions: PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

**Implementation date:** OHA's HOTMA Compliance Date

### OHA Policy

When a family reports an increase in their earned income between annual reexaminations, the OHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The OHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The OHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

## **VIII. Verification Dated within 120 Days**

Section J.5 of Notice PIH 2023-27 contains updated the guidance for Level 4 documentation (Written Third-Party Verification) to include an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA, rather than 60 days as is currently required.

**Implementation date:** OHA's HOTMA Compliance Date

### OHA Policy

In general, the OHA will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

The OHA will not use this method if the OHA is able to use an income determination from a means-tested federal assistance program or if the PHA uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the OHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The OHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the OHA determines that third-party documents provided by the family are not acceptable, the OHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the OHA will obtain one statement that reflects the current balance of the account. At the OHA's discretion, if additional bank statements are needed due to the family's circumstances, the OHA may request additional bank statements.

When pay stubs are used, the OHA will require the family to provide the most current, pay stub(s) covering 30 consecutive days. At the OHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the OHA may request additional paystubs or a payroll record.

## **IX. Verification of Fixed Income Sources**

In accordance with Section J.5 of Notice PIH 2023-27, PHAs may accept a statement dated within the appropriate benefit year for fixed income sources.

**Implementation date:** OHA's HOTMA Compliance Date

### OHA Policy

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the OHA. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. The OHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the OHA determines that third-party documents provided by the family are not acceptable, the OHA will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.