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HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT (HOTMA) – POLICY DEVELOPMENT

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Background

July 2016 – HOTMA signed into law
- Intended to streamline administrative processes

September 2019 – HUD issued proposed rule

February 2023 – final rule published

September 2023 – Implementation Guidance published

May 31, 2024 – TSP and EIV Policies must be updated

January 1, 2028 – Full Compliance date

Continue to follow current TSP until software is compliant

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Resources

https://www.hud.gov/program_offices/housing/mfh/hotma



Home / Program Offices / Housing / Multifamily / Housing Opportunity Through Modernization Act

HOTMA Final Rule Published in the Federal Register in February 2023

HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT (HOTMA) RESOURCES

HUD finalized HOTMA rulemaking in 2023 to put Sections 102, 103, and 104 into effect through revisions to HUD's regulations found in 24 CFR Part 5 and 24 CFR Part 891.

- **Section 102** addresses income reviews, including the frequency of income reviews and revises the definitions of income and assets.
- **Section 103** is not applicable to multifamily housing programs.
- **Section 104** sets asset limits for the Section 8 and Public Housing programs. Asset limits do not apply to the Section 202/8, Section 202/162 Project Assistance Contract (PAC), 202/811 Project Rental Assistance Contract (PRAC), Senior Rental Preservation Assistance Contract (SPRAC), or the Section 811 Project Rental Assistance (PRA) programs.

Fact Sheet

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Resources

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Housing
Office of Public and Indian Housing

Special Attention of:

Multifamily Asset Management Division Directors
Multifamily Contract Administrators
Multifamily Project Owners
Multifamily Regional Center Directors
Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

Notice H 2023–10
Notice PIH 2023–27
Issued: 09/29/2023
Expires: This Notice remains in effect until amended, superseded, or rescinded.
Cross References:
Regulations: 24 CFR Parts 5, 882, 891, 960, 966, 982
Office of Housing Notices: H 2020-06; H 2019–06; H 2016-01; H 2015-12
Office of Public and Indian Housing Notices: PIH 2019-09; PIH 2017-05 (HA); PIH 2016-05; PIH 2015-21; PIH 2013-04 (HA); PIH 2012-29; PIH 2012-03; PIH 2012-1 (HA)

Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

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Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

PHA/MFH Owner Discretion: None.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of January 1, 2028, and who are treated as new admissions under a different program.

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Resources

Multifamily Housing Programs
List of Discretionary Policies to Implement HOTMA

This chart is intended to make MFH Owners aware of the policies they must set in their respective Tenant Selection Plans (TSPs) and EIV policies and procedures by March 31, 2024.

HOTMA Provision and Corresponding Regulation	Required HOTMA Policy	Owner's Discretionary Policies[1]
De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4);	• MFH Owners 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. • MFH Owners may not implement policies to	• MFH Owners must include in their TSPs how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the MFH

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Asset Limitations

2027 - $109,797

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Asset Limitations - Residents

Total Enforcement

Limited Enforcement

Non-Enforcement

8

Asset Limitations – Total Enforcement

At reexamination, Owners may choose to enforce the asset limitation and must initiate termination or eviction proceedings within six months of the income examination that determined the family was out of compliance.

9

Asset Limitation – Limited Enforcement : Option to Cure

Owner may delay termination of assistance for ***no more than 6 months*** *for families who exceed the asset limits or prohibited assets.*

Owner may establish an exception policy to allow for families to cure their asset limit or real property ownership. ***Can not exceed 6 months (unless reasonable accommodation).***

Limitation does not apply to VAWA victims.

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Asset Limitation – Non Enforcement

O/A may establish a written policy of **non-enforcement** (in TSP)

Still required to calculate net family assets (including real property) for asset income

Real Property does not need to be deemed suitable for Occupancy

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Asset Limitations

Owners **must** include in their TSPs whether they will accept a family's self-certification of net family assets equal to or less than $54,898 at admission (only for new admissions effective on or after 1/1/2028) and/or at reexamination.

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De Minimis Errors

MFH Owners must include in their TSPs how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the MFH Owner's de minimis error in income.

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Interim Recertifications

- Owners may 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.
- Owners **must** identify in their Tenant Selection Plans the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income.
- Owners **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold.
- Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

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Interim Recertifications

Owners have discretion on the following policies:

- Whether Owner will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased and
- Whether they will conduct interim reexaminations when families previously underwent interim reexaminations for decreases in income (both earned and unearned income)

Owners **must** establish policies for the above-discretionary items in their Tenant Selection Plans

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Interim Recertifications

Owners **must** establish policies describing when and under what conditions a family is required to report changes in family income or composition to meet the "timely manner" requirement.

Owners **must** update their Tenant Selection Plans

What is a "timely manner?"

10 days?

30 days?

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Consent Forms – Form 9887/9887-A

- Owners have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations.
- Owners **must** establish these policies in their Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

Best Practice

When a resident turns 18 – call them in to add to Lease, sign 9887, etc.

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Consent Forms – Form 9887/9887-A

Owners must notify their local HUD office of a family's revocation of consent.

Owners may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the Tenant Selection Plan

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Safe Harbor Income Determination

Owners may determine a family's 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 federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).

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Safe Harbor Income Determination

- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- 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.

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Safe Harbor Income Determination

If an Owner elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they **must** obtain the income information by means of a third-party verification.

The third-party verification 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. The annual income need not be broken down by family member or income type.

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Safe Harbor Income Determination

Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance.

Owners **must** establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations.

Owners **must** also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination).

These policies **must** be included in the Tenant Selection Plan.

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Health & Medical Expenses – Existing Resident eligible on 1/1/28

Phase-In

1st AR after 1/1/28 – 5%

12 months later – 7.5%

12 months later – 10%

AR – 5/1/28 – 5%

5/1/29 – 7.5%

5/1/30 – 10%

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Health & Medical Expenses – Existing Resident eligible on 1/1/28 – previous S8 resident – new admission to your property

O/A decisions

Does Phase-in relief continue when a family previously living in MFH property moves in or do they go to 10%?

- Need Policy – Add to TSP
  - Obtain copy of latest 50059 showing phase-in amount
  - If unable to obtain 50059 – get self-certification from family and document why there is no 50059

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Health & Medical Expenses – Existing Resident eligible on 1/1/28

O/A decisions

Financial - hardship

Owners **must** establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions.

Owners **must** develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

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Health & Medical Expenses – Existing Resident eligible on 1/1/28

O/A decisions

- 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.

If an Owner 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% of annual income

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Health & Medical Expenses – Existing Resident eligible on 1/1/28

O/A decisions

Examples of circumstances constituting a financial hardship may include the following situations:

- 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; or
- Other circumstances as determined by the Owner.

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Childcare Expenses – Existing Resident eligible on 1/1/28

O/A decisions

MFH Owners **must** develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Owners may extend hardship exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

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Childcare Expenses – Existing Resident eligible on 1/1/28

O/A decisions

Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption.

Owners **must** describe these policies in their Tenant Selection Plans.

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EIV Reports

- Owners may choose to use EIV to verify tenant employment and income information at **interim reexaminations** of family composition and income.
- Owners who choose to use EIV to verify tenant employment and income information at interim reexaminations **must** establish this policy in their written EIV policies and procedures

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L.A. LOMOD

EIV MONITORING

Property Name / Contract Number	
Reviewer Name / Date of MOR	
QC Reviewer	
General HUD Resource(s):	1. EIV Webcasts: December 2009 and April 2010 2. HUD Notices: 2013-06 3. EIV User Manual: http://www.hud.gov/offices/hsg/mfh/rhiip/eiv 4. EIV Webcast Questions December 16 and 17, 2008

Item	Topic for Review	Topic in Compliance and/or Included?	Correction Required (√)
1.	**Policies and Procedures** O/A policies and procedures must describe using EIV reports:		
a.	Describe the Existing Tenant Search, report use, file documentation and retention. Must be used at the time of processing an applicant for admission. (Tenant file)	☐ Yes ☐ No	☐
b.	Describe the Summary Report, report use, file documentation and retention. Must be used at recertification. (Tenant file) -Must be used at annual recertification. MFH Owners may use the report at other intervals, if desired.	☐ Yes ☐ No	☐
c.	Describe the Income Report, report use, file documentation and retention. Must be used at recertification and new admission. (Tenant file) -Does EIV policy state if Income report will be used at the time if an IR. – if using safe harbor language, the IR and IDR does not need to be ran at during AR.	☐ Yes ☐ No	☐
d.	Describe the Income Discrepancy Report, report use, file documentation and retention. Must be used at recertification and any time Income Report is printed. (Tenant file) – Not required to	☐ Yes ☐ No	☐

	sued income Discrepancy Report if using safe harbor If O/A is using safe Harbor, they do not need to use the.		
e.	Describe the No Income Reported on 50059 and No Income Reported by HHS or SSA, report use and file documentation. Must be identified in O/A policy.	☐ Yes ☐ No	☐
f.	Describe the New Hire Report, report use, file documentation and retention. Must be used at least quarterly. (Master file). – O/A does not have to follow up on NHR if the TSP mentions decrease will wait	☐ Yes ☐ No	☐
g.	Describe the Multiple Subsidy Report, report use, file documentation and retention. Must be used at least quarterly. (Master file)	☐ Yes ☐ No	☐
h.	Describe the Deceased Tenant Report, report use, file documentation and retention. Must be used at least quarterly. (Master file)	☐ Yes ☐ No	☐
i.	Describe the Failed EIV Pre-Screening Report, report use, file documentation and retention. Must be used monthly. (Master file)	☐ Yes ☐ No	☐
j.	Describe the Failed Verification Report (Failed SSA Identity Test), report use, file documentation and retention. Must be used monthly. (Master file)	☐ Yes ☐ No	☐
2.	Describe Requirements for using EIV data.	☐ Yes ☐ No	☐
3.	Describe security of EIV data.	☐ Yes ☐ No	☐

PLEASE NOTE: This checklist has been provided to highlight specific areas of compliance and non-compliance related to the EIV System and is not a HUD form. Data on this checklist is periodically updated for quality control to ensure continued compliance with HUD regulations and may be updated without prior notice.

COMMENTS:

TENANT SELECTION PLAN CHECKLIST

Property Name / Contract Number	
Reviewer Name / Date	
QC Reviewer	
General HUD Resource(s):	HUD Handbook 4350.3, CHG-4, Chapter 3, Paragraphs 3-9 – 3-12, Chapter 4, Paragraph 4-4; Figure 4-2. Note: Chapter 2, Section 2, Paragraph 2-38C: It is strongly recommended that owners include statements about the right of individuals with disabilities to request reasonable accommodations in all written notices given to applicants and tenants. HUD Notice N 10-08 issued April 13, 2010.

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		Project Eligibility Requirements Paragraph 4-4C.1.a-c & chapter 3, section 3			
1.a		a) Project-specific (definition of population served i.e., elderly, disabled); see also 3-28A-C	☐ Yes ☐ No	☐	
1.b		b) Citizenship/Immigration status Owner must comply with the following: ○ Describe how citizenship/immigration requirements are implemented ○ Notify applicants of the requirement to submit evidence of citizenship or eligible immigration status at the time of application ○ Include policy of verification, if any Note: Applicant's assistance in subsidized housing is restricted to (1) U.S. Citizens or nationals; and (2) Non-citizens who have eligible immigration status; mixed households must comply with 3-12N-Q.	☐ Yes ☐ No	☐	

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If you need to request a reasonable accommodation, contact LA LOMOD.
Equal Housing Opportunity
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Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		All family members must declare their citizenship or immigration status regardless of age) & Paragraph 3-12 and paragraph 3-32			
1.c		c) SSN (for all family members, regardless of age) (providing, extended time, procedures for no SSN) & Paragraph 3-9 and 3-31 Collecting Proof, and Refinement of Income and Rent Determination Requirements – Final Rule (effective 1/31/10)	☐ Yes ☐ No	☐	
2.		Income Limits (IL) (include economic mix for Sec. 8; identify IL schedule used (i.e., VL, L, EL); okay to exclude max annual income amounts) Paragraph 4-4C.2 & paragraph 3-6 ** New definition of ELI effective 7/1/14 **	☐ Yes ☐ No	☐	
		Procedure for Taking Applications & Selecting from the Waiting List Paragraph 4-4C.3.a-e			
3.a		Taking Applications (include policy and policy for taking pre-applications, if applicable)	☐ Yes ☐ No	☐	
3.b		Preferences (define each preference; any rating, ranking, or combination of preferences which will affect the order applicants are selected); **should describe acceptable sources of info to verify qualification for preference. Note: implementation of state, local, or residency pref. must have prior HUD approval; also see 4-6	☐ Yes ☐ No ☐ N/A	☐	
3.c		Income-targeting (for Sec. 8 properties only – describe procedures used to meet income targeting requirements, if applicable. If used, explain how and when applicants will be "skipped over" in favor of housing EL households and how their application is treated when skipped). Note: owner may not need special procedures due to wait list composition – see 4-5B.1. & Paragraph 4-5A, B	☐ Yes ☐ No ☐ N/A	☐	
3.d		Applicant Screening Criteria (Describe standards used to screen for info on drug-related or criminal activity (including sex offender registration) and other owner adopted screening (e.g., rental history, credit). Also see 4-7 Screening for Suitability, 4-8 Prohibited Criteria, 4-27 Implementing Screening	☐ Yes ☐ No	☐	

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		Reviews, and 4-28 Ensuring Screening is Performed Consistently. Drug-related or criminal activity (see 4-7C.2.a-d) Required drug-related or criminal activity criteria: o Evicted in the last three years from federally assisted housing for drug-related criminal activity o Household is currently engaged in illegal use of drugs or there is reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug may cause interference o Any member who is subject to a sex offender lifetime registration o Reasonable cause of behavior, from abuse or pattern of abuse of alcohol, may cause interference with health, safety, right to peaceful enjoyment by other residents.	☐ Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No		
3.e		Rejecting Ineligible Applicants (Describe circumstances under which an owner may reject an applicant. If the owner elects to consider any extenuating circumstances, where able and applicable, these must be described. If the applicant is a person with disabilities, the owner must consider extenuating circumstances where this would be required as a matter for reasonable accommodation – see 4-28B; chapter 2, subsection 4.)	☐ Yes ☐ No	☐	
3.f		EIV: O/A has updated plan to include use of Existing Tenant Report as part of screening criteria (December 29, 2009 EIV Webcast & Housing Notice: H 2013-06	☐ Yes ☐ No	☐	
4.		Occupancy Standards (Describe how owner will determine the appropriate unit size, procedure to place families on lists for more than one unit size, if applicable) Paragraph 4-4C.4 & paragraph 3-23	☐ Yes ☐ No	☐	
5.		Unit Transfer Policy Paragraph 4-4C.5.a-e; 3-23; 7-15; 7-16B Include procedures for selecting between applicants on the waiting list and current tenants who need:	☐ Yes ☐ No	☐	

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		a) Transfer for family size (also see 3-23H) b) New unit based on change in family composition (also see 3-27) c) A deeper subsidy (n/a for 100% Section 8) d) Transfer due to medical reason e) An accessible unit (also see 4-29) Paragraph 7-16C	a. ☐ Yes ☐ No ☐ N/A b. ☐ Yes ☐ No ☐ N/A c. ☐ Yes ☐ No ☐ N/A d. ☐ Yes ☐ No e. ☐ Yes ☐ No		
6.a-c		Policies to Comply with Section 504 of the Rehabilitation Act of 1973, 6b: The Fair Housing Act Amendments of 1988 and 6c: Title VI of the Civil Rights Act of 1964: Equal Access Paragraph 4-4C.6a-c H 2015-01 and H 2015-06			
		a) Section 504 prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance	☐ Yes ☐ No	☐	
		b) The Fair Housing Act prohibits discrimination in housing and housing related transactions based on race, color, religion, sex, national origin, disability and familial status. It applies to housing regardless of federal financial assistance.	☐ Yes ☐ No	☐	
		c) Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in any program or activity receiving (HUD) federal financial assistance	☐ Yes ☐ No	☐	
		d) Equal Access Rule ensures that all HUD programs are open to all eligible persons regardless of sexual orientation, gender identity or marital status.	☐ Yes ☐ No	☐	
7.		Policy for opening & closing the waiting list (**should describe methods of advertising used to announce open/close of waiting list). Paragraph 4-4C.7	☐ Yes ☐ No	☐	
8.		Eligibility of Students (include eligibility requirements for students enrolled in an institution of higher education); at move-in, annual recertification, initial certification, when in-	☐ Yes ☐ No	☐	

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		place starts receiving assistance and due to household changes in enrollment – interim certification) <u>Paragraph 4-4C.8 & 3-13A.1; 3-13A.2.a-h</u> Section 8 assistance shall not be provided to any individual who: a) Is enrolled PT or FT at an institution of higher education to obtain a degree, certificate, or other program leading to a recognized educational credential b) Is under the age of 24 c) Is not married d) Is not a veteran of the U.S. Military e) Does not have a dependent child f) Is not a person with disabilities (defined in 3 (b) (3) (E) of the U.S. Housing Act of 1937 (42 U.S.C 1437 a (b) (3) (E) and was not receiving Section 8 assistance as of November 30, 2005. (See also Figure 3-6, definition E) g) Is not living with his/her parents who are receiving Section 8 assistance; and h) Is not individually eligible to receive Section 8 assistance or has parents (individually or jointly) who are not income eligible to receive Section 8 assistance. (See also 3-13A.3 & 3-33)	a. ☐ Yes ☐ No b. ☐ Yes ☐ No c. ☐ Yes ☐ No d. ☐ Yes ☐ No e. ☐ Yes ☐ No f. ☐ Yes ☐ No g. ☐ Yes ☐ No h. ☐ Yes ☐ No		
9.		Independent Student <u>Federal Register FR-5969-N-01 (9/21/16)</u> (see excerpt below) Establish Independence from Parents: Owners must use, and the student must meet, one or more of the following criteria: a) The individual is 24 years of age or older by December 31 of the award year; b) The individual is an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older; c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined	☐ Yes ☐ No a. ☐ Yes ☐ No b. ☐ Yes ☐ No c. ☐ Yes ☐ No	☐	

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		by a court of competent jurisdiction in the individual's State of legal residence; d) The individual is a veteran of the Armed Forces of the United States or is currently serving on active duty in the Armed Forces for other than training purposes; e) The individual is a graduate or professional student; f) The individual is a married individual; g) The individual has legal dependents other than a spouse; h) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth or a unaccompanied, at risk of homelessness, and self-supporting by: o A local educational agency homeless liaison; o The director of a program funded under the Runaway and Homeless Youth Act or a designee of the director; o The director of a program funded under subtitle B of title IV of the McKinney –Vento Homeless Assistance Act (relating to emergency shelter grants) or the designee of the director; o A financial aid coordinator. i) The individual is a student whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstance.	d. ☐ Yes ☐ No e. ☐ Yes ☐ No f. ☐ Yes ☐ No g. ☐ Yes ☐ No h. ☐ Yes ☐ No i. ☐ Yes ☐ No		
10.		Violence Against Women Act (VAWA) (final rule published 11/16/16) **(see excerpt below)** a) Owners must provide notice to Section 8 tenant of their rights and obligations under VAWA (protection from Domestic Violence, Dating Violence, Stalking and Sexual Assault);	☐ Yes ☐ No a. ☐ Yes ☐ No	☐	

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		b) Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternative Documentation (HUD-5382) c) Confidentiality of Information d) Retention of Information e) VAWA Lease Addendum - requirement to have this addendum signed. **OR** a. Owners must provide the **Notice of Occupancy Rights under the Violence Against Women Act** to Section 8 tenants which outlines their rights and obligations under VAWA (protection from Domestic Violence, Dating Violence, Stalking and Sexual Assault) at the following: 1. When an Individual is denied residency; 2. When an Individual is admitted to a dwelling unit; and 3. With any notification of eviction or termination of assistance. b. **VAWA Lease Addendum** Requirement to have this addendum signed.	b. ☐ Yes ☐ No c. ☐ Yes ☐ No d. ☐ Yes ☐ No e. ☐ Yes ☐ No a. ☐ Yes ☐ No b. ☐ Yes ☐ No		
11.		**Asset Limitation for New Admissions (24 CFR § 5.618) Section 8 and 202/8 programs only. Reference: Notice H 2023-10 / Attachment A** **MFH Owners 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	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		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.			
12.		**Asset Limitation at Annual and Interim** Reexaminations (24 CFR § 5.618) Section 8 and 202/8 programs only. Reference: Notice H 2023-10 / Attachment A **should be one enforcement option:* A. Is O/A implementing total enforcement, non-enforcement or limited enforcement. **B.** If limited or total enforcement, is there an exception policy? **C.** If there is limited enforcement is there a time period to cure noncompliance?	☐total enforcement ☐non-enforcement ☐Limited enforcement		
13.		**De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 5.657(f); 891.105; 891.410(g); and 891.610(g)) Reference: Notice H 2023-10 / Attachment B** **should be one option:* MFH Owners 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. • MFH Owners may not implement policies to require families to repay in instances resulting in a family being undercharged for rent where the MFH Owner miscalculated the family's income.	☐repaying families ☐Credit families		
14.		**Hardship Exemptions for Health/Medical Care**	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		Expenses – General Relief (24 CFR § 5.611(c)(2)) Reference: Notice H 2023-10 / Attachment C. MFH Owners must provide hardship relief to a family that demonstrates its eligible health and medical care expenses, or reasonable attendant care and auxiliary apparatus expenses exceed 5 percent of the family's annual income. An increase in health and medical care, reasonable attendant care, and auxiliary apparatus expenses constitutes a qualifying eligibility factor under 24 CFR 5.611(c)(2)(i), so long as it exceeds 5% of the family's annual income (24 CFR 5.611(c)(2)(ii)). • 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). attendant care & auxiliary apparatus general hardship exemption, that would not otherwise trigger an interim reexamination.			

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more 90-day intervals, while the family's hardship condition exists. • MFH Owners must state in their TSP whether extensions of the 90-day hardship period are allowable, and the maximum number of 90-day extensions (if establishing a maximum policy) families may receive. Note: MFH Owners are not limited by HUD to a maximum number of 90-day extensions. • MFH Owners must obtain third-party verification of the hardship or must document in the file the reason that third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day hardship period.			
		Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses – Phased-In Relief (24 CFR § 5.611(c)(1)) Reference: Notice H 2023-10 / Attachment C. All 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,	☐Phased in or ☐10 %		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		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 MFH Owner complies with HOTMA. MFH Owners may continue the phased-in relief 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. This discretion should be stated in the TSP. Families who receive phased-in relief will have eligible expenses deducted as follows: o 1st twelve months – in excess of 5% of annual income. o 2nd twelve months – in excess of 7.5%. of annual income. o After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Relief. • Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.			
		Hardship Exemption to Continue Child Care Expense Hardship (24 CFR § 5.611(d)) Reference: Notice H 2023-10 / Attachment C. MFH Owners must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption.	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		• MFH Owners must include this policy in their TSPs. • MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file with the reason third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.			
		Self-Certification of Net Family Assets Equal to or Less Than $50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 5.659; 891.105; and 891.415(a)(2)) Reference: Notice H 2023-10 / Attachment F; Appendix: Sample Net Family Assets Self-Certification Form *****_TSP should state "Yes" doing self cert or "No" not doing.._ MFH Owners must determine if the family's total net family assets are equal to or less than $50,000, and they must determine the actual income earned from the asset(s). MFH Owners who choose not to accept self-certification must verify net family assets every year	a. ☐ Yes ☐ No		
		Interim Reexaminations - Decreases in Adjusted Income (24 CFR §§ 5.657(c)(2); 891.105; 891.410(g); and 891.610(g) Reference: Notice H 2023-10 / Attachment I. *_TSP should specify a percentage for decrease._ MFH Owners are not permitted to establish a dollar figure threshold amount instead of a percentage threshold less than ten percent. MFH Owners must identify in their TSPs the percentage threshold	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		they will use for conducting interim reexamination for decreases in a family's adjusted income. • MFH Owners may establish policies to 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%). *MFH Owners may decline to conduct an interim reexamination of family income if the MFH Owner 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 MFH Owner.*			
12.		**Interim Reexaminations - Increases in Adjusted Income (24 CFR §§ 5.657(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2) Reference: Notice H 2023-10 / Attachment I.** **Is O/A going to do an IR within 3 months of the AR.* MFH Owners 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 MFH Owners 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.	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		MFH Owners may **choose not** to conduct an interim reexamination if a family reports an increase in income **within three months** of their next annual reexamination effective date. • MFH Owners may choose not to 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. • MFH Owners must describe these policies in their TSPs.			
		Interim Reexaminations - Reporting Changes & Effective Date (24 CFR §§ 5.657(c)(4); 891.410(g)(2); and 891.610(g)(2) Reference: Notice H 2023-10 / Attachment I. MFH Owners determine the timeframe in which reporting must occur to be considered "timely." • If the MFH Owner has adopted a retroactive rent decrease policy, it may not be applied prior to the later of: o The 1st of the month following the date of the actual decrease in income; **or** The 1st of the month following the most recent previous income examination. o Does the TSP describe the O/A's idea of timely reporting?	☐ Yes ☐ No a. ☐ Yes ☐ No b. ☐ Yes ☐ No c. ☐ Yes ☐ No d. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		Note: MFH Owners must clearly communicate to the family how a retroactive adjustment will affect the family's responsibility for rent.			
		Determination of Family Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor" (24 CFR §§ 5.609(c)(3); 891.105; 891.410(b)-(c) and (g); • MFH Owners may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance: • MFH Owners that choose to implement Safe Harbor income determinations must: o Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs 11 2/1/2024 and 891.610(b)-(c) and (g) Reference: Notice H 2023-10 /10 / Attachment J. **are they excepting safe harbor language "Yes or No"* MFH Owners that choose to implement Safe Harbor income determinations must: o Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations; and;	a. ☐ Yes ☐ No		

Item	Pg#	Topic for Review **items are not required – not a condition	Topic in Compliance?	Correction Required (√)	Compliance Notes
		o Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., MFH Owners could establish policies to accept the most recent income determination).			

COMMENTS:

**Additional Owner Policies and Practices

General: Owners are encouraged to incorporate their own policies and practices regarding the selection of tenants into the Tenant Selection Plan. See Figure 4-2 for a list of recommended topics. Paragraph 4-4D.1

Notification of Modification to the Tenant Selection Plan: It is a good practice for owner's to include a description of how they will notify applicants on the waiting list (and potential applicants) of any new or revised tenant selection plan or policy that may affect an application or tenancy. Paragraph 4-4D.2

Modification of the Tenant Selection Plan: Owners should review tenant selection plans at least annually to ensure that they reflect current operating practices, program priorities, and HUD requirements. Paragraph 2-30; paragraph 4-12E

Availability of the Tenant Selection Plan: When requested, the owner must make the plan available to the public. Paragraph 2-30; paragraph 4-12F

Information about Availability of Accessible Units: Owners must have policies and practices to ensure that information about the availability of accessible units reaches eligible persons with disabilities. Paragraph 2-30; paragraph 4-12D

Updating the Waiting List Information: Due to household composition changes, the owner updates the waiting list and determines if a new unit size is necessary: the owner's policy will determine if the household maintains the original application date or if the place on the waiting list is based on the date of the new determination of family composition. Paragraph 4-19B

Utility Reimbursement: The owner must provide the utility reimbursement to the tenant or utility provider within 5 business days of receipt of the assistance payment from HUD. Form HUD-9834

Criminal Screening: The owner may deny admission to an applicant using his/her standard for admission screening if the criminal background check indicates the applicant provided false information. If the determination is made by either the PHA or owner to deny admission to the applicant, the entity making the determination must:

1. Notify the applicant of the proposed denial of admission.
2. Provide the subject of the record and the applicant with a copy of the information the action is based upon.
3. Provide the applicant with an opportunity to dispute the accuracy and relevance of the information obtained from any law enforcement agency.

Paragraph 4-27E.6

PLEASE NOTE: This checklist has been provided to highlight specific areas of compliance and non-compliance related to the Tenant Selection Plan and is not a HUD form. Data on this checklist is periodically updated for quality control to ensure continued compliance with HUD regulations and may be updated without prior notice.

Multifamily Housing Programs
List of Discretionary Policies to Implement HOTMA

This chart is intended to make MFH Owners aware of the policies they must set in their respective Tenant Selection Plans (TSPs) and EIV policies and procedures by March 31, 2024.

HOTMA Provision / Regulation / H 2023-10 Reference	Required HOTMA Policy	MFH Owner's Discretionary Policies[1]
Asset Limitation for New Admissions (24 CFR § 5.618) **Section 8 and 202/8 programs only.** **Reference:** Notice H 2023-10 / Attachment A	• MFH Owners 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. • MFH Owners must include this admissions policy in their TSPs.	No discretion.
Asset Limitation at Annual and Interim		**MFH Owners have the following policy options at annual and interim reexaminations:**

[1] All discretionary policies must be clearly stated in an owner's Tenant Selection Plan and EIV policies and procedures. Additionally, all discretionary policies must be applied equally to each family pursuant to 24 CFR § 5.105(a).

Reexaminations (24 CFR § 5.618) **Section 8 and 202/8 programs only.** **Reference:** Notice H 2023-10 / Attachment A		**1. <u>Total Enforcement:</u>** • MFH Owners may choose to fully enforce the asset limitation exactly as written in the statute[2] (i.e., the real property requirement and the $100,000 net family assets requirement). Nothing in paragraphs (4), (5), or (6) of Section 104 of HOTMA compels MFH Owners to exercise the discretion provided by the statute. **2. <u>Total Non-Enforcement:</u>** • MFH Owners may choose to establish a written policy to **<u>not enforce</u>** the asset limitation for **<u>all families</u>** at annual and interim reexamination. **3. <u>Limited Enforcement:</u>** • MFH Owners may choose to establish 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. • Limited non-enforcement policies must address the timeframe for curing non-compliance (e.g., MFH Owners may choose to adopt policies to allow any number of months, up to six months, to cure noncompliance with the asset limitation).

[2] Pub. L. 114-201.

		• MFH Owners who establish limited enforcement policies may not delay initiation of termination of assistance beyond six months after the effective date of the annual or interim reexamination. **4. <u>Exception Policies:</u>** • MFH Owners may establish in written policy exceptions to the asset limitation based on family type 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. • MFH Owners may establish total non-enforcement for excepted families, or they may establish 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. • Exception policies **<u>must</u>** conform with applicable fair housing statues and regulations. • Exception policies must describe the families who are excepted, **<u>and</u>** the policies must describe whether excepted families are subject to total nonenforcement or limited nonenforcement of the asset limitation. If excepted families are subject to limited nonenforcement, then the exception policy must address the timeframe for curing non-compliance (e.g., MFH Owners may choose to adopt policies to allow any number of months, up to six

		months, to cure noncompliance with the asset limitation). • MFH Owners 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. ***Note:*** MFH Owners may establish **both** limited non-enforcement and exception policies. The above discretion is **not** applicable to eligibility determinations for new admissions or initial certifications (IC) of assistance. **MFH Owners must include their asset limitation policy at annual and interim reexamination in their TSPs.**
De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 5.657(f); 891.105; 891.410(g); and 891.610(g)) **Reference:** Notice H 2023-10 / Attachment B	• MFH Owners 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. • MFH Owners may not implement policies to require families to repay in instances resulting in a family being undercharged for rent where the MFH Owner miscalculated the family's income.	• MFH Owners must include in their TSPs how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the MFH Owner's de minimis error in income determination.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care &	• MFH Owners must provide hardship relief to a family that demonstrates its eligible health and medical care expenses, or reasonable attendant	• Generally, MFH Owners must develop written policies in their TSPs defining what changes in circumstances are required for the family to be eligible for the health and medical care expenses and reasonable

Auxiliary Apparatus Expenses – <u>General Relief</u> (24 CFR § 5.611(c)(2)) **Reference:** Notice H 2023-10 / Attachment C	care and auxiliary apparatus expenses exceed 5 percent of the family's annual income. • An increase in health and medical care, reasonable attendant care, and auxiliary apparatus expenses constitutes a qualifying eligibility factor under 24 CFR 5.611(c)(2)(i), so long as it exceeds 5% of the family's annual income (24 CFR 5.611(c)(2)(ii)). • 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).	attendant care & auxiliary apparatus general hardship exemption, that would not otherwise trigger an interim reexamination. • MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more 90-day intervals, while the family's hardship condition exists. • MFH Owners must state in their TSP whether extensions of the 90-day hardship period are allowable, and the maximum number of 90-day extensions (if establishing a maximum policy) families may receive. ***Note***: MFH Owners are not limited by HUD to a maximum number of 90-day extensions. • MFH Owners must obtain third-party verification of the hardship or must document in the file the reason that third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day hardship period.
Hardship Exemptions for Health/Medical Care Expenses & Reasonable Attendant Care & Auxiliary Apparatus Expenses – <u>Phased-In Relief</u> (24 CFR § 5.611(c)(1))	• All 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	• MFH Owners may continue the phased-in relief 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. This discretion should be stated in the TSP. ○ For example, a family is admitted to a new MFH property, but they would have still been receiving the 24-month phased-in hardship

Reference: Notice H 2023-10 / Attachment C	occurs first on or after the date the MFH Owner complies with HOTMA. • Families who receive phased-in relief will have eligible expenses deducted as follows: ○ 1st twelve months – in excess of 5% of annual income. ○ 2nd twelve months – in excess of 7.5%. of annual income. ○ After 24 months – in excess of 10% threshold will phase in and remain in effect unless the family qualifies for General Relief. • Once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.	exemption had they continued to reside in their previous unit at a different MFH property. MFH Owners may establish a policy to continue the phased-in hardship exemption for the family's remaining months in the 24-month phase-in period.
Hardship Exemption to Continue Child Care Expense Hardship (24 CFR § 5.611(d)) **Reference:** Notice H 2023-10 / Attachment C	• MFH Owners must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption. • MFH Owners must include this policy in their TSPs. • MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file with the reason third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.	• MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more additional 90-day periods while the family's hardship condition continues. • MFH Owners must include in their TSPs whether they will allow extensions of the 90-day hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. ***Note:*** MFH Owners are not limited by HUD to a maximum number of 90-day extensions.

Self-Certification of Net Family Assets Equal to or Less Than $50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 5.659; 891.105; and 891.415(a)(2)) **Reference:** Notice H 2023-10 / Attachment F; Appendix: Sample Net Family Assets Self-Certification Form	• MFH Owners must determine if the family's total net family assets are equal to or less than $50,000, and they must determine the actual income earned from the asset(s).	• MFH Owners may accept a family's self-certification of net family assets equal to or less than $50,000 (adjusted annually for inflation) and anticipated income earned from assets without taking additional steps to verify accuracy, at admission and at reexamination. • Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. • MFH Owners who choose to accept self-certification of net family assets equal to or less than $50,000 (adjusted annually for inflation) at reexamination are required to fully verify net family assets every three years (5.659(e)) • MFH Owners who choose not to accept self-certification must verify net family assets every year. • MFH Owners must include in their TSPs whether they will accept a family's self-certification of net family assets equal to or less than $50,000 at admission (only for new admissions effective on or after 1/1/2024) and/or at reexamination.

Interim Reexaminations - Decreases in Adjusted Income (24 CFR §§ 5.657(c)(2); 891.105; 891.410(g); and 891.610(g) **Reference:** Notice H 2023-10 / Attachment I	• MFH Owners are required by HUD to process interim reexaminations for *all* decreases in adjusted income when a family member permanently moves out of the unit. • MFH Owners **<u>are not permitted</u>** to establish a dollar figure threshold amount instead of a percentage threshold less than ten percent.	• MFH Owners may decline to conduct an interim reexamination of family income if the MFH Owner 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 MFH Owner. • MFH Owners must identify in their TSPs the percentage threshold they will use for conducting interim reexamination for decreases in a family's adjusted income. • MFH Owners may establish policies to 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%).
Interim Reexaminations - Increases in Adjusted Income (24 CFR §§ 5.657(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2) **Reference:** Notice H 2023-10 / Attachment I	• MFH Owners 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 MFH Owners 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.	• MFH Owners may choose not to conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date. • MFH Owners may choose not to 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. • MFH Owners must describe these policies in their TSPs.

	• MFH Owners **<u>may not</u>** establish a different threshold to conduct interim reexaminations for increases in adjusted income.	
Interim Reexaminations - Reporting Changes & Effective Date (24 CFR §§ 5.657(c)(4); 891.410(g)(2); and 891.610(g)(2) **Reference:** Notice H 2023-10 / Attachment I	• Families must report household composition changes and changes to adjusted income consistent with HOTMA's requirements; however, MFH Owners determine the timeframe in which reporting must occur to be considered "timely." • If the MFH Owner has adopted a retroactive rent decrease policy, it may not be applied prior to the later of: o The 1st of the month following the date of the actual decrease in income; or o The 1st of the month following the most recent previous income examination. ***Note:*** MFH Owners must clearly communicate to the family how a retroactive adjustment will affect the family's responsibility for rent.	• MFH Owners must develop policies that describe when and under what conditions 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. • MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported and the timeline for reporting the change to be considered timely. • MFH Owners may adopt a policy to apply rent decreases retroactively and establish additional criteria to describe the conditions under which retroactive decreases will be applied. • MFH Owners must describe these policies in their TSPs.
Revocation of Consent Form (Form HUD-9887)[3] (24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c)); 891.105;	• The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the MFH Owner to revoke consent.	• MFH Owners may establish in written policy that revocation of consent will result in termination of assistance or denial of admission. • When MFH Owners do not establish a policy such that revoking consent will result in termination of assistance, participant families will be required to sign

[3] Revocation of consent or refusal to sign the consent form prohibits the MFH Owner from requesting and accessing income information and financial records, including pulling any EIV reports and using EIV data to verify income.

891.410(g)(3)(ii); and 891.610(g)(3)(ii) **Reference:** Notice H 2023-10 / Attachment J	• Families have the right to revoke consent by notice to the MFH Owner; however, revoking consent can result in termination or denial of assistance if the MFH Owner has established an admission and occupancy policy that the revocation of consent will result in termination of assistance or denial of admission. • MFH Owners may not process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s). • MFH Owners must explain to families the consequences, if any, of revoking their consent. • MFH Owners **must** notify their local HUD office when an applicant or participant family member revokes their consent. ***Note:*** Data matches between HUD and other agencies will continue to automatically occur, when consent is revoked, if the family is not terminated from the program.	a new consent form by the next regularly scheduled reexamination or interim reexamination, whichever occurs first. • MFH Owners may establish policies 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. • MFH Owners must describe these policies in their TSPs.
Determination of Family Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor" (24 CFR §§ 5.609(c)(3); 891.105; 891.410(b)-(c) and (g);	• MFH Owners may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:	• MFH Owners that choose to implement Safe Harbor income determinations must: ○ Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs

and 891.610(b)-(c) and (g) **Reference:** Notice H 2023-10 / Attachment J	○ The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.). ○ Medicaid (42 U.S.C. 1396 et seq.). ○ The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.). ○ The Earned Income Tax Credit (26 U.S.C. 32). ○ The Low-Income Housing Tax Credit (26 U.S.C. 42). ○ The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786). ○ 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. • MFH Owners are not required to accept or use determinations of income from other Federal means-tested forms of assistance. • Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family	from which they will accept income determinations; and ○ Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., MFH Owners could establish policies to accept the most recent income determination). • MFH Owners must describe these policies in their TSPs.

	(i.e., the family members listed in the documenting 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.	
Enterprise Income Verification (EIV) Usage (24 CFR § 5.233) **Reference:** Notice H 2023-10 / Attachment J	• MFH Owners must use HUD's EIV system in its entirety, in accordance with 24 CFR 5.233. • MFH Owners 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.	• MFH Owners are not required to use EIV during interim reexaminations. • MFH Owners who adopt policies to not 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, are not required to use the EIV New Hires report between annual reexaminations. • MFH Owners who have a policy to consider *earned* income increases in calculating whether the ten percent threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination period **after** the interim reexamination to decrease rent occurs. • MFH Owners are not required to use the EIV Income Report or New Hires Report at annual reexamination

		if they use Safe Harbor verification to determine the family's income. • MFH Owners are not required to use the EIV Income Discrepancy Report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. • MFH Owners must describe these policies in their EIV policies and procedures.