

# HOTMA Solutions in Action

## **MassHousing**

Rental Housing: Supporting Property Management and Renter Needs

### **HFA Staff Contact**

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**HOTMA Solutions in Action**  
**Rental Housing – Supporting Property Management and Renters Needs**

**Background:**

On February 14, 2023, the Department of Housing and Urban Development (HUD) published the final rule for Housing Opportunity Through Modernization Act (HOTMA) of 2016. HUD describes the intent of HOTMA as an effort to streamline administrative processes for housing supported by Section 8 programs by making changes to regulations and other actions that when implemented reduce the burden on Public Housing Authorities (PHAs) and private owners.<sup>1</sup>

On September 29, 2023, HUD published Notice H 2023-10, Implementation Guidance of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). This notice was later revised and reissued on February 2, 2024. The Notice is extensive, with over 100 pages of detailed changes affecting multiple housing programs. “Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews. Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. Section 104 sets maximum asset limits for Public Housing and Section 8 applicants and participants.”<sup>2</sup>

While the Notice includes changes to the basic elements for certification of resident income to determine the appropriate level of rent required of each household and applicable Fair Housing and Civil Rights requirements, it also identified a series of topics that owners/agents must incorporate in a development’s tenant selection plan.

**Challenge:**

The HOTMA changes for Multifamily Housing programs were effective on January 1, 2024, with a series of staged implementation steps and full compliance expected by July 1, 2025. While full implementation of HOTMA was not immediate, the initial requirement for Multifamily Housing Owners was to update their applicable development’s Tenant Selection Plans (TSP) and Enterprise Income Verification (EIV) policies and procedures to reflect HOTMA requirements and make the revised TSP publicly available by March 31, 2024. Due to the complexity of the HOTMA requirements and industry comments related to implementation, HUD extended the implementation deadline to May 31, 2024.

**Innovation:**

MassHousing requires all financed developments to utilize a standard form of tenant selection plan to ensure consistency across developments and enable more effective means for compliance monitoring. With nearly half of the MassHousing financed portfolio affected by the HOTMA changes, the Agency decided the best course of action was to provide a single modification to its form Tenant Selection Plan. Rather than requiring our industry partners to develop their own modification forms MassHousing

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<sup>1</sup>Federal Register / Vol. 88, No. 30 / Tuesday, February 14, 2023 / Rules and Regulations. Department of Housing and Urban Development, 24 CFR Parts 5, 92, 93, 570, 574, 882, 891, 960, 964, 966, 982 [Docket No FR-6057-F-03] RIN 2577-AD03 Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104

<sup>2</sup> U.S. Department of Housing and Urban Development, Office of Housing Office of Public and Indian Housing, Notice H 2023-10, Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

developed the form for them which includes the applicable elements of the HOTMA rule to ensure each development's TSP meets the complex HUD requirements.

Over the course of several months, MassHousing's Asset Management staff worked diligently to develop the Agency's modification document which provided the owners and management agents a framework of the required topics each clearly identified as either a "Required HOTMA Rule" or "Agent's Discretionary Policy". The discretionary policies were set up in question form with text boxes for clarity and ease.

On April 8, 2024, MassHousing announced to all owners and agents of its financed developments, the release of a Modification to our Tenant Selection Plan, which incorporated the requirements of sections 102 and 104 of the Housing Opportunity through Modernization Act of 2016 (HOTMA). Further, MassHousing explained that the Modification was developed to supplement the existing MassHousing Tenant Selection Plan, in response to HUD Notices H 2023-10 and H 2024-04 requiring Multifamily Housing Owners to update their TSPs and EIV Policies and Procedures to reflect HOTMA rules and discretionary policies.

**Replicability and Success:**

The response from our business partners has been very positive. The Agency heard directly from owners and agents that its updates had simplified an enormously overwhelming requirement and that they were feeling much more confident in their ability to manage the HOTMA changes accurately and successfully. These same partners indicated that they had been concerned about the new changes and their ability to complete the new requirements. They said that MassHousing's work was something that had real applicability for them.

The Agency's success was further amplified in the weeks after its completion. When MassHousing published the Modification to Tenant Selection Plan, several management companies, industry groups and sister organizations requested permission to use the document for their developments that do not have MassHousing financing. It was evident that the document provided an easier and more consistent way to navigate and understand a complex change which required action in a short period of time to meet HUD's deadline of May 31, 2024.

After considering the request with a focus on the complexity of the HOTMA requirements and the inherent challenges to smaller, "mom and pop" owners and management companies that typically do not have Compliance teams as part of their organizational structure to meet the established deadline of May 31, 2024, MassHousing developed a second version of the modification removing all references to the Agency to allow for the use of its modification for developments outside of MassHousing's loan portfolio. The Agency shared its form as a resource to affordable housing providers for use in preparing their own HOTMA-compliant tenant selection plans. In addition, MassHousing has provided our document(s) to our regional network of HFAs including the states of Maine, New Hampshire, Rhode Island, Connecticut and Vermont.

The outcome of the Agency's careful work is that MassHousing financed developments with programs subject to HOTMA have clear guidelines available for review by applicants, tenants, advocates and other interested parties. MassHousing has made a complicated process easier. As importantly, through this effort MassHousing provided valuable service not only for the Agency's financed loan portfolio but also

for developments where MassHousing serves as Performance Based Contract Administrator as well as for properties owned and/or managed by industry affiliates. MassHousing is also pleased that this work has provided a benefit to our network of housing finance agencies and has wide replicability.



## MODIFICATION TO TENANT SELECTION PLAN

**DEVELOPMENT NAME:**

**MassHousing No.:**

This Modification to Tenant Selection Plan (the “Modification”), effective as of \_\_\_\_\_, modifies a Tenant Selection Plan (the “Plan”), for \_\_\_\_\_ (the “Development”), dated as of \_\_\_\_\_, as prepared by \_\_\_\_\_ (the “Agent”), as the management agent for \_\_\_\_\_ (the “Owner”), as follows:

1. Add to the Plan, as Attachment \_\_\_\_\_ [*Insert next attachment letter*], the “Additional List of Required and Discretionary Policies” annexed hereto. This Modification is intended to incorporate requirements of sections 102 and 104 of the Housing Opportunity through Modernization Act of 2016 (HOTMA), which includes changes to income calculation, net family assets, and income reviews. To the extent this attachment conflicts with any part of the Plan (including section (c)(1)(b)) of the Tenant Selection Plan Reference Guide, this Modification shall prevail.

*[The remainder of this page is intentionally blank. Signature page follows.]*



## CERTIFICATION/REQUEST FOR APPROVAL

As an authorized representative of the Agent, I have reviewed this Modification to the Tenant Selection Plan and by signing below certify that the information contained herein is true and complete. The plan shall be effective as of the date approved by MassHousing.

DEVELOPMENT NAME:  
MASSHOUSING NO.:  
AGENT:

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED: MASSACHUSETTS HOUSING FINANCE AGENCY

By: \_\_\_\_\_  
Name: Anne Marie MacPherson, CPM, CPC  
Title: Senior Manager of Asset Management Department  
Date: \_\_\_\_\_

Attachments:

Attachment - Additional Rules and Discretionary Policies – Tenant Eligibility  
Sections 102 and 104 of Housing Opportunity through Modernization  
Act of 2016



**Attachment**  
**Additional Rules and Discretionary Policies – Tenant Eligibility**  
**Sections 102 and 104 of Housing Opportunity through**  
**Modernization Act of 2016**

Pursuant to Sections 102 and 104 of the Housing Opportunity through Modernization Act of 2016, (“HOTMA”), in the determination of eligibility for tenancy, the Agent shall comply with the additional rules and policies set forth in this attachment.

Capitalized terms not otherwise defined within this attachment shall have the meaning ascribed to them in the Plan.

This change is effective May 31, 2024. However, the Owner/Agent must continue to follow the existing Plan and EIV policies & procedures until the Agent’s software is compliant with TRACS 203A.

Applicable Programs (check as applicable):

- Housing Choice Voucher (HCV);
- Section 8 Moderate Rehabilitation (Mod Rehab);
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8;
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Section 811 Project Rental Assistance (811 PRA);
- Senior Preservation Rental Assistance Contracts (SPRAC);
- Low Income Housing Tax Credits; and
- Other:

*[Note: The applicability of the additional rules and discretionary policies within this modification are subject to the program(s) selected above.]*

## **List of Additional Rules and Policies**

<p><b>1. Asset Limitation</b></p> <ul style="list-style-type: none"><li>A. New Admissions</li><li>B. Annual and Interim Reexaminations<ul style="list-style-type: none"><li>i. Enforcement Options</li><li>ii. Exception Policies</li></ul></li></ul>
<p><b>2. Calculating Income</b></p> <ul style="list-style-type: none"><li>A. De Minimis Error in Income Determinations</li></ul>
<p><b>3. Deductions and Expenses</b></p> <ul style="list-style-type: none"><li>A. Hardship Exemptions for Health/ Medical Care Expenses &amp; Reasonable Attendant Care &amp; Auxiliary Apparatus Expenses</li><li>B. Hardship Exemptions for Health/ Medical Care Expenses &amp; Reasonable Attendant Care &amp; Auxiliary Apparatus Expenses – Phased-In Relief</li><li>C. General Relief</li><li>D. Hardship Exemption to Continue Childcare Expense Hardship</li></ul>
<p><b>4. Income</b></p> <ul style="list-style-type: none"><li>A. Self-Certification of Net Family Assets Equal to or Less than \$50,000</li></ul>
<p><b>5. Interim Reexaminations</b></p> <ul style="list-style-type: none"><li>A. Interim Reexaminations – Decreases in Adjusted Income</li><li>B. Interim Reexaminations – Increases in Adjusted Income</li><li>C. Interim Reexaminations – Reporting Changes &amp; Effective Date</li></ul>
<p><b>6. Verification</b></p> <ul style="list-style-type: none"><li>A. Revocation of Consent Form (Form HUD-9887)</li><li>B. Determination of Family Income Using Other Means Tested Public Assistance, (i.e., “Safe Harbor”)</li><li>C. Enterprise Income Verification (EIV) Usage</li></ul>

## 1. Asset Limitation

Regulations: 24 CFR § 5.618

Applicable programs: Section 8 (Project Based Rental Assistance) and Section 202/8 only.

Per requirements in Section 104 of HOTMA, 24 CFR 5.618 creates a restriction on the eligibility of a family to receive assistance if the family owns real property that is suitable for occupancy by the family as a residence or has assets in excess of \$100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

### A. New Admissions

#### Required HOTMA Rule

Agent must deny admission of an applicant family for the following:

1. Net family assets that exceed \$100,000 (adjusted annually for inflation); and/or
2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.

In addition, the Agent must enforce the asset limitation at initial certification for families who lost their assistance because they failed to recertify timely or began to pay market rent, remained in the unit, and then lost income, once again requiring assistance.

#### Agent's Discretionary Policy

No discretion.

### B. Annual and Interim Reexaminations

#### (i) Enforcement Options

#### Required HOTMA Rule

Agent has discretion at annual and interim reexamination in enforcing the asset limitation on eligibility for assistance.

#### Agent's Discretionary Policy

Agent has selected the following enforcement option at annual and interim reexaminations (*check as applicable*):

- Total Enforcement** - Agent has elected to fully enforce the asset limitation as written in the statute (i.e., the real property requirement and the \$100,000 net family assets requirement). Agent must initiate termination of assistance proceedings within six months of the income examination that determined the family was out of compliance.
- Total Non-Enforcement** - Agent has elected not to enforce the asset limitation for all families at annual and interim reexamination. This means that the Agent will not initiate termination of assistance proceedings for a family for non-compliance with the asset limitation. Agent is still required to calculate net family assets in the manner required by § 5.603, as part of the process of calculating annual income in accordance with § 5.609.
- Limited Enforcement: Option to Cure** – Agent has established a written policy to not enforce the asset limitation for all families, for up to six months after the effective date of a family’s annual or interim reexamination. Families are given the opportunity to cure noncompliance with the asset limitation during this period. *If checked, include policy below.*

*[Insert limited enforcement policy specified above. Policy must include the timeframe for curing non-compliance, not to exceed six months and initiation of termination of assistance may not be delayed beyond six months after the effective date of the annual or interim reexamination.]*

Regardless of the policy adopted above, Agent must comply with federal fair housing and civil rights requirements, including reasonable accommodation requirements.

## (ii) Exception Policies

### Required HOTMA Rule

The Agent may establish exceptions to the asset limitation during reexamination so that families in specified exception categories will receive either total non-enforcement or limited enforcement, depending on the exception policy adopted. Families in the specified exception categories would either (a) not be subject to termination of assistance proceedings due to non-compliance with the asset limitation at a reexamination, or (b) they would be provided an opportunity, up to but no longer than six months, to come back into compliance, after which point the asset limitation would be enforced. An exception policy may be combined with a limited enforcement policy for all other families not in the exception

categories, as described below.

### **Agent's Discretionary Policy**

Has the Agent adopted an exception policy to the asset limitation during reexamination?

- Yes
- No
- N/A (i.e. The Agent has chosen total non-enforcement of asset limitation at annual and interim reexamination)

If yes, Agent must detail family type(s) eligible for the exception to the asset limitation during reexamination, and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided.

*[Provide detail on policy exceptions to the asset limitation based on family type.]*

If yes, what is the exception to the policy?

- Total non-enforcement for excepted families
- Limited enforcement for excepted families to give those families the opportunity to cure noncompliance with the asset limitation for a period up to six months.

If excepted families are subject to limited nonenforcement, what is the timeframe for curing noncompliance, not to exceed six months? note

Note: Agents who establish exception policies with a limited enforcement period may not delay initiation of termination of assistance beyond six months after the effective date of the annual or interim reexamination.

*[Insert exception policy specified above to the asset limitation during reexamination, if applicable.]*

## **2. Calculating Income**

### **A. De Minimis Errors in Income Determinations**

Regulations: 24 CFR § 5.609(c)(4); 5.657(f); 891.105; 891.410(g); and 891.610(g)

### **Required HOTMA Rule**

Pursuant to 24 CFR §5.609(c)(4), the Agent must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income. De minimis errors occur when an Agent's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking.

Families will not be required to repay the Agent in instances where the Agent miscalculated income resulting in a family being undercharged for rent. The Agent is obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error.

### **Agent's Discretionary Policy – Refund or Credit for Tenant Overcharge**

Overcharged tenant rent will be *(check as applicable)*:

- Refunded to the tenant
- Credited to the tenant
- Allow tenant to decide whether they want a refund or a credit

*[Provide detail of policy, including the timeline for refund or credit.]*

## **3. Deductions and Expenses**

### **A. Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses**

Regulations: 24 CFR § 5.611(c)(2)

#### **Required HOTMA Rule**

The Agent must provide hardship relief to a family that demonstrates its eligible unreimbursed health and medical care expenses, or reasonable attendant care and auxiliary apparatus expenses exceed 5 percent of the family's annual income. To meet the requirements for the health and medical care expense hardship exemption, the family must have expenses that meet the definition of

health and medical care expenses as provided by 24 CFR 5.603(b). To meet the requirements for the reasonable attendant care and auxiliary apparatus expenses hardship exemption, the family must have expenses that meet the definition of reasonable attendant care and auxiliary apparatus expenses at 24 CFR 5.603(b).

Families may be eligible for relief under one of two categories; phased-in relief or general relief. A family receiving phased-in relief may request to receive general relief instead; once a family chooses to obtain general relief, a family may no longer receive the phased-in relief and their expense threshold will increase to 10% once general relief ends.

**B. Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses – Phased-In Relief**

Regulations: 24 CFR § 5.611(c)(1)

**Required HOTMA Rule**

Families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first on or after the date the Agent implements the phased-in relief.

Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

**Agent's Discretionary Policy**

Will phased-in relief be continued for a new admission who was receiving the phased-in relief at their prior assisted housing at the time that the family is admitted to their current unit? (*check as applicable*)

- Yes
- No

**C. General Relief**

**Required HOTMA Rule**

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If the Agent determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier.

The Agent must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the Agent if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The Agent must provide families 30 days' notice of any increase in rent.

The Agent must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial. In addition, the Agent must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

### **Agent's Discretionary Policy**

What constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the general hardship exemption?

- Total rent, utility payment, childcare expenses or health and medical expenses is more than 45 percent of the family's adjusted income.
- The family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.
- The family is awaiting an eligibility determination for a federal, state, or

local assistance program, such as a determination for unemployment compensation or disability benefits.

- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster.
- Other: *Provide detail below.*

What constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the general hardship exemption?

[Define hardship.]

Are extensions of the 90-day hardship period allowable? (*check as applicable*)

- No
- Yes, if yes, what is the maximum number of 90-day extensions families may receive? note

**D. Hardship Exemption to Continue Child Care Expense Hardship**

Regulation: 24 CFR § 5.611(d)

**Required HOTMA Rule**

Reasonable child-care expenses are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as stipend from the child welfare agency), under 13 years of age, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational)); and
- The expense is not reimbursed by an agency or individual outside the household; and
- The amount deducted must not exceed the amount of employment income that is included in annual income.

A family whose eligibility for the child-care expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending and satisfies the conditions for hardship as defined in the Agent's policy below, the Agent must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the Agent's satisfaction that the family is unable to pay their rent because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. The Agent, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

The Agent must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the Agent if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The Agent must provide families 30 days' notice of any increase in rent.

The Agent must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial. In addition, the Agent must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

### **Agent's Policy – Hardship Exemption to Continue Childcare Expense**

In evaluating requests for a hardship exemption, it is the Agent's policy that any one or more of the following shall constitute a hardship: *(check as applicable.)*

- Gross rent, utility payment, childcare expenses or health and medical expenses is more than 45 percent of the family's adjusted income.
- The family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster.
- Inability to pay rent.
- Other: *Provide detail below.*

[Provide detail on "Other", selected above.]

### Agent's Discretionary Policy

Are extensions of the 90-day hardship period allowable? *(check as applicable)*

- Yes  
 No

If yes, what is the maximum number of 90-day extensions families may receive?  
note

## 4. Income

### A. Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (adjusted annually for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659; 891.105; and 891.415(a)(2)

#### Required HOTMA Rule

The Agent must determine Net Family Assets and income from Net Family Assets at admission and at reexamination.

1. For purposes of determining net family assets, the Agent may (but is not required to) adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation.
2. If the Agent elects to accept self-certification of net family assets at admission and at reexamination, the Agent must fully verify (i.e. by third-party verification) the family's assets every three years.
3. Agents who choose not to accept self-certifications of assets must fully verify (i.e. by third-party verification) net family assets on an annual basis.
4. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

### Agent's Discretionary Policy

Will the Agent accept a family's self-certification of net family assets equal to or less than \$50,000?

Upon Admission ( <i>check as applicable</i> )	<input type="checkbox"/> Yes <input type="checkbox"/> No
Upon Re-Examination ( <i>check as applicable</i> )	<input type="checkbox"/> Yes <input type="checkbox"/> No

## 5. Interim Reexaminations

### A. Interim Reexaminations - Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 891.105; 891.410(g); and 891.610(g)

#### **Required HOTMA Rule**

Applicable programs: Section 8 (Project Based Rental Assistance), Section 202/8, Section 202/811 PRAC, Section 811 PRA, SPRAC

A family may request an interim determination of family income for any change since the last determination. However, the Agent may decline to conduct an interim reexamination of family income if the Agent estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income.

The Agent must conduct an interim reexamination of family income when the Agent becomes aware that a family's annual adjusted income has changed by an amount that the Agent estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by an Agent. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination.

The Agent is required by HUD to process interim reexaminations for all decreases in adjusted income as a result of a decrease in family size attributed to the death or permanent move-out of a household member from the assisted unit.

#### **Agent's Discretionary Policy**

The Agent may decline to conduct an interim reexamination of family income if the Agent estimates that the family's annual adjusted income will decrease by an amount that is less than ten percent of the family's annual adjusted income, or such lower threshold established by the Agent.

Will the Agent conduct an interim reexamination of family income if the Agent estimates that the family's annual adjusted income will decrease by an amount that is less than ten percent?

- Yes
- No

If, yes, what percentage threshold will be used by the Agent in determining whether to decline conducting interim reexamination for decreases in a family's adjusted income? note

Will the Agent round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%)? (*check as applicable*)

- Yes:
- Round Up
  - Round Down
- No

## **B. Interim Reexaminations - Increases in Adjusted Income**

Regulations: 24 CFR §§ 5.657(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

### **Required HOTMA Rule**

The Agent must conduct an interim reexamination of family income when the Agent becomes aware that the family's adjusted income has changed by an amount that the Agent estimates 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:

- The Agent 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
- The Agent 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.

The Agent must not process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. When the family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, an Agent has the discretion to consider or ignore a subsequent increase in earned income for the purposes of conducting an interim reexamination. If an Agent has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the Agent must conduct an interim reexamination in accordance with local policies.

Conversely, the Agent that adopt local policies to never consider increases in earned income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the Agent must conduct an interim reexamination. When an increase of any size is reported by a family, it is a recommended best practice for the Agent to note the reported increase in the tenant file.

The Agent must conduct an interim reexamination of family income when they become aware that the family's annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice, except the Agent 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. The Agent may not establish a different threshold to conduct interim reexaminations for increases in adjusted income.

### **Agent's Discretionary Policy**

Will the Agent conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date?  
(*check as applicable*)

- Yes
- No

Will the Agent include earned income increases in determining whether the ten percent threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination? (*check as applicable*)

- Yes
- No

### **C. Interim Reexaminations - Reporting Changes & Effective Date**

Regulations: 24 CFR §§ 5.657(c)(4); 891.410(g)(2); and 891.610(g)(2)

#### **Required HOTMA Rule**

Families must report household composition changes and changes to adjusted income consistent with HOTMA's requirements; however, the Agent shall establish a policy to determine the timeframe in which reporting must occur to be

considered “timely.”

The Agent may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. The Agent may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting).

### **Agent’s Policy - Reporting Conditions - Changes in Household Composition/Adjusted Income**

It is the Agent’s policy that families must report changes in household composition and adjusted income consistent with HUD’s requirements for processing an interim reexamination or other non-interim reexamination transaction in the manner specified below.

*[Insert reporting conditions policy specified above.]*

### **Agent’s Discretionary Policy**

The Agent may adopt a policy to apply rent decreases retroactively and establish additional criteria to describe the conditions under which retroactive decreases will be applied.

*[If adopted, insert the rent decrease policy specified above. If not adopted, insert “N/A”.]*

## **6. Verification**

### **A. Revocation of Consent Form (Form HUD-9887)**

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

### **Required HOTMA Rule**

On or after January 1, 2024, after all applicants and participants have signed and submitted a consent form (Form HUD-9887), family members do not need to sign and submit subsequent consent forms except new family members aged 18 or

older, existing family members turns 18 or as directed by HUD or the PHA in administrative instructions.

The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family (or a family member) provides written notification to the Agent to revoke consent.

Families (or family members) have the right to revoke consent by notice to the Agent. Unless the Agent has established a policy below such that revocation of consent will result in termination of assistance (except for PRAC-assisted units where it can result in termination of tenancy), participant families will be required to sign a new consent form by the next regularly scheduled reexamination or interim reexamination, whichever occurs first.

The Agent must notify their local HUD office when an applicant or participant family member revokes their consent.

### **Agent's Discretionary Policy – Consent Form Revocation**

The Agent may establish a written policy that revocation of consent will result in termination of assistance or denial of admission (except for PRAC-assisted units where it can result in termination of tenancy). The Agent may alternately establish a written policy to deny admission but allow existing participant families to continue to receive assistance after revoking their consent until the next interim or annual reexamination, whichever is sooner.

Has the Agent adopted a policy that revocation of consent will result in termination of assistance, (except for PRAC-assisted units where it can result in termination of tenancy) or denial of admission? (*check as applicable*)

- Yes
- No

Has the Agent adopted a policy to deny admission but allow existing participant families to continue to receive assistance after revoking their consent until the next interim or annual reexamination, whichever is sooner, at which time participant families will be required to sign a new consent form? (*check as applicable*)

- Yes
- No

### **B. Determination of Family Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor"**

Regulations: 24 CFR §§ 5.609(c)(3); 891.105; 891.410(b)-(c) and (g); and

891.610(b)-(c) and (g)

### **Required HOTMA Rule**

The Agent may determine the family's gross annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested forms of federal public assistance programs:

- The Temporary Assistance for Needy Families (TANF)
- Medicaid
- The Supplemental Nutrition Assistance Program (SNAP)
- The Earned Income Tax Credit (EITC)
- The Low-Income Housing Tax Credit (LIHTC)
- The Special Supplemental Nutrition for Woman, Infants, and Children (WIC)
- Supplemental Security Income
- Other programs administered by the Secretary.
- Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.
- Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice.

Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must 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.

Safe Harbor verification must not be mixed and matched with other income verifications, including other Safe Harbor income determinations.

### **Agent's Discretionary Policy – Income determination**

The Agent has adopted a policy to accept or use determinations of income from other Federal means-tested forms of assistance. (*check as applicable*)

- Yes
- No

If yes:

- Safe Harbor income determinations shall be accepted: (*check as applicable*):

- At Initial Certification & Annual Recertification
- At Initial Certification only
- At Recertification only

- Programs from which income determinations will be accepted:

*[List all programs from which income determinations will be accepted.]*

- Specify the Agent's policy when families present multiple verifications from the same or different acceptable Safe Harbor programs.

*[Insert policy specified above.]*

**C. Enterprise Income Verification (EIV) Usage**

Regulations: 24 CFR § 5.233

**Required HOTMA Rule**

The Agent must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g., Income Report, zero income reports, New Hires Report, etc.) under HOTMA.

*[Insert date that EIV policies were updated to reflect the discretionary use of EIV reports under HOTMA and whether the Agent will use EIV Reports during interim reexaminations. See Current EIV Policies and Procedures.]*

**Agent's Discretionary Policy – EIV during reexamination**

Will the Agent use EIV during interim reexaminations? (*check as applicable*)

- Yes
- No