

Important New HOTMA Section 102 and 104 Implementation Guidance Now Available

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Dear Multifamily Housing Partners,

HUD published updates to the implementation guidance for Section 102 and 104 of the Housing Opportunity Through Modernization Act (HOTMA). This email includes:

- **New HOTMA Section 102 and 104 Implementation Guidance information; and**
- **Updated HOTMA Implementation Resources information.**

HOTMA Implementation Guidance Information

On February 5, 2024, HUD published a revised version of the HOTMA Implementation Notice ([Notice H 2023–10/PIH 2023–27](#)). Changes from the prior version are described in section 2.1 of the revised Notice, which provides updates, clarifications, and corrections based on industry feedback.

HUD encourages owners of Multifamily project-based rental assistance programs to read the newly updated Housing Notice in full.

Important TRACS Information

HUD will not revise TRACS version 202D to make it compliant with HOTMA; instead, all HOTMA provisions will be rolled out with the future release of TRACS version 203A. This means that, as of the date of this message, the MFH systems and forms used to receive and process owner vouchers have not yet been updated to reflect the new HOTMA rules.

HUD's Office of Multifamily Housing Programs strongly recommends that owners align their own HOTMA implementation timeframe with the release of 203A (anticipated Summer 2024).

For owners who decide to implement HOTMA and other new requirements issued in the HOTMA Implementation Notice (as revised) prior to the release of 203A, please note the following guidance.

TSP and EIV Updates

As paragraph 6.2 of [Notice H 2023–10](#) notes, an owner must update their Tenant Selection Plan (TSP) and Enterprise Income Verification (EIV) Policies & Procedures prior to implementation of HOTMA and no later than March 31, 2024.

Use of Model Leases

Owner enforcement of the asset limitation is permitted only to the extent that tenants subject to the limitation have signed the new HUD-approved Model Lease; instructions to owners for renewing families under these leases is provided in paragraph 6.2 of [Notice H 2023–10](#). MFH will make these HUD-approved Model Leases available as soon as possible.

Use of Rent Override Function

An owner who implements HOTMA prior to the release of TRACS version 203A must utilize the “rent override” function in TRACS if a family’s HOTMA-calculated tenant rent differs from their pre-HOTMA calculated tenant rent. An owner employing the rent override function must:

1. Submit accurate information in Sections B (Summary) and C (Household Information) of the 50059. Section C must accurately reflect the circumstances of the household so that HUD can continue income data-matching with other agencies;
2. Enter the data in the remaining sections D (Income Information), E (Asset Information), and F (Allowances & Rent Calculations) of the 50059 from the family’s most recent reexamination (either annual or interim); and
3. Submit non-interim transactions (see subtopic I.4 in Attachment I of [Notice H 2023–10](#)) as interim reexaminations, when applicable.

Use of the rent override function may result in the generation of specific, limited discrepancy codes, which owners may disregard. HUD has instructed Contract Administrators to process vouchers despite these specific discrepancy codes, after ensuring that all other information is correct. HUD strongly encourages owners to provide their Contract Administrators with notice that they intend to use the rent override function.

Documentation in Tenant Files

Owners who implement HOTMA prior to the release of TRACS version 203A must annotate tenant files with the following information:

1. Which HOTMA and other [Notice H 2023–10](#) provisions were implemented, regardless of whether they resulted in a different tenant rent than would have resulted using pre-HOTMA rules (owners are cautioned that many aspects of HOTMA are interrelated; implementation of some without others may be infeasible and/or may affect tenant rents);
2. How the family’s income, assets, and mandatory deductions were determined under the implemented HOTMA provisions; and
3. If applicable, what the tenant rent would have been under the pre-HOTMA rules, and the HOTMA tenant rent amount that was entered using the “rent override” function.

As a reminder, and as stated in paragraph 6.2 of [Notice H 2023–10](#), prior to January 1, 2025, MFH Owners will not be penalized for HOTMA-related tenant file errors during Management and Occupancy Reviews. Instead, the Contract Administrator will issue observations with corrective actions. Contract Administrators will, however, issue a finding if an owner’s TSP and EIV Policies and Procedures were not appropriately updated or made publicly available by March 31, 2024, as required.

HOTMA Implementation Resources

The Office of Multifamily Housing Programs recently published a number of resources related to its implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA).

REVISED Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) (Notice H 2023–10/Notice PIH 2023–27) (“HOTMA Implementation Notice”)

- Originally published on September 29, 2023, the HOTMA Implementation Notice included placeholder language in Attachment A, which covers the section 104 asset limitation. The revised Notice, posted on February 2, 2024, features full implementation guidance for the asset limitation. The Notice also includes limited additional changes, described in section 2.1, “Technical Corrections and Clarifications.”
- Importantly, Attachment A now makes clear that owners have discretion regarding whether to enforce the asset limitation for existing tenants.

REVISED List of Discretionary Policies to Implement HOTMA

- Multifamily has revised the List of Discretionary Policies to Implement HOTMA. This chart informs MFH Owners of their discretionary policy options. Where MFH Owners have such discretion, their policies must be incorporated into their respective Tenant Selection Plan (TSP) and Enterprise Income Verification (EIV) policies by March 31, 2024.

REVISED Federally Mandated Exclusions from Income

- Specific sources of income are excluded by federal statute from consideration as income for purposes of determining eligibility for or benefits in a HUD program. Periodically, HUD publishes the list of exclusions in the *Federal Register*. On January 31, 2024, HUD published a revised list of exclusions, replacing the previously published version by adding four new income exclusions and correcting existing exclusions to identify where amounts are excluded from consideration as assets in HUD programs.

REVISED HOTMA Talking Points and Q&A for Multifamily Programs

- This resource provides background on HOTMA, describes implementation resources and where to find them, and describes key changes resulting from Multifamily’s implementation of HOTMA.

For more information about these materials or if you have additional questions about the implementation of HOTMA in Multifamily Housing programs, please email MFH_HOTMA@hud.gov.