HOTMA for LIHTC, HOME, & HTF

Presented by Matt Rayburn

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AGENDA

- What is HOTMA?
- Applicability & Timing
- HUD Guidance
- Household Definition
- Income
- Assets
- Verifications
- IHCDA Policies & Forms
- Next Steps

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DISCLAIMERS!

HOTMA is an evolving topic with additional HUD guidance required or expected

This material:

- Is subject to change with additional HUD guidance
- Is not a comprehensive training on all things HOTMA

This training will focus on how HOTMA changes in income and asset rules impact the LIHTC, HOME, NHTF, and similar programs.

This training does not cover topics specific to other programs such as Section 8 and Public Housing including interim reexaminations, Public Housing over-income rules, and adjusted income.*

*Adjusted income does apply to over-income HOME households but will not be discussed in this training

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DISCLAIMERS!

Most of this material covers the federal guidance on HOTMA

Indiana/IHCDA specific policies are marked with an Indiana symbol - Check with your applicable funding/monitoring agency

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WHAT IS HOTMA?

The Housing Opportunity Through Modernization Act of 2016

Final Rule published 2/14/23

- **Section 102** addresses income reviews, including the frequency of income reviews and revises the definitions of income and assets.
- **Section 103** establishes over-income rules for Public Housing
- **Section 104** sets asset limits for the Section 8 and Public Housing programs.

Section 102 impacts LIHTC, HOME, and NHTF

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HOTMA APPLICABILITY & TIMING

Applies to HUD Multifamily, PIH, and CPD programs as well as LIHTC & RD

Effective dates

- Sections 102 and 104 are effective **1/1/24**, unless extension in place
- Section 103 was effective 3/16/23

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HOTMA APPLICABILITY & TIMING
PIH EXTENSION

Through written notice to PHA Executive Directors and PIH Notice 2023-27, HUD PIH delayed the implementation deadline for PHAs to **1/1/25**

"PHAs must bring their programs into compliance with the HOTMA final rule as quickly as possible, but no later than January 1, 2025. Compliance means administering all aspects of the affected programs in accordance with the HOTMA final rule."

PHA's must amend their Public Housing ACOP and/or HCV Admin Plan to cover HOTMA implementation.

- PIH Notice 2023-27, Table 1, p.6 shows timelines for PHAs

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HOTMA APPLICABILITY & TIMING
CPD EXTENSION

Housing Opportunity Through Modernization Act: Implementation of Sections 102, 103, and 104; Extension of Compliance Date
FR-6057-N-05 Released 12/8/23

"In recognition of these operational issues and challenges, HUD will allow CPD grantees to set their own compliance date for the applicable HOTMA final rule provisions. This compliance date may be as early as January 1, 2024, and no later than January 1, 2025."

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HOTMA APPLICABILITY & TIMING
HUD MF EXTENSION

Per Revised Notice H 2023-10 / PIH 2023-27 & New Notice H 2024-04

By 5/31/24 owner agents must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA mandated rules and discretionary policies

When software is HOTMA compliant:

- Provide tenants at least 60 days notice of lease modification for revised HUD model leases
- Implement new TSPs and EIV policies/procedures
- Tenant data submissions must comply with HOTMA
- Use new Tenant Consent Form (HUD-9887/9887A) and “How Your Rent is Determined” Fact Sheet

Full HOTMA compliance is mandatory 1/1/25

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HOTMA APPLICABILITY & TIMING
IHCDA PROGRAMS

LIHTC, Bonds, TCAP, 1602, HOME, NHTF, CDBG, CDBG-DR, NSP, Development Fund, Housing First = 1/1/24 effective date

HCV/PBV, including special purpose vouchers

- August 2024- released draft 2025 Admin Plan for public comment
- September 2024- 2025 Admin Plan presented to Board for approval
- Implementation TBD 2025 contingent upon HUD systems

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- Implementation TBD 2025 contingent upon HUD systems

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GUIDANCE IN HAND

https://www.hud.gov/program_offices/public_indian_housing/hotmaresources

Housing Opportunity Through Modernization Act of 2016
Public Law 114-201 Enacted 7/29/16

Final Rule Implementing HOTMA Sections 102, 103, and 104
FR-6057-F-03 Released 2/14/23

Email to PHA Executive Directors- Update on HOTMA Implementation Released

Public Housing and HCV Program List of Discretionary Policies to Implement HOTMA
Released 9/25/23

Implementation Guidance: Section 102 and 104 of HOTMA
Notice H 2023-10 / PIH 2023-27 Released 9/29/23 & Revised 2/2/24

Housing Opportunity Through Modernization Act: Implementation of Sections 102, 103, and 104; Extension of Compliance Date (for CPD Programs)
FR-6057-N-05 Released 12/8/23

Revised Compliance Date: Updates to Tenant Selection Plan and EIV Policies and Procedures
Notice H-2024-04 Released 2/28/24

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PENDING/MISSING GUIDANCE

HUD CPD

- Per the Implementation Guidance (H 2023-10, PIH 2023-27), HUD CPD will release its own Implementation Guidance for CPD programs

IRS Treasury?

- Will we receive HOTMA guidance specific to LIHTC?
- Unknown
- Note: For LIHTC in other states, may also need to see guidance from state allocating/monitoring agency on interpretation and applicability

USDA Rural Development?

- RD unnumbered letters dated 2/29/24 & 8/19/24
- RD stakeholder announcement dated 10/3/24 extended implementation to 7/1/25
- Other RD guidance to come?

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WHAT DO WE KNOW FROM LIHTC SIDE?

Treasury Regulation 1-42.5(b)(vii)

Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 ("Section 8"), not in accordance with the determination of gross income for federal income tax liability.

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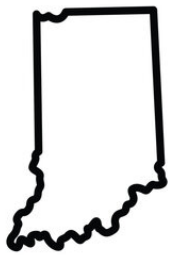
IHCDA POLICY
RELY ON IMPLEMENTATION GUIDANCE



IHCDA will rely on the Implementation Guidance in HUD Notice H 2023-010 / PIH 2023-27 (as revised 2/2/24) and apply relevant sections to all programs until such time official future guidance says otherwise

The title of each subsequent slide will include a ( ) noting the applicable reference from the Implementation Guidance

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HOUSEHOLD DEFINITION

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HOUSEHOLD MEMBER DEFINITION (E.2)

Foster children and foster adults are **no longer counted as household members**

- Do not count in household size for income limit purposes
- Do not include their income and assets
- Consider in occupancy size standards
- Treat similar to live-in aide

When a member of an assisted household is temporarily placed in foster care, the member is still counted as a family member in the unit from which they were removed

Definitions rely on state law:

- **Foster adult** = “member of the household who is 18 years or older and meets the definition of a foster adult under state law”
- **Foster child** = “member of the household who meets the definition of a foster child under state law”

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INCOME

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INCOME EXCLUSIONS (G)

There is no longer a specific list of included income sources.

If not specifically excluded, then must include.

Updated list of “Federally Mandated Exclusions from Income” released 1/31/24 via Federal Register (FR-6410-N-01)

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CHILD SUPPORT & ALIMONY (F.1)

“Annual income includes “all amounts **received**,” not the amount that family may be legally entitled to receive but which they do not receive.”

“For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders.”

“A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.”

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EARNED INCOME (F.1, F.2)

Annual household income includes “all amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker.”

Two important distinctions from the HOTMA Guidance:

1. Income earned by a day laborer, independent contractor, or seasonal worker is **not** considered nonrecurring income and must be included

2. When wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debt, the **gross amount** of income **prior to the reduction** must be used to determine income

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EARNED INCOME (F.1, F.2)

Day Laborer (F.2.a)
An individual hired and paid one day at a time without an agreement that the individual will be hired or worked again in the future

Independent Contractor (F.2.b)
An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.

Individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

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EARNED INCOME (F.1, F.2)

Seasonal Worker (F.2.c)
An individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.

Examples = employment limited to holidays or agricultural seasons, lifeguards, ballpark vendors, snowplow drivers

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WORKER'S COMPENSATION (G.6)

Worker's compensation payments, regardless of length or frequency, are **always excluded** from annual income

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NONRECURRING INCOME (G.1)

"Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is **excluded** from annual income."

- Examples may include, but are not limited to, "nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments."

- Exception: income received as a day laborer, independent contractor, or seasonal worker is **included as income** "even if the source, date, or amount of the income varies"

- May accept self-cert stating income will not be repeated

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NONRECURRING INCOME (G.1)

Codified exclusions:

- Payments from Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment (G.1.a)
- Direct federal or state payments for economic stimulus or recovery (G.1.b)
- State or federal refundable tax credits or tax refunds (G.1.c & G.1.d)
- Gifts for holidays, birthdays, or other significant life events/milestones such as weddings, baby showers, or anniversaries (G.1.e)
- Non-monetary, in-kind donations such as food, clothing, or toiletries received from a food bank or similar organization (G.1.f)
- Non-recurring, non-monetary in-kind donations from friends and family (G.1.f)
- Lump sum additions to assets, including lottery or contest winnings (G.2)

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STUDENT FINANCIAL ASSISTANCE (G.16)

TYPE 1 HEA: Amounts received under Section 479B of the Higher Education Act (G.16.a)

- Federal Pell Grants
- Teach Grants
- Federal Work Study Programs
- Federal Perkins Loans
- Student financial assistance through Bureau of Indian Education
- Higher Education Tribal Grant
- Tribally Controlled Colleges or Universities Grant Program
- Employment training program under Section 134 of Workforce Innovation and Opportunity Act (WIOA)
- Future updates- July 1, 2024

TYPE 2: Other Student Financial Assistance- grants or scholarships received from: (G.16.b)

- Federal government
- A state, territory, tribe, or local government
- 501(c)(3) private foundation
- Business entity
- Institution of higher education

Does NOT include:

- Financial support in the form of a fee for services worked
- Gifts, including from family & friends

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Type 1 (HEA) = excluded

Type 2 (Other) = included in an amount that by itself, or in combination with Type 1 assistance, exceeds the actual covered costs

Actual covered costs:

- Tuition
- Books
- Supplies (including supplies/equipment to support students with disabilities)
- Room and board
- Fees required and charged by an institution of higher education
- If student is not head of household, co-head, or spouse, also include reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Chart G1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non–Section 8 programs administered by MFH.

Step 2: Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Formula

Step 1:
Actual covered costs - amount of Type 1 HEA student financial assistance = X

"X" = actual covered costs exceeding HEA assistance

Step 2:
Type 2 Other student financial assistance - X = Y

- EXCEPTION: if X is negative, count full amount of other assistance

"Y" = student financial assistance included in income, ignore if Y is negative

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Example G10: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: $25,000; University Scholarship: $15,000; Rotary Club Scholarship: $3,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $25,000 (Federal Pell Grant)

Total other student financial assistance received: $18,000</td><td>Juan's actual covered costs: $28,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$28,000 (actual covered costs) minus $25,000 (total assistance received under 479B of HEA) equals $3,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

$18,000 (other student financial assistance received) minus $3,000 (actual covered costs exceeding section 479B assistance) equals $15,000 (if negative, then use $0)</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Juan's income: $15,000</td></tr>
</table>

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Example G11: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: $2,000; Scholarship from Local Car Dealership: $500; Gift from Aunt Lois: $1,000.

The $1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the $1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).</td></tr>
<tr><td>Total assistance received under 479B of HEA: $2,000 (Federal Perkins Loan)

Total other student financial assistance received: $500

Total non-student financial assistance: $1,000

Total student financial assistance: $2,500</td><td>Sarah’s actual covered costs: $3,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$3,000 (actual covered costs) minus $2,000 (total assistance received under 479B of HEA) equals $1,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

$500 (other student financial assistance received) minus $1,000 (amount of actual covered costs exceeding section 479B assistance) equals – $500 (if negative, then use $0)</td></tr>
<tr><td colspan="2">The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income.

Amount of student financial assistance included in Sarah’s income: $0</td></tr>
</table>

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STUDENT FINANCIAL ASSISTANCE NON-SECTION 8 PROGRAMS (G.16.C)

Example G12: Treatment of Student Financial Assistance in Non–Section 8 Programs

<table>
<tr><td colspan="2">Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: $9,000; Federal Perkins Loan: $13,000; Local Library Scholarship: $1,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $22,000 (Federal Pell Grant plus Federal Perkins Loan)

Total other student financial assistance received: $1,000</td><td>Dante’s actual covered costs: $16,000</td></tr>
<tr><td>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$16,000 (actual covered costs) minus $22,000 (total assistance received under 479B of HEA) equals $–6,000</td><td>Step 2: Determine amount of student financial assistance to include in income.

Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante’s income</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Dante’s income: $1,000</td></tr>
</table>

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STUDENT FINANCIAL ASSISTANCE SECTION 8 PROGRAMS (G.16.D)

If student is the head, co-head, or spouse and is over the age of 23 with dependent children…

Follow the new rule from the previous slides

Previously, this student financial assistance would have been excluded

If the student is the head, co-head, or spouse and is age 23 or younger, or without dependent children…

Include any amount of assistance in excess of tuition plus other required fees and charges*

*Required fees and charges is now synonymous with “actual covered costs”

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STUDENT FINANCIAL ASSISTANCE SECTION 8 PROGRAMS (G.16.D)

If the student is the head, co-head, or spouse and is age 23 or younger, or without dependent children

Chart G2: Formula for Calculating Excess Amounts of Financial Assistance

Subtract **total student financial assistance from all sources** from **total tuition plus required fees and charges** to arrive at **excess amount of student financial assistance**.

If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income.

If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

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STUDENT FINANCIAL ASSISTANCE SECTION 8 PROGRAMS (G.16.D)

Example G13: Treatment of Student Financial Assistance in Section 8 Programs

<table>
<tr><td colspan="2">Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: $12,000; University Scholarship: $22,000; City Scholarship: $3,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $12,000 (Federal Pell Grant)
Total other student financial assistance received: $25,000
Total student financial assistance from all sources: $37,000</td><td>Total tuition + required fees and charges: $27,000</td></tr>
<tr><td colspan="2">Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: $37,000 – $27,000 = $10,000</td></tr>
<tr><td colspan="2">The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.</td></tr>
<tr><td colspan="2">Excess student financial assistance: $10,000</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Roberto's income: $10,000</td></tr>
</table>

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STUDENT FINANCIAL ASSISTANCE SECTION 8 PROGRAMS (G.16.D)

Example G15: Treatment of Student Financial Assistance in Section 8 Programs

<table>
<tr><td colspan="2">Angel is a 38-year-old full time student, head of household, without dependent children. Since Angel does not have dependent children, the Appropriations Act policy does not apply, and the PHA/MFH Owner must include assistance received under 479B of the HEA as part of the excess student financial aid calculation. Angel received the following amounts to cover her first year of college: Perkins Loan: $8,000.</td></tr>
<tr><td>Total assistance received under 479B of HEA: $8,000 (Perkins Loan)</td><td>Total tuition + other fees and charges: $6,200</td></tr>
<tr><td colspan="2">Determine whether the amount of student financial assistance, including 479B assistance, exceeds the total of tuition + required fees and charges: $8,000 – $6,200 = $1,800</td></tr>
<tr><td colspan="2">Excess student financial assistance: $1,800</td></tr>
<tr><td colspan="2">Amount of student financial assistance included in Angel's income: $1,800</td></tr>
</table>

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EARNED INCOME OF DEPENDENT FULL-TIME STUDENTS (G.8)

Exclude any amount in excess of the amount of deduction for a dependent = count the first $480* of income earned

***$480 will now be adjusted annually for inflation. Remains $480 for 2025.**

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ADOPTION ASSISTANCE PAYMENTS (G.9)

Assistance in excess of $480* per adopted child is excluded from income = count just the first $480*

***$480 will now be adjusted annually for inflation. Remains $480 for 2025.**

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ASSETS

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ASSET EXCLUSIONS (F.4.B)

- **Value of necessary items of personal property**
- **Value of all non-necessary items of personal property with a total combined value of $50,000 or less (adjusted annually for inflation)**
- **Value of any account under a retirement plan recognized as such by the IRS**
- Value of real property that the family does not have the effective legal authority to sell
- Any amounts recovered in a civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities
- Value of any Coverdell education savings account under section 530 of IRC and the value of any qualified tuition program under section 529 of IRC including ABLE accounts

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ASSET EXCLUSIONS (F.4.B)

- Value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by government for children until they are adults)
- Interest in Indian trust land
- Equity in a manufactured home where the family receives HCV assistance
- Equity in property under the Homeownership Option for which the family receives HCV assistance
- Family Self-Sufficiency accounts
- **Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family**
- **Full amount of assets held in an irrevocable trust**
- **Full amount of assets held in a revocable trust where a member of the family is the beneficiary but the grantor/owner of the trust is not a member of the household**

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ASSET TYPES (F.4, F.4.A)

1. **Real property (e.g., home or land)** = include in net family assets

2. **Necessary personal property** = exclude from net family assets

3. **Non-necessary personal property** = include in net family assets if combined value exceeds $50,000 (adjusted annually for inflation)

Include assets disposed of for less than fair market value during the two years preceding the effective date (F.4.a). Amount included is the difference between cash value and the amount received in the disposition.

- NOTE: The HOTMA Implementation Guidance removes the previous $1000 test

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NECESSARY PERSONAL PROPERTY (F.4.C)

Necessary personal property is **excluded** from assets

- Items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness."
- "Includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects…items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home."
- "Also includes items that assist a household member with a disability"

Does **not** include bank accounts, other financial investments, or luxury items

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NON-NECESSARY PERSONAL PROPERTY (F.4.C)

Non-necessary personal property with a combined value **>$50,000** (adjusted for inflation) is **included** in net family assets
- Actual or imputed income is included for each asset

Non-necessary personal property with a combined value **≤$50,000** (adjusted for inflation) is **excluded** from net family assets
- However, actual asset income is still included

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NECESSARY VS NON-NECESSARY NON-EXHAUSTIVE LIST (F.4.C)

Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

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RETIREMENT ACCOUNTS (F.4.B, F.4.F)

Retirement accounts are **excluded** from net family assets

- IRAs, employer plans such as 401(k) or 403(b), and retirement plans for self-employed individuals

Distribution of periodic payments is considered income

Scenario
Prior quarter ending balance of 401(k) account: $157,500 Prior quarter yield: 5 percent ($7,500) Distributions made to family: $12,000 in prior year, same amount is anticipated to be received this year.
Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the $12,000 in distributions (unearned income) which has been paid from the retirement account in increments of $1,000 monthly to the family.

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TRUSTS (F.4.D)

Considerations:

- Is the trust under control of the family?
  - If irrevocable, exclude
  - If a revocable trust's grantor is a member of the household or the household is otherwise in control of the trust, include
  - If a revocable trust's grantor is not a member of the household or the household is not otherwise in control of the trust, exclude
  - If included as an asset, actual income earned is asset income

- Are distributions made from the trust's principle?
  - If value of the trust is considered an asset, do **not** count distributions as income
  - If value of the trust is **not** considered an asset, then distributions from trust's principle are excluded from income but distributions of income earned by the trust (interest dividends, gains, or other earnings on principle) are included as income unless they are used to pay for the health and medical expenses of a minor

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TRUSTS (F.4.D)

Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

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FEDERAL TAX REFUNDS / REFUNDABLE TAX CREDITS (F.4.E)

Amounts received in the form of a federal tax refund or refundable tax credit are **excluded** from net family assets for a period of 12 months from receipt

If a tax refund was received during the previous 12-month period preceding the effective date of certification, then the amount of the refund is **subtracted from the total value of net family assets**

- If subtraction results in a negative number, net family assets are considered $0

Must use amount actually received, not an anticipated amount

ALERT!

This policy changed from the original Implementation Notice (9/29/23) to the revised version (2/2/24).

Original policy said subtract from the account in which the refund was deposited.

IHCDA compliance manual is outdated. Follow the new rule.

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FEDERAL TAX REFUNDS / REFUNDABLE TAX CREDITS (F.4.E)

The Rodriguez family received a $4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account. At their next annual reexamination with an effective date of 8/1/2024, the PHA/MFH Owner asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a $4,500 refund and that they deposited the refund into their checking account, which has a balance of $10,000. The Rodriguez family reports that they have actual income of $100 from the checking account this year. The family owns no other assets. Therefore, the family's total calculation of net family assets is $10,000. In determining the total value of net family assets, the PHA/MFH Owner subtracts $4,500 from the total of $10,000 of net family assets, for a total countable asset of $5,500. The full value of actual income is included as income, because actual income is always included even on excluded assets.

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ACTUAL VS. IMPUTED ASSET INCOME (F.6)

- Actual income is always included, “regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b)”

- Imputed income is now calculated **only on specific assets** if:
  - Total value of net family assets > $50,000 (adjusted for inflation*); and
  - The specific asset is included; and
  - Actual asset income **cannot** be calculated for that asset. If actual income for an asset can be calculated (even if calculated as $0), do **not** calculate imputed income for that asset.

  Use the applicable passbook savings rate (0.40% 1/1/24; 0.45% 1/1/25)

*Increased to $51,600 effective 1/1/25

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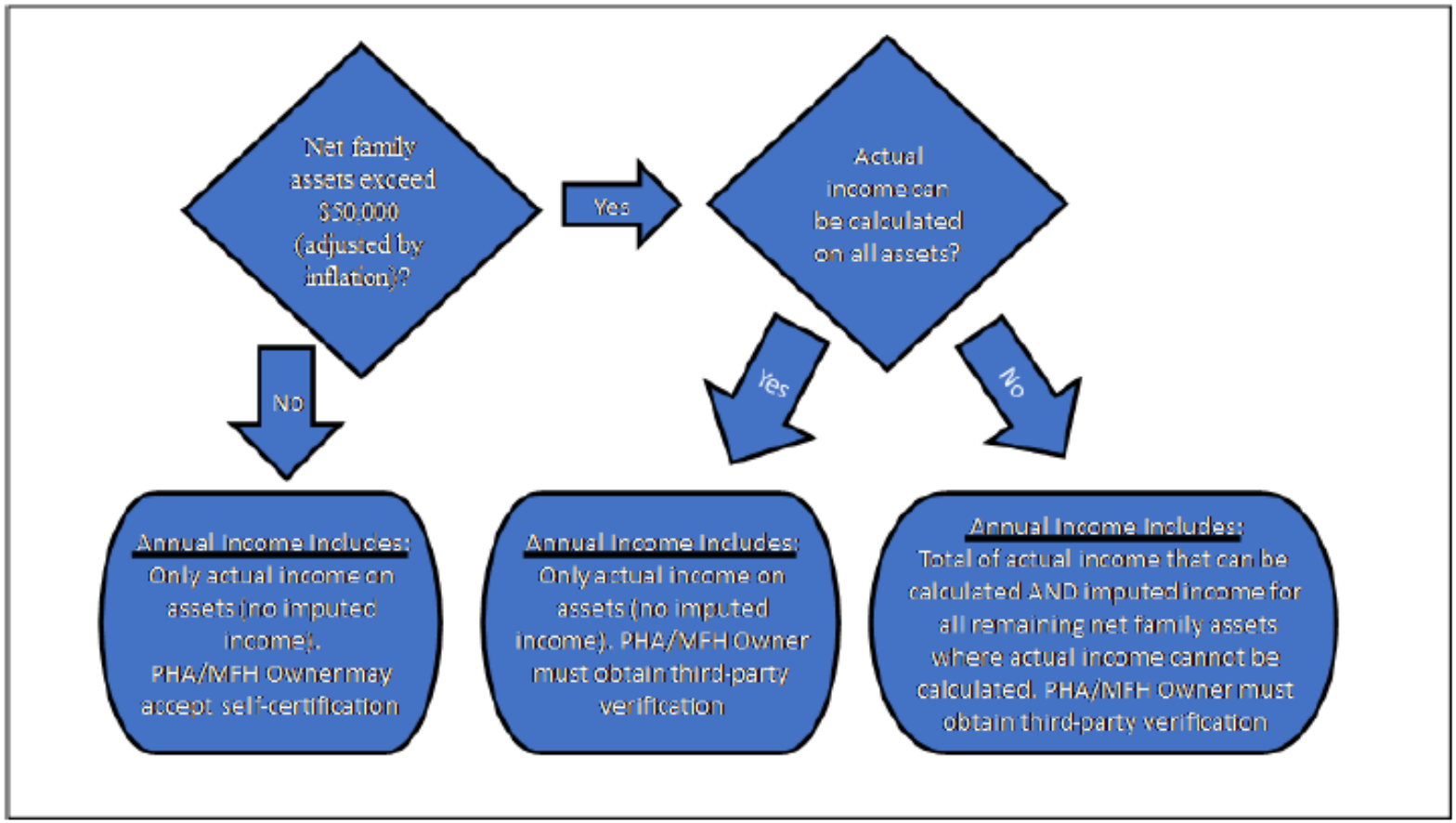
CALCULATING ASSET INCOME (F.6)

Chart F1: Decision Chart for Determining Income from Assets



PASSBOOK SAVINGS RATE (F.5)

Previous rate 0.06%

Effective 1/1/24 = 0.40%
Effective 1/1/25 = 0.45%

PHAs no longer have authority to set their own rates
HUD will adjust annually

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CALCULATING TOTAL ASSETS

Cross Family's Personal Property			
Item	**Estimated Value**	**Type**	**Amount to be considered as non-necessary personal property**
Checking account	$5,000	Non-necessary Personal Property	$5,000
Ring (engagement ring)	$3,000	Necessary Personal Property	$0
Recreational boat	$15,000	Non-necessary Personal Property	$15,000
Total Non-necessary Personal Property:			$20,000

Calculation of Cross Family's Total Net Assets	
Asset	**Total to be Considered in Net Family Assets**
Non-necessary Personal Property	$0
Real Property	$0
Total:	$0
The Cross family's total net family assets are $0.	

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CALCULATING ASSET INCOME

We know from Example F1 that the Cross family's net family assets are $0. In this case, the checking account earns 0.07 percent interest annually.

Cross Family's Personal Property

Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	$5,000	Non-necessary personal property	$5,000
Ring (engagement ring)	$3,000	Necessary personal property	$0
Recreational boat	$15,000	Non-necessary personal property	$15,000
		Total Non-necessary personal property	$20,000

Calculation of Cross Family's Total Net Assets

Asset	Total to be considered in Net Family Assets	Anticipated Income
Non-necessary Personal Property (Checking Account)	$0	$3.50
Real Property	N/A	N/A
Total:	**$0**	**$3.50**

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ASSETS REVIEW
WHAT DOES $50,000 THRESHOLD AFFECT?

The $50,000 threshold (to be adjusted by inflation*) now affects 3 separate determinations:

1. Non-necessary personal property with a combined value **≤$50,000** (adjusted for inflation) is **excluded** from net family assets (but still count the asset income)

2. Only calculate imputed asset income when total value of net family assets >$50,000 (adjusted for inflation) and then only for specific included assets for which actual asset income cannot be calculated

3. If net family assets ≤ $50,000 (adjusted for inflation), owner may accept self-cert at move-in and recert

***Effective 1/1/25 increased to $51,600**

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ASSET LIMITATIONS (A)
*NOT APPLICABLE TO LIHTC, HOME, NHTF

Asset limitations applicable to HUD PIH and Multifamily programs deny eligibility for households that:

- Own assets exceeding $100,000 (adjusted annually for inflation*); and/or
- Own real estate that is suitable for occupancy by the household
    - EXCEPTIONS:
        - Property for which family is receiving assistance under public housing manufactured home provisions or under the homeownership option of HCV
        - Property jointly owned by a member of the family and at least one non-household member who does not live with the family if the non-household member resides at the jointly owned property
        - Survivor of domestic violence, dating violence, sexual assault, or stalking
        - If property is offered for sale
    - NOT SUITABLE FOR OCCUPANCY:
        - Does not meet disability-related accessibility needs
        - Insufficient size for the family
        - Location hardship
        - Unsafe physical condition that cannot be “easily remedied”
        - Non-residential per local or state laws

***Effective 1/1/25 increased to $103,200**

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VERIFICATIONS

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SELF-CERTIFICATION OF ASSETS (F.7)

If net family assets ≤ $50,000 (adjusted for inflation*), owner may accept self-cert at move-in and recert

MINOR WARNING!: Some debate about applicability to LIHTC. Some states may not allow. Proceed with caution until you know your state's policy. However, more are adapting to $50,000 as IRS has said in e-mail that the old IRS $5,000 rule is obsolete!

IHCDA will apply to LIHTC

***Effective 1/1/25 increased to $51,600**

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HIERARCHY OF VERIFICATION (J.5)

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination. EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.

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HIERARCHY OF VERIFICATION (J.5)

3	Written, Third-Party Verification Form	Medium • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed $50,000.

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PAYSTUBS (J.5.A)

Must obtain a minimum of two current and consecutive paystubs

EXCEPTION HOME & HTF- regulations* require two months of paystubs, do not apply new HOTMA rule. IHCDA also applies HOME & HTF rules to CDBG & NSP.

For new employment or when two paystubs are otherwise not available, determine income based on a “traditional written, third-party verification form or the best available information”

Paystubs are now specifically preferred to third-party verification forms from the employer

* 24 CFR 92.203(a)(1)(i) & 24 CFR 93.151(d)

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CHECKING ACCOUNTS (J.5.A)

If verification of assets is required, “must obtain a minimum of one statement that reflects the current balance of banking/financial accounts”

6-month balance no longer required!

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INCOME VERIFIED FOR RENTAL ASSISTANCE HOME & HTF

Project Based Rental Assistance (e.g., PBV, PBRA)

- Income determinations by a state or federal rental assistance program MUST be used for HOME & NHTF purposes

Tenant Based Rental Assistance (e.g., HCV)

- Income determinations by a state or federal rental assistance MAY be used for HOME purposes if PJ requires use in its policy
    - **IHCDA will adopt this requirement**
- Income determinations by a state or federal rental assistance program MUST be used for NHTF purposes

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INCOME VERIFIED FOR RENTAL ASSISTANCE HOME & HTF

The PHA or program administrator must provide a statement that either:

- Indicates the household size and annual income; or
- Indicates the current applicable program income limit and affirms the household's annual income does not exceed the limit

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PHA VERIFIED INCOME
LIHTC

No HOTMA change, existing regulation still applies

May use PHA Certification Form (dated no more than 12 days prior to effective date) or the most recent HUD Form 50058. IHCDA still requires a TIC- the PHA Form or 50058 covers the income verification but does not replace TIC.

Treasury Regulation 1-42.5(b)(vii)

In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this paragraph (b)(1)(vii) is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under section 42 (g).

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SAFE HARBOR INCOME DETERMINATION (J.4)

PHA or Owner may rely on the income determination completed for another "means-tested" form of federal public assistance within previous 12-month period:

- Temporary Assistance for Needy Families ("TANF")
- Medicaid
- Supplemental Nutrition Assistance Program ("SNAP")
- Earned Income Tax Credit ("EITC")
- Low Income Housing Tax Credit ("LIHTC")
- Special Supplemental Nutrition Program for Women, Infants, & Children ("WIC")
- Supplemental Security Income ("SSI")
- Other programs determined by HUD to have comparable reliability as announced through the Federal Register

NOT APPLICABLE to HUD CPD PROGRAMS (HOME, HTF, etc.) or RD!

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SAFE HARBOR INCOME DETERMINATION (J.4)

Must obtain third-party verification from the applicable program administrator that meets the following requirements:

- Indicates household size and includes all household members
- Provides the annual income (not required to be broken down by member or type)
- May be in the form of an award letter from the relevant program/agency

Valid if any of the following dates falls into the 12-month period prior to receipt of verification by the PHA or owner agent

- Income determination effective date
- Program administrator's signature date
- Family's signature date
- Report effective date
- Other report-specific dates that verify the income determination date

If third-party verification is not available or household disputes, then the PHA or owner must conduct an income calculation

NOT APPLICABLE to HUD CPD PROGRAMS (HOME, HTF, etc.) or RD!

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VERIFICATIONS REVIEW DIFFERENCES FOR CPD PROGRAMS

HUD CPD programs* will differ from LIHTC and HUD MF programs in two ways:

- Continue to use old rule for paystubs (# obtained must be two full months of paystubs)
- Cannot use Safe Harbor/Means-Tested Income Determination

If combined programs (e.g., a unit that is LIHTC + HOME-assisted), use the stricter rule

*Including HOME, HTF, CDBG, CDBG-D, NSP

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IHCDA POLICIES & FORMS

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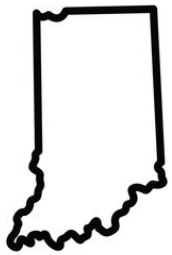
HOTMA- NOTICES RELEASED TO DATE



RED Notices about HOTMA

- RED-23-53 11/3/23- HOTMA implementation announcement
- RED-23-54 11/6/23- updated compliance manuals
- RED-23-58 12/8/23- first batch of form revisions
- RED-24-07 1/24/24- HOTMA clarifications and minor manual revisions
    - Clarified different rules applicable to HUD CPD programs
    - Manual revised to remove Safe Harbor Income Verification option for CPD programs
- RED 24-15 4/1/24- final form revisions
    - TICs
    - Income Questionnaire amended with updated rule on tax returns
- RED 24-16 4/4/24- announcement of updated HOTMA webinar
- RED 24-34 6/25/24- HOTMA TIC Implementation Deadline Extended
- RED 24-43 8/16/24 – 2025 HOTMA Annual Inflationary Adjustments and Passbook Rate

Access Real Estate Department (RED) Notices at https://www.in.gov/ihcda/newsroom/red-notices/

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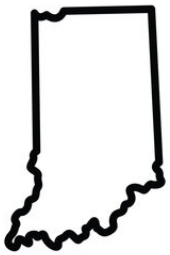
HOTMA- UPDATED FORMS & MANUALS



IHCDA items already updated:

- *Rental Housing Tax Credit Compliance Manual*
- *Federal Programs Ongoing Rental Compliance Manual*
- All versions of the Tenant Income Certification (TIC) form
- Form #2: Asset Verification
- Form #3: Bank Verification
- Form #4: Child or Spousal Support Certification
- Form #8: Employment Verification
- Form #16A: PHA Income Verification
- Form #16B: Other Rental Assistance Program Income Verification
- Form #21: Student Status Verification
- Form #23: Income Certification Questionnaire
- Form #26-2024: Under $50,000 Asset Certification
- Form #26-2025: Under $51,600 Asset Certification
- Form #49: Student Financial Assistance Verification
- Form #51: Safe Harbor Verification of Income for Means-Tested Forms of Federal Public Assistance

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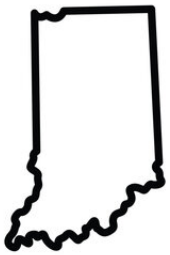
HOTMA- UPDATED FORMS & MANUALS



Mandatory Forms Implementation Dates:

Updated HOTMA versions of the TIC must be used for tenant files with an effective date on or after 1/1/25

Updated HOTMA version of the Income Questionnaire (Form #23) must be used for files with an effective date on or after 7/1/24

ALERT!

IHCDA compliance manual is outdated.

Follow the new deadlines established in RED Notices 24-15 and 24-34.

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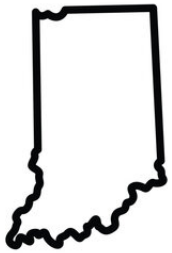
HOTMA- ITEMS TO BE UPDATED



IHCDA items still to be updated:

- Housing Choice Voucher Administrative Plan
- Additional guidance and forms for voucher programs

- Next round of Compliance Manual updates:
  - Update mandatory IHCD form implementation dates (RED Notices 24-15 and 24-34)
  - List 2025 HOTMA Annual Inflationary Adjustments and Passbook Rate (RED Notice 24-51)
  - Amend language on federal tax refunds to match revised HOTMA Implementation Notice (new rule already effective, manual outdated)
  - Amend language on disposed of assets to remove $1000 test (new rule already effective, manual outdated)
  - Clarifications on student financial assistance, garnishment, and nonrecurring income
  - HOTMA penalties for noncompliance extended from 1/1/25 to 7/1/25

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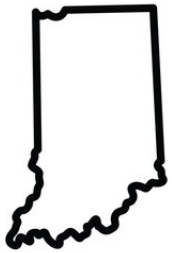
HOTMA- MONITORING



IHCDA will begin monitoring for HOTMA compliance with 2024 monitoring

Will provide grace period:

- We know files may have been completed prior to updated manuals and forms
- We recognize that HOTMA has a steep learning curve

"IHCDA will note HOTMA related noncompliance issues identified in calendar year 2024 and will require necessary corrective action. However, IHCDA will not impose penalties for HOTMA specific issues identified prior to July 1, 2025- i.e., will not issue 8823s, suspend partners, or impose fines for items specifically linked to HOTMA changes."

- Aligns with HUD MF policy on MORs in 2024
- Aligns with RD policy- "will not penalize owners for HOTMA-related tenant file issues during…reviews conducted prior to January 1, 2025"

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IHCDA RESOURCES

HOTMA materials available in the new HOTMA subsection of the IHCDA compliance webpage

https://www.in.gov/ihcda/developers/red-compliance/

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NEXT STEPS FOR OWNER AGENTS

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WHAT SHOULD YOU DO NEXT? IMMEDIATE STEPS

- Review your template verification forms
- If you do not use the IHCDA template TIC and Income Questionnaire forms, submit updated versions of your forms for IHCDA approval
- Review your internal policies and procedures
- Train, train, train!
- Don’t panic ☺… we can do this!
- If HUD MF funded- ensure TSPs and EIV policies are updated by 5/31/24

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WHAT SHOULD YOU DO NEXT? ONGOING STEPS

- Stay tuned for future updates:
  - Annual updates to $480 dependent student and foster assistance
  - Annual updates to passbook savings rate
  - Annual inflation adjusted updates to $50,000 asset threshold
  - Annual inflation adjusted updates to $100,000 asset limitation (for applicable programs)
  - Potential future updates to exclusions and Safe Harbor means-tested programs
  - HUD CPD Implementation Guidance

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QUESTIONS / COMMENTS

MATT RAYBURN
MRAYBURN@IHCDA.IN.GOV
317-233-9564

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