



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

SPECIAL ATTENTION OF:

Office Directors of Public Housing;
Regional Directors; Public Housing
Agencies

NOTICE PIH 2024-38

Issued: December 17, 2024

Expires: This notice remains in effect until
amended, superseded or rescinded.

Cross References: Notice PIH 2023-27, Notice H
2024-09

Subject: Housing Opportunity Through Modernization Act (HOTMA) Sections 102 and 104: Updated Guidance to Public Housing Agencies (PHAs) on Compliance

I. Purpose

The purpose of this Notice is to identify which income and assets provisions from Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) that Public Housing Agencies (PHAs) must comply with no later than July 1, 2025.¹

Section 6.1 of Notice PIH 2023-27 previously established a compliance deadline of January 1, 2025, by which PHAs had to fully comply with the HOTMA final rule.² This Notice supersedes, in part, Section 6.1 of Notice PIH 2023-27. This Notice indicates that for the specific HOTMA provisions identified below, the new deadline for PHA compliance is July 1, 2025. For all other provisions that are not identified in this Notice, HUD will not enforce PHA compliance by January 1, 2025.

II. Background

HOTMA was signed into law on July 29, 2016 (Pub. L. 114-201). The final rule implementing Sections 102 and 104 of HOTMA (88 FR 9600) became effective January 1, 2024. HUD initially provided, in the HOTMA Section 102 and 104 Implementation

¹ References to form HUD-50058 in this notice take on the meaning of form HUD-50058 MTW for MTW PHAs and form HUD-50058 MTW Expansion for MTW Expansion PHAs.

² [Housing Opportunity Through Modernization Act of 2016; Implementation of Sections 102, 103, and 104](#). 88 Fed. Reg., 9,600. February 14, 2023.

Guidance (Notice PIH 2023-27),³ that PHAs could set a compliance date between January 1, 2024, and January 1, 2025, based on when the PHA's software could submit to HIP.

Due to further IT system development delays, HUD will not enforce compliance with all Section 102 and 104 income and assets provisions by January 1, 2025.⁴ PHAs will not have software capable of submitting HOTMA-compliant forms to HIP by January 1, 2025, because HIP development has not been completed. The IMS/PIC legacy system reflects pre-HOTMA requirements in many places. When the timeline for completion of HIP development and PHA migration is known, HUD will issue further guidance on the deadline to comply with any outstanding provisions of Sections 102 and 104. HUD will provide regular updates on the progress of systems development.

III. Applicability

This notice applies to PHAs administering Office of Public and Indian Housing (PIH) programs (HCV [including Project-Based Vouchers], Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing), including PHAs that participate in the Moving to Work (MTW) Demonstration.⁵

IV. PHA Compliance with HOTMA Sections 102 and 104

A. HUD Enforcement Prior to July 1, 2025

1. Earned Income Disregard

Regulation: 24 CFR 5.611

PHAs must have ceased enrolling families into the Earned Income Disregard (EID) as of December 31, 2023. EID will not apply to any family that was not eligible for and already participating in the disregard as of December 31, 2023. Please refer to Notice PIH 2023-27, Attachment G, Section G.20, for guidance on the end of EID.⁶

2. Form HUD-9886-A

Regulation: 24 CFR 5.230, 5.232

PIH communicated by letter on February 23, 2024, that PHAs may begin having families sign the new Form HUD-9886-A (Authorization for the Release of Information/Privacy Act Notice) on January 1, 2024. The Form HUD-9886-A instructs readers to use the HUD-9886-A for reexaminations effective on or after January 1, 2024, and to use Form HUD-9886 for reexaminations effective prior to January 1,

³ Notice PIH 2023-27, [Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#). Re-issued February 2, 2024.

⁴ PIH Message to Public Housing Agencies. "[HOTMA 102/104 Income and Assets Rule Compliance](#)." September 18, 2024.

⁵ The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect.

⁶ PIH Message to Public Housing Agencies. "[Updates on HIP and HOTMA Implementation](#)." February 23, 2024.

2024. Please refer to Notice PIH 2023-27, Attachment J, Section J.1 for guidance on the authorization for release of information form. Form HUD-9886 expires on January 31, 2025, at which point the Form HUD-9886-A will be the only approved version of the authorization for release of information form. PHAs must transition to using the Form HUD-9886-A by February 1, 2025.

PHAs that have begun use of the Form HUD-9886-A must also start implementing policies related to the revocation of consent. Please refer to Notice PIH 2023-27, Attachment J for guidance on the new authorization for the release of information form (HUD-9886-A) and the family's ability to revoke consent. Section J.1 provides guidance on the use of the Form HUD-9886-A. Notice PIH 2023-27, Attachment J, Section J.2 provides guidance on revocation of consent.

B. HUD Enforcement Beginning July 1, 2025

This Notice identifies additional provisions in Sections 102 and 104 of HOTMA that PHAs must comply with no later than July 1, 2025. HUD has determined that PHAs can comply with these specific provisions while they remain in IMS/PIC, prior to the availability of HOTMA-compliant HUD-50058 forms in HIP. All transactions with an effective date on or after July 1, 2025, must be processed using these HOTMA policies. Since the reexamination process typically starts 90-120 days prior to the effective date of the transaction, this means that PHAs may need to utilize such policies in reexaminations as soon as March 3, 2025.

This compliance deadline does not apply to other provisions, which require systems development. For provisions not on this list, HUD either identified technical obstacles in IMS/PIC that PHAs would encounter when trying to report HUD-50058 transactions that used such provisions, or the provision is closely linked to other HOTMA provisions that have similar obstacles. For example, HOTMA raised the Elderly/Disabled Family deduction to \$525 effective January 1, 2024, but PHAs in IMS/PIC are unable to comply with this change, because they are unable to submit transactions at the higher amount.

PHAs may immediately begin complying with HOTMA provisions identified below, once they have made any necessary updates to their materials and processes. HUD encourages PHAs to consult with their software vendors prior to beginning to implement these provisions, to ensure HUD-50058 transactions are submitted successfully.

1. Income Exclusions

Regulation: 24 CFR 5.609(b)

PHAs may immediately begin to implement income exclusions in 24 CFR 5.609(b), on all income examinations including at new admissions, annual, or interim reexaminations. For all income examinations with an effective date on or after July 1, 2025, PHAs must utilize the list of income exclusions. Please note that Notice PIH 2023-27 does not reference all income exclusions, but rather provides guidance on

new or revised income exclusions. For the full list of income exclusions, please refer to the regulations at 24 CFR 5.609(b).

Please refer to Notice PIH 2023-27, Attachment G, for guidance on the following new and revised exclusions:

- Nonrecurring Income (24 CFR 5.609(b)(24))
- Lump-Sum Additions to Net Family Assets (24 CFR 5.609(b)(24)(vii))
- Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account (24 CFR 5.609(b)(27))
- Income of Live-in Aides, Foster Children, and Foster Adults (24 CFR 5.609(b)(8))
- Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments (24 CFR 5.609(b)(4))
- Insurance Payments or Settlements (24 CFR 5.609(b)(5))
- Civil Action Recoveries or Settlements (24 CFR 5.609(b)(7))
- Earned Income of Dependent Full-Time Students (24 CFR 5.609(b)(14))
- Adoption Assistance Payments (24 CFR 5.609(b)(15))
- Veterans Regular Aid and Attendance (24 CFR 5.609(b)(17))
- Home-Based Care Payments for a Family Member(s) with one or more Disabilities (24 CFR 5.609(b)(19))
- Loan Proceeds (24 CFR 5.609(b)(20))
- Certain Payments Received by Tribal Members (24 CFR 5.609(b)(21))
- Exclusions from Other Federal Statutes (24 CFR 5.609(b)(22))
- Replacement Housing Gap Payments (24 CFR 5.609(b)(23))
- Student Financial Assistance (24 CFR 5.609(b)(9))
- Achieving a Better Life Experience (ABLE) Accounts (24 CFR 5.609(b)(22))
- Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts, and "Baby Bond" Accounts (24 CFR 5.609(b)(10))
- Gross Income from Self-Employment or Operation of a Business (24 CFR 5.609(b)(24) and 5.609(b)(28))
- Civil Rights Settlements or Judgments (24 CFR 5.609(b)(25))

Please refer to Notice PIH 2023-27, Attachment F, Section F.4.d.iii for guidance on the income exclusion at 24 CFR 5.609(b)(2):

- Certain distributions of irrevocable trusts or revocable trusts outside the control of the family or household (including most Special Needs Trusts) (24 CFR 5.609(b)(2))

Note that adoption of some new or revised definitions below may affect the calculation for certain income exclusions. For example, the revised definition of the term "health and medical care expenses" may affect the income exclusion at 24 CFR 5.609(b)(6):

- Amounts for or in reimbursement of the cost of health and medical care expenses (24 CFR 5.609(b)(6))

2. Definitions

Regulation: 24 CFR 5.100, 5.403, 5.603

PHAs may immediately begin to use the following definitions. For all transactions with an effective date on or after July 1, 2025, PHAs must use these definitions.

- “Earned income” and “unearned income” (24 CFR 5.100). Please refer to Notice PIH 2023-27, Attachment F, Sections F.2 and F.3 for guidance on these definitions.
- “Family” (24 CFR 5.403). Please refer to Notice PIH 2023-27, Attachment E, Section E.1 for guidance on the definition of family.
- “Day laborer,” “independent contractor,” and “seasonal worker” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment F, Sections F.2.a, F.2.b, and F.2.c for guidance on these definitions.
- “Dependent” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment E, Section E.2 for guidance on the revision to this definition.
- “Foster child” and “foster adult” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment E, Section E.2 for guidance on these definitions. **Note:** The definitions of “foster child” and “foster adult” were added to 24 CFR 982.4 as part of a final rule published on May 7, 2024 (“Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes,” 89 FR 38224), and this rule did not have a delayed compliance date.⁷ For the Housing Choice Voucher program [including Project-Based Vouchers], PHAs must already be implementing the definition of “foster child” and “foster adult”.
- “Health and medical care expenses” (24 CFR 5.603). Please refer to Notice PIH 2023-27, Attachment C, Section C.3.b for guidance on this definition.
- “Minor” (24 CFR 5.603).

3. De Minimis Errors

Regulation: 24 CFR 5.609(c)(4); 882.515(f); 882.808(i)(5); 960.257(f); and 982.516(f)

Please refer to Notice PIH 2023-27, Attachment B, Section B.4 for guidance on de minimis errors, which includes guidance on when PHAs must take corrective action to credit or repay a family.

⁷ [Housing Opportunity Through Modernization Act of 2016 – Housing Choice Voucher \(HCV\) and Project-Based Voucher Implementation; Additional Streamlining Changes](#), 89 Fed. Reg., 38,224, May 7, 2024.

C. Summary of Compliance Requirements

The table below summarizes the provisions of Sections 102 and 104 of HOTMA identified in this Notice and their respective compliance deadlines.

Provisions	Required Compliance Date
Ceasing Enrollment into Earned Income Disregard (EID)	January 1, 2024
Use of HUD-9886-A	No later than February 1, 2025
Income Exclusions	No later than July 1, 2025
Definitions	No later than July 1, 2025
De Minimis Errors	No later than July 1, 2025

HUD will not be enforcing compliance with any other provision by January 1, 2025.⁸ HUD will issue further guidance on the compliance deadline for all other provisions, when there is more information about when PHAs will be able to submit HOTMA-compliant HUD-50058 forms in HIP.

V. Further Information

Questions concerning this notice should be submitted by email to the following Office of Public Housing and Voucher Programs mailbox: HOTMAQuestions@hud.gov.



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Public and Indian Housing

⁸ HUD has also determined that PHAs can implement two discretionary provisions of Sections 102 and 104 of HOTMA while they remain in IMS/PIC, prior to the HOTMA-compliant HUD-50058 forms becoming available in HIP. As previously noted, PHAs may start implementing the “Safe Harbor” income verification option of the HOTMA final rule. Please refer to Notice PIH 2023-27, Attachment J, Section J.4 for guidance on Safe Harbor income verification. If a PHA chooses to adopt this policy while in IMS/PIC, they must list the annual income from the other program’s determination in Section 7 of the HUD-50058 for the Head of Household using the “Other Non-Wage Sources” income code. Additionally, PHAs may choose not to use the Enterprise Income Verification (EIV) system to verify tenant employment and income information during an interim reexamination of family composition and income. Please refer to Notice PIH 2023-27, Attachment J, Section J.3, for guidance on mandated and discretionary use of the EIV system. PHAs may choose to continue to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income.