

THE HFA INSTITUTE 2024

HOTMA: HOME, HOME-ARP & HTF

January 8, 2024



National Council of
State Housing Agencies



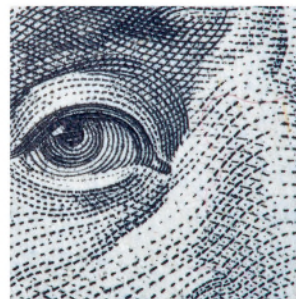
**MRBs and
Other Federal
Homeownership
Programs**
JANUARY 10 – 12



Housing Credit
JANUARY 9 – 11



**Section 8 and
Other Federal
Multifamily
Programs**
JANUARY 10 – 12



**HOME and
Housing Trust
Fund**
JANUARY 7 – 9



Assess HOTMA Knowledge



QUESTIONS FOR THE STATES



FAMILIARITY W/ HOTMA



HOW MANY CALCULATE OWN
INCOME, USE SOFTWARE

Agenda



Part 1: What is HOTMA?

What does the HOTMA Final Rule do?

What HUD programs are affected by HOTMA?

When does the Final Rule become effective?



Part 1: What provisions impact CPD Programs?



Part 2: What changes were made to HOME & HTF?

Next steps for implementing HOTMA



Part 2: Questions



WHAT IS HOTMA?

Housing Opportunity Through Modernization Act of 2016

- HOTMA, signed into law, Public Law 114-201, enacted July 29, 2016
 - Major reform legislation for public housing and Section 8 programs
 - Goals to:
 - Streamline and align administrative processes in HUD rental programs
 - Reduce burden on private owners and public housing agencies (PHAs)
 - Create new requirements for determining a family's assets and income
 - Target scarce resources to the most needy through the income and asset examination process

HOTMA Rulemaking

- 6-year effort began in 2017 with a Departmental Working Group including PIH, MFH, CPD, and OGC
 - Proposed Rule in 2019: 84 FR 48820
 - Request for additional comment in 2020: 85 FR 78295
 - Final Rule in 2023: 88 FR 9600
- Numerous rules published addressing other elements of the legislation

What does the HOTMA Final Rule do?

- Revises HUD Part 5 income regulations
 - **Annual income:** used for determining eligibility for assistance in PIH, MFH, and certain CPD programs
 - **Adjusted income:** used for calculating a tenant's rent in PIH, MFH, and certain CPD programs
 - **Net Family Assets:** creates a new definition of net family assets
 - **Earned Income Disallowance:** sunsets a benefit which disregards increases in income for persons with disabilities and those living in public housing
 - **Asset Limitation:** sets limits on the value of net family assets and real property ownership and provides exception policies to those limits
- Intent: Streamline income calculation and verification processes and reduce the burden for providers of housing assistance

What HUD programs are affected by HOTMA?

- Public Housing & Section 8 Programs
 - Housing Choice Voucher, Project Based Vouchers, Project-Based Rental Assistance & Moderate Rehabilitation (and SROs)
- Changes to other Multifamily Housing programs, including:
 - Section 202 Supportive Housing for the Elderly (62+)
 - Section 811 Supportive Housing for Persons with Disabilities
- Some CPD programs made conforming regulatory changes to program regulations
 - HOME (HOME-ARP)
 - HTF
 - HOPWA
 - CDBG
- Changes affect CPD programs that use Part 5 income rules
 - CoC, ESG, ESG-CV, CDBG-DR, CDBG-MIT, CDBG-CV
 - NOFO programs such SHOP and VHRMP


When does the HOTMA Rule go into effect?

- Key provisions involving annual income, adjusted income, net family assets are effective January 1, 2024
- Other provisions of HOTMA relating to over income (OI) tenants in public housing were effective 30 days after publication

Delay in HOTMA Compliance Date

HUD published a Federal Register Notice (88 FR 85648)
12/8/23: delaying the compliance date for CPD programs to
no later than January 1, 2025

- Delay is consistent with delays issued for PIH and MFH programs
- Provides grantees additional time to get ready for compliance
- Provides HUD additional time to update systems (e.g., CPD income calculator)



CPD grantees may continue to comply
with income and assets requirements in
accordance with the pre-HOTMA Final
Rule

WHAT PROVISIONS IMPACT* CPD PROGRAMS?

*Some provisions do not apply to the HOME & HTF programs, but assisted units may be impacted when layered with other sources subject to the provisions

What provisions impact HOME, HOME-ARP & HTF?

Definitions

24 CFR 5.100;
5.403; & 5.603

Annual Income

24 CFR 5.609

Adjusted
Income

24 CFR 5.611

Earned Income
Disallowance

24 CFR 5.617

Asset
Limitations

24 CFR 5.618

Key definitions

The Final Rule revises and codifies new definitions

24 CFR 5.100

- Earned and unearned income

24 CFR 5.403

- Family (describes when single persons may be considered a Family)

24 CFR 5.603

- Net Family Assets (codifies new exclusions)
- Dependent (full time student), foster adult, foster child, minor (the treatment of their income)
- Day laborer, independent contractor, seasonal worker (for the purpose of nonrecurring income)
- Health and medical care expenses (used in adjusted income)

Annual Income

24 CFR 5.609

Used by PJs, HTF grantees, PHAs, owners to determine eligibility for assistance or benefit

24 CFR 5.609(a) - What is included in annual income?

- Income is all amounts not excluded by 24 CFR 5.609(b)
 - Earned income received by each member of the family over 18
 - Includes unearned income of each member of the family (e.g., SSI)
 - Includes actual income from assets and/or imputed income from assets
 - Increases threshold for imputing income from assets from \$5k to \$50k, (amt. adjusted annually for inflation)
 - HUD will issue passbook savings rate
 - For 2024, passbook rate is 0.40 percent

24 CFR 5.609(b) - What is NOT included in annual income?

- 28 income exclusions. Broad categories of exclusions include:
 - Income relating to the care and education of children under 18, foster children/adults, or dependent full-time students
 - Income relating to persons with disabilities
 - Income and programs for active Military and Veterans
 - Reimbursement of expenses, payments due to legal claims, settlements
 - Nonrecurring income
 - Loan proceeds (HECM, student loans, car loans)
 - Economic Stimulus or recovery payments
 - Income excluded under other statutes (published via federal register)

Five most complex income exclusions under 24 CFR 5.609(b):

1. Distributions from irrevocable & revocable trusts
2. Student financial Aid
3. Federally mandated exclusions
4. Nonrecurring income
5. Civil Rights Settlements or Judgements

1) 24 CFR 5.609(b)(2): Irrevocable & Revocable Trusts

- Irrevocable Trusts & Revocable Trusts outside the control of the family
 - Distributions of principal excluded from income
 - Distributions of income (ex: interest, dividends) excluded from income if used to pay medical cost of a minor
- Revocable Trusts under the control of the family
 - Actual income earned, regardless of whether it's distributed, shall be included as annual income at the time it's received

2) 24 CFR 5.609(b)(9): Student Financial Aid **BUT FIRST: Section 8 Student Restrictions****

- Assistance shall not be provided to any individual who is enrolled as a student (fulltime or part-time), unless they meet one of the following criteria:
 - Is 24 years-old or older,
 - A veteran of the US military,
 - Is married,
 - Has a dependent child living with the student),
 - Is disabled and was receiving Section 8 as of 11/30/2005, or
 - Is individually eligible (independent) or is a member of a family who is eligible for assistance
- Applies to HOME: 24 CFR 92.2- *Low Income family & Very low-income family*
- Does not apply to HTF BUT 24 CFR 91.320(k)(vii)(A)- States must not limit or give preferences to students
- Section 8 and LIHTC student rules don't conflict, they are different

** This language appears in Appropriations and HUD later codified it in 24 CFR 5.612.

2) 24 CFR 5.609(b)(9): Student Financial Aid Cont.

- Two situations which affect the exclusion of student financial assistance under § 5.609(b)
 - Section 5.609(b)(9) as it generally applies to HUD programs
 - Section 5.609(b)(9) as it applies to a section 8 in a year when HUD appropriations includes special limitations for section 8

2) 24 CFR 5.609(b)(9): Student Financial Aid Cont. (general rule)

- § 5.609(b)(9)(i): Exclude all forms of income in section 479B of the Higher Education Act (even if the assistance exceeds actual covered costs) &
- § 5.609(b)(9)(ii): If the amount excluded under § 5.609(b)(9)(i) is less than the actual covered costs, then exclude the lower of:
 - the total of student financial assistance or
 - the amount by which the actual covered costs exceeds section 479B assistance excluded under § 5.609(b)(9)(i)

“student financial assistance” is defined in § 5.609(b)(9)(ii)(A) – (D)

“actual covered costs” is defined in § 5.609(b)(9)(ii)(B)(4)

2) 24 CFR 5.609(b)(9): Student Financial Aid Cont. & Section 8 Appropriations

- Annual HUD Appropriations language for Section 8 student financial assistance provides additional limitations:
 - If a student HoH/spouse is 23 or under or without dependent children, then both the assistance in 479B of the Higher Education Act and the student financial assistance in § 5.609(b)(9)(ii) shall be used to determine if actual covered costs exceed student financial assistance (See next slide)
 - **NOTE:** For purposes of interpreting the appropriations language, “tuition and other required fees and charges” is synonymous with the definition of “actual covered costs” as defined in § 5.609(b)(9)(ii)(B)(4).

§5.609(b)(9) applies to section 8 student HoHs/spouses who are over age 23 with dependents as it would apply in the other programs (see prior slides)

2) 24 CFR 5.609(b)(9) & Section 8 Appropriations: Formula



- If the total is a positive number, then that is the amount of combined section 479B assistance and student financial assistance that **is included in income**.
- If the total is zero or a negative number, then **none** of the section 479B assistance and student financial assistance **is included in income** (i.e., all is excluded from income under 5.609(b)(9)).

2) 24 CFR 5.609(b)(9) & Section 8 Appropriations: Example

- A. Section 479B assistance (\$ 55,000)
- B. § 5.609(b)(9)(ii) student financial assistance (\$10,000)
- C. actual covered costs (\$50,000)



- If the total is a positive number, then that is the amount of combined section 479B assistance and student financial assistance that **is included in income**.
- If the total is zero or a negative number, then **none** of the section 479B assistance and student financial assistance **is included in income** (i.e., all is excluded from income under 5.609(b)(9)).

2) 24 CFR 5.609(b)(9): If not subject to Section 8 Appropriations: Two potential outcomes

Aid under 479B exceeds costs

- A. Section 479B assistance **(\$55,000)***
- B. § 5.609(b)(9)(ii) student financial assistance (\$10,000)
- C. Actual covered costs (\$50,000)

If A is equal to or greater than C, then only all of B is included as income to the family

$$\begin{aligned} \$55,000 &\geq \$50,000 \\ \$10,000 &\text{ is income} \end{aligned}$$

*Category A is always excluded, and excess student aid comes only from category B

Aid under 479B is less than costs

- A. Section 479B assistance **(\$45,000)**
- B. § 5.609(b)(9)(ii) student financial assistance (\$10,000)
- C. Actual Covered costs (\$50,000)**

If A is less than C, then add A and B together and subtract C, and the positive number is included as income to the family

$$\begin{aligned} \$45,000 &< \$50,000 \\ \$45,000 + \$10,000 &= \$55,000 \\ \$55,000 - \$50,000 &= \$5,000 \text{ is income} \end{aligned}$$

**Covered costs exceeds Category A which is always excluded. Count the excess of the combined of category A and category B

3) 24 CFR 5.609(b)(22): Federally Mandated Exclusions

- HUD is required by Federal statutes to exclude certain income and asset sources from consideration as income when determining eligibility for HUD assistance
 - Applies no matter the definition of annual income used- Part 5, IRS Form 1040, Census Long Form
- HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion
 - Updates will be published when necessary
 - Exclusions list applies to INCOME only, except where HUD states that it applies to assets too
 - Actual income earned from an excluded asset may be included in income if not deposited into an account that is disregarded and excluded by other authorities

4) 24 CFR 5.609(b)(24): Nonrecurring Income

HUD narrowed the definition of “nonrecurring income”

- Defined as income that will not be repeated in the coming year, based on information provided by family
- The earned income from the following is included in annual income:
 - Independent contractors
 - Day laborers
 - Seasonal workers

Examples of nonrecurring income include:

- Payments from US census workers (decennial survey) less than 180 days
- Economic Stimulus or Recovery payments (e.g., pandemic funds (Federal or State))
- Gifts for holidays, birthday money
- Lump-sum additions to assets (lottery or contest winnings)

5) 24 CFR 5.609(b)(25): Civil Rights Settlements or Judgements

- These payments are excluded from income regardless of how they structured (e.g., lump-sum or payment schedule):
- Different treatment- backpay vs. future payments
 - Backpay is excluded from income since it's compensation for a loss that has already occurred
 - Future pay is not excluded from income (e.g., increases in current and future salary from raises or promotions provided in accordance with a judgement or settlement)
- These payments could be included towards net family assets if held in family's savings acct. or revocable trust under the control of the family
 - Interest earned on these net family assets counts towards income

24 CFR 5.609(c) – How is annual income calculated?

- Does not apply to HOME, HOME-ARP, HTF, or CDBG
- Initial Income Examination
 - Estimate family's income for next 12 months
- Annual Reexamination*
 - Calculate family's income from the preceding 12 months, make adjustments to reflect current income
- Interim Reexaminations
 - PHAs, Multifamily Housing Owners, and HOPWA grantees also conduct interim reexaminations (See 24 CFR 5.657 and 24 CFR 574.310(e)(4))

* If an interim reexamination occurs, then the PHA, owner, or HOPWA grantee must take that into consideration when estimating the income from the preceding 12 months

What is the Safe Harbor in 24 CFR 5.609(c)(3)?

- Permits administrators to accept income determinations done by another provider of means-tested Federal public assistance
 - Determination must be recent (within the past 12 months)
 - Can use these determinations for initial, interim, and annual reexaminations, as applicable
- Safe Harbor is an alternative way to document annual income
 - must still calculate adjusted income (apply mandatory deductions), if applicable

What types of public assistance count as Safe Harbor?

- Temporary Assistance for Needy Families (TANF)
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Earned Income Tax Credit (EITC)
- Supplemental Security Income (SSI)
- **Low Income Housing Credit (LIHTC)**
- Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Other HUD programs (e.g., HOME & HTF),
- Other forms of assistance designated through MOU or in FR Notice

Does the Safe Harbor Apply to CPD Programs?

YES

- HOPWA
- SHOP
- ESG*
- CoC*

*Program calculates income in accordance with 24 CFR 5.609, which includes applying safe harbors in 24 CFR 5.609(c)(3)

NO

- HOME/HTF has its own
- CDBG uses annual income as defined in 24 CFR 5.609 but does NOT use 24 CFR 5.609(c) to calculate income and does not apply the safe harbor provisions

Questions on Annual Income 24 CFR 5.609?

Adjusted Income

24 CFR 5.611

It's used by PJs, PHAs, and owners, to determine a tenant's rent or amount of assistance

How is income adjusted under 24 CFR 5.611(a)?

- 24 CFR 5.611(a): Take annual income and perform mandatory deductions:
 - \$480* for each dependent (includes full time students)
 - \$525* for any elderly or disabled family
 - Health/medical/attendant care expense deduction in excess of 10% of the family's income (this is increased from 3% in the previous rule)
 - Reasonable childcare expense deduction necessary to allow a family member to work or further education

*Inflation adjustments included for dependent and elderly or disabled family deductions

How is income adjusted under 24 CFR 5.611(b)?

- 24 CFR 5.611(b): Permissive Deductions
 - Allows PHAs to develop additional deductions for families in a written policy
 - No additional HUD subsidy or assistance to the PHA to make up for decline in revenue due to reduced rent or increased rental assistance to family
 - Only applies to PHAs in their administration of public housing, housing choice vouchers, or moderate rehabilitation programs
 - Was not expanded to allow owners of multifamily housing, PHAs acting as owners and not administrators, **or CPD grantees**

What is a hardship deduction under 24 CFR 5.611(c)?

- 24 CFR 5.611(a) increased the threshold for taking the medical deduction to 10% of a family's annual income
 - Could result in financial hardship for elderly and disabled families
- 24 CFR 5.611(c): Provides financial hardship relief (deductions) for -
 - Unreimbursed health and medical care expenses for elderly family or disabled family AND
 - Reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family to be employed

How is the hardship deduction under 24 CFR 5.611(c) applied?

- If family was taking the deduction before 1/1/24, then the family gets phased-in relief:
 - 1st 12 months- family may receive deduction of the expenses that exceed 5% of annual income
 - 2nd 12 months- family may receive deduction of the expenses that exceed 7.5% of annual income
- If the family was not taking the deduction, the expenses increased, OR family circumstances changed and no interim reexamination is triggered, then:
 - Family may receive deduction of the expenses that exceed 5% of annual income
 - Up to 90-day period (may be extended)

What is a hardship deduction under 24 CFR 5.611(d) and how is it applied?

- 24 CFR 5.611(d): Provides an exemption to continue reasonable child care expense deduction:
 - Family is unable to continue claim child care deduction under 24 CFR 5.611(a) because:
 - No family member is employed AND
 - No family member is furthering their education AND
 - The family still requires child care
 - The loss of the deduction creates inability to afford rent without the child care deduction
- Relief is 90-days, can be extended in 90-day increments

Who can give hardship exemptions and what are the requirements of 24 CFR 5.611(e)?

- PHAs, owners, and CPD grantees may develop hardship provisions if they calculate adjusted income under 24 CFR 5.611(a) and (c)-(e)
 - 24 CFR 5.611(e) requires the responsible entity to define hardship for 24 CFR 5.611(c) and (d)
 - 24 CFR 5.611(e) requires the responsible entity to define the family's inability to pay rent for the child care hardship exemption in 24 CFR 5.611(d)
- ESG grantees, CoCs, CDBG grantees, and HTF grantees DO NOT have the ability to grant hardship exemptions
- HOME and HOPWA may give hardship exemptions

Questions on Adjusted Income 24 CFR 5.611?

Earned Income Disallowance

24 CFR 5.617

It's a benefit that disregards increases in annual income for persons with disabilities and families in public housing

What is the Earned Income Disallowance or Disregard?

- The Earned Income Disallowance or Disregard (EID) is found in 24 CFR 5.617 and 24 CFR 960.255
 - In public housing, applies to all families
- In HCV, HOME, and HOPWA programs:
 - Applies to families that have a person with a disability that begins working, increases their earnings as a result of a self-sufficiency program, or begins working/increases earnings as a result of TANF
- What it does:
 - Requires PJs, PHAs, owners, and grantees not to count increases in earned income for the first 12 months of the person's employment
 - Requires PJs, PHAs, owners, and grantees not to count 50% of increases in earned income for second 12 months of person's employment

What does it mean that EID is going away?

- Section 102(a)(2) of HOTMA eliminated the statutory basis for EID
HUD is grandfathering out EID
 - All families that are taking advantage of the EID provisions in effect on 12/31/23 shall be able to use EID for the full 2 years, in accordance with 24 CFR 5.617 and 24 CFR 960.255
 - No additional families may obtain the benefit of the EID after 12/31/23
- HUD, PHAs, and grantees may develop new incentives to enable persons with disabilities to work but cannot use EID to do so

Net Family Assets

24 CFR 5.603

“Net Family Assets” is used for the purposes of counting income from assets and complying with new Asset Limitation requirement

What are Net Family Assets under 24 CFR 5.603?

- 24 CFR 5.603(a) defines Net Family Assets:
 - The net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment

What is excluded from Net Family Assets?

- The value of necessary items of personal property
- **Non-necessary items of personal property** if the combined total value does not exceed \$50,000
- Retirement accounts
- Real property that the family does not have the authority to sell
- Amounts recovered based on claims that a family member became a person with a disability;
- Certain educational accounts such as ABLE or Coverdell (529 plans)
- Interests in Indian trust land
- Equity in properties when the family receives assistance under 24 CFR parts 92, 93, 574, or 982
- Family Self-Sufficiency Accounts
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family
- Trust assets for irrevocable trusts or trusts not under the control of the family or household

Annual Income includes income from Assets

- Income from assets is **no longer** the greater of actual or imputed income from the assets over \$5k
- Income from assets is both actual and imputed income from assets, as applicable
 - Actual income from assets if you can compute it is always included in a family's annual income
 - Imputed income from assets must be calculated for specific assets when three conditions are met:
 - ✓ The value of net family assets exceeds \$50,000 (as adjusted for inflation);
 - ✓ The specific asset is included in net family assets; and
 - ✓ Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets

- Step One: Compute the actual income from the assets, where actual income can be calculated
- Step Two: Impute income for the assets where actual income could not be calculated
- Step Three: Combine both amounts. This is the income attributable to net family assets

Questions on Earned Income Disallowance or Net Family Assets?

Asset Limitation

24 CFR 5.618

Restricts assistance based on the value of “net family assets” & real property ownership

What is the limitation in 24 CFR 5.618?

- What is the Limitation?
 - A family is no longer eligible for assistance if -
 - Net Family Assets exceed \$100k (amt. adjusted annually for inflation) OR
 - Family owns real property suitable for occupancy (present ownership interest, legal right to reside in & legal authority to sell)
- How does it work?
 - Initiate termination of assistance within 6 months
 - PHA or owner may establish exception policies and cure periods
- Programs limiting participation based on Net Family Assets include –
 - Public housing
 - Section 8 (HCV, PBV, PBRA, Mod Rehab)
 - HOPWA

Good Cause Under HOME and HTF

- Both HOME and HTF require that a PJ/HTF Grantee may only refuse to renew or terminate a tenancy for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; or for other good cause.
- Good cause does NOT include increases in income, having a certain type of asset (e.g., ownership of real property), or having a certain amount of assets (e.g., over \$100K).

24 CFR 5.618 Asset Limitations and HOME/HTF Requirements

- Families must be allowed to remain in HOME units even if they are otherwise terminated under the Section 8 asset limitation requirements
- Families must be allowed to remain in HTF units even if they are otherwise terminated under Section 8 or public housing asset limitation requirements
- HUD will issue forthcoming guidance on how to address HOME or HTF units when combined with assistance from programs implementing the asset limitation

Questions on Asset Limitations Requirements?

WHAT CONFORMING CHANGES DID HOME & HTF MAKE?

Changes to the HOME Program & the impact on HOME-ARP

Changes to the HOME Program

Conforming regulatory changes to align with revisions to:

- New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
- Annual Income 24 CFR 5.609(a) and (b)
- Adjusted income 24 CFR 5.611(a) and Hardship Exemptions at 24 CFR 5.611(c)-(e)
- Removal of EID (24 CFR 5.617), sunset after 2 years
- Families can self-certify the value of net family assets under \$50k (24 CFR 5.618(b)(1))

New Requirements for the HOME Program

New requirements to align and reduce administrative burden:

- Requires PJs to accept income determinations* made in units assisted by Federal or state project based rental assistance programs
- Allows PJs to accept income determinations* made by PHAs in units with families assisted by federal TBRA (e.g., section 8, HUD-VASH)
- Requires the use of annual income at 24 CFR 5.609(a) and (b) in rental projects where PJ is required to or chooses to accept income determinations done by PHAs, section 8 owner, or rental assistance provider

*includes initial, interim and reexamination of annual and adjusted income, including examinations done every 6th year during the affordability period.

Clarifications in the HOME Program

- Identifies three cases when a PJ must calculate a tenant's adjusted income
 - HOME TBRA
 - Low HOME Rent unit subject 24 CFR 92.252(b)(2)(i)
 - Over income tenants in accordance with 24 CFR 92.252(i)
- Clarifies who is a member of the family (excludes income of live-in aides, foster children and foster adults) for both income definitions (Part 5 & IRS Form 1040)
- Clarifies that federal TBRA is excluded from annual income when determining eligibility for HOME assistance

HOME-ARP: Current Income Requirements

HOME-ARP Notice- Section IV (Qualifying Populations) Section VI (B) HOME-ARP Rental

- PJs must use definition of annual income in 24 CFR 5.609 & calculate income in accordance w/ the requirements of 24 CFR 92.203(a)(1)
 - For all income calculations to meet income criteria of certain QPs
 - For all income determinations required in HOME-ARP eligible activities (e.g., HOME-ARP low-income units)
 - QP rental units- income is not used for eligibility (initial nor annual)
 - HOME-ARP Low-income unit- follows the regular HOME rules
- PJs must accept income determinations made in HOME-ARP low-income units assisted by Federal or state project based rental assistance programs
- PJs may accept income determinations made by rental assistance providers in HOME-ARP low-income units w/ families assisted by federal TBRA

HOME Changes that Apply to HOME-ARP

HUD will issue additional guidance to align HOME-ARP with revisions in the HOTMA final rule on:

- New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
- Annual Income at 24 CFR 5.609(a) and (b)
- Adjusted income 24 CFR 5.611(a) and Hardship Exemptions at 24 CFR 5.611(c)-(e)*
- Families can self-certify the value of Net Family Assets under \$50k (24 CFR 5.618(b)(1))

*Used in limited set of circumstances (e.g., HOME-ARP low-income units, over-income tenants)

Differences in Program Regulations (Part 5 & HOME)

- HOME/HOME-ARP do not have the asset limitation in 24 CFR 5.618
 - HOME & HOME- ARP assisted rental units must comply with tenant protections in 24 CFR 92.253 for good cause evictions
 - HOME/HOME-ARP do not calculate income in accordance with 24 CFR 5.609(c)
- Annual income is projected in accordance with 24 CFR 92.203(e), (e.g., projecting the prevailing rate of income) and not under 24 CFR 5.609(c)
- HOME/HOME-ARP have their own safe harbor provisions in 24 CFR 92.203(a)(1)&(2) and (b)(1)(iii) that differ from 24 CFR 5.609(c)

Questions on Changes to the HOME Program?

Changes to the Housing Trust Fund Program (HTF)

Changes to the HTF Program

Conforming regulatory changes to align with revisions to:

- New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
- Annual Income 24 CFR 5.609(a) and (b)
- Families can self-certify the value of net family assets under \$50k (24 CFR 5.618(b)(1))

Codified existing program requirements:

- Method for calculating annual income (projecting the prevailing rate of income)
- Income determinations are good for (6 months)
- Excludes income or asset enhancements derived from the investment of HTF-assisted projects

New Requirements for HTF

New requirements to align and reduce administrative burden:

- Require HTF grantees to accept income determinations* made in Federal or state project based rental assistance programs, public housing, or HCV programs
- Requires the use of annual income at 24 CFR 5.609(a) and (b) in rental projects where HTF grantee is required to accept income determinations done by PHAs, section 8 owner, or rental assistance provider

*includes initial, interim and reexamination of annual and adjusted income, including examinations done every 6th year during the affordability period

Clarifications in the HTF Program

- Clarifies who is a member of the family (excludes income of live-in aides, foster children and foster adults) for both income definitions (Part 5 & IRS Form 1040)
- Clarifies that federal TBRA is excluded from annual income when determining eligibility for HTF assistance
- Clarifies adjusted income does not apply to HTF

Differences Between Program Regulations (Part 5 & HTF)

Differences in program regulations

- HTF does not have the asset limitation in 24 CFR 5.618
 - HTF-assisted rental units must comply with tenant protections in 24 CFR 93.303 for good cause evictions
- HTF does not calculate income in accordance with 24 CFR 5.609(c)
 - Annual income is projected in accordance with new citation 24 CFR 93.151(e)
- HTF has its own safe harbor provisions in 24 CFR 93.151(a)(1)-(3) and (d)(3)

Questions on Changes to HTF?

NEXT STEPS FOR IMPLEMENTING HOTMA

Resources

- [HOTMA Final Rule](#)
- [FR Register Notice- HOTMA: Implementation of Sections 102, 103, and 104; Extension of Compliance Date –Delay compliance date to January 1, 2025](#)
- [Notice: CPD-21-10: Requirements for HOME-ARP](#)
- [Notice PIH 2023-27/H 2023-10: Implementation Guidance: Section 102 and 104 of the HOTMA- Guidance for PHAs and Multifamily housing owners](#)
 - You can review Notice for information on the following topics:
 - 24 CFR 5.609 (a) and (b)- annual income
 - 24 CFR 5.611 (a), (c)-(e)- mandatory deductions & hardship exemptions
 - 24 CFR 5.617- Earned Income Disallowance
 - 24 CFR 5.618(b)(1)- self certification of assets under \$50K

Annual Publications to lookout for

HUD will annually adjust the following amounts for inflation and publish on www.huduser.gov

- Annual Income 24 CFR 5.609 (a) and (b)
 - Amt. for threshold for imputing income from assets above \$50k
 - Amt. for the combined value of all non-necessary items of personal property that is not included in net family assets \$50K (definition of net family assets)
 - Amount of dependent full-time student exclusion, all amounts above \$480
 - Amount of adoption assistance payments for a child, all amounts above \$480
- Adjusted Income 24 CFR 5.611(a)
 - Amt. for deduction for each dependent, \$480 Amt. for deduction for any elderly family or disabled family, \$525
- Asset Limitation 24 CFR 5.618 (a) and (b)
 - Amt. for restriction on net family assets, \$100k
 - Amt. of net family assets based on self-certification from family, not greater than \$50K

Other Publications to lookout for

HUD will publish notice in the Federal Register, as necessary:

- Federally mandated exclusions- income exclusions required by other Federal statute (24 CFR 5.609(b)(22))
- Safe Harbor- updates to the list of means-tested forms of public assistance that PHAs and owners may rely upon when applying the safe harbor in 24 CFR 5.609(c)(3)
- De minimis error*- HUD may revise the amount of de minimis error in 24 CFR 5.609(c)(4)(ii) through a rulemaking published in the Federal Register for public comment

*Currently, HUD defines a de minimis error as an error where the PHA or owner's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income).

Implementing HOTMA: HUD

To implement the HOTMA Final Rule HUD will:

- Issue a HOME & HTF Notice on HOTMA
- Publish a Notice on HOPWA and HOTMA implementation
- Provide HOTMA training for HOME, HOME-ARP and HTF grantees
- Update [Technical Guide for Determining Income and Allowances for the HOME program](#)
- Update [HOME Monitoring Exhibits](#)
- Issue HTF Monitoring Exhibits
- Update [CPD Income Calculator](#) on the HUD Exchange

Implementing HOTMA: PJs & HTF Grantees

To implement HOTMA, PJs & Grantees must:

- Decide which flexibilities in the final rule will be implemented (ex: hardship exemptions, accepting other TBRA income determinations (HOME))
- Complete any necessary public processes to update HOME/HTF program guidelines (local processes- education campaigns)
- Update:
 - program policies and procedures (homebuyer, rental, homeowner rehab.TBRA),
 - internal systems or software that track rent and occupancy information,
 - templates (intake forms, program applications, income self-certification forms., etc.)
 - written agreement and contract templates or amend existing agreements as necessary

Implementing HOTMA: PJs & HTF Grantees Cont.

To implement HOTMA, PJs & Grantees must:

- Train program staff on new income requirements
- Ensure housing partners are ready to implement new income requirements (project owners, landlords, entities under contracts to PJ/HTF grantee, etc.)
- Prepare appropriate notifications to HOME/HTF-assisted units/families of upcoming income changes and potential impacts to their rents or amount of rental assistance



QUESTIONS?