

**HOTMA**

Housing Opportunity Through Modernization  
Act of 2016

# SECTION 102 and 104 UPDATE

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# HOTMA

Housing Opportunity Through Modernization Act of  
2016

## LATEST NEWS

### HOUSING INFORMATION PORTAL



HUD intended to have the HIP software ready to support a new HOTMA 50058 form ahead of the January 1, 2025 original HOTMA deadline. That has not happened and the future of HIP and the majority of HOTMA is uncertain.



# HOTMA

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## LATEST NEWS

### HUD HOTMA IMPLEMENTATION GUIDANCE



Notice PIH 2024-38 was issued on December 18, 2024. The notice states that all transactions with an effective date on or after July 1, 2025 must be processed using HOTMA requirements in the notice. Since annual reexaminations are processed 90 to 120 days prior to the effective date of the reexam, provisions listed in the notice are actually going to be implemented by PHAs as soon as **March 3, 2025**, depending on when your PHA starts processing annuals.

# HOTMA

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## HUD HOTMA IMPLEMENTATION GUIDANCE



1. Have stopped enrolling families in the Earned Income Disregard Program (EID).
2. Have transitioned to the new form HUD-9886-A (Authorization for the Release of Information).
3. Apply the newly added or HOTMA updated income exclusions (20 Exclusions).
4. Apply provisions related to de minimis errors.
5. Use of new HOTMA definitions.

# **HOTMA**

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## 1. Have stopped enrolling families in the Earned Income Disregard Program (EID).

The HUD Earned Income Disregard (EID) program, was mandatory program implemented in 1999, which allows public housing tenants with zero income at admission and Section 8 participants with disabilities to disregard a portion of their earned income when calculating their rent. This encouraged employment by allowing individuals to keep more of their earned income for a period of up to two years following an increase in employment income

The EID Program option is eliminated. Only families currently enrolled may continue receiving benefits until the allowed time frame expires. No new families may be added.

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## 2. Have transitioned to the new form HUD-9886-A (Authorization for the Release of Information).

All applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination.

After an applicant or participant has signed and submitted a consent form, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

OMB Control Number: 2577-0295  
*Use this form for reexaminations effective on or after January 1, 2024. Use form HUD-9886 for reexaminations effective prior to January 1, 2024.*

Authorization for the Release of Information/Privacy Act Notice to the U.S. Department of Housing and Urban Development and the Housing Agency/Authority (HA)  
U.S. Department of Housing and Urban Development, Office of Public and Indian Housing

PHA or IHA requesting release of information (full address, name of contact person, and date):

**Authority:** Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 903 of the Housing and Community Development Act of 1992 and Section 3003 of the Omnibus Budget Reconciliation Act of 1993. This law is found at 42 U.S.C. 3544. This law requires you to sign a consent form authorizing: (1) HUD, and the Housing Agency/Authority (HA) to request verification of salary and wages from current or previous employers; (2) HUD and the HA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information; and (3) HUD to request certain tax return information from the U.S. Social Security Administration and the U.S. Internal Revenue Service.

Section 104 of the Housing Opportunity and Modernization Act of 2016. The relevant provisions are found at 42 U.S.C. 1437n . This law requires you to sign a consent form authorizing the HA to request verification of any financial record from any financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401)), whenever the HA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

**Purpose:** In signing this consent form, you are authorizing HUD and the above-named HA to request income information from the sources listed on the form. HUD and the HA need this information to verify your household's income, in order to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. HUD and the HA may participate in computer matching programs with these sources in order to verify your eligibility and level of benefits.

**Uses of Information to be Obtained:** HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. HUD may disclose information (other than tax return information) for certain routine uses, such as to other government agencies for law enforcement purposes, to Federal agencies for employment suitability purposes and to HAs for the purpose of determining housing assistance. The HA is also required to protect the income information it obtains in accordance with any applicable State privacy law. HUD and HA employees may be subject to penalties for unauthorized disclosures or improper uses of the income information that is obtained based on the consent form. **Private owners may not request or receive information authorized by this form.**

**Who Must Sign the Consent Form:** Each member of your family who is 18 years of age or older must sign the consent form. Additional signatures must be obtained from new adult members joining the family or whenever members of the family become 18 years of age.

Persons who apply for or receive assistance under the following programs are required to sign this consent form:

Public Housing  
Housing Choice Voucher  
Section 8 Moderate Rehabilitation

**Failure to Sign Consent Form:** Your failure to sign the consent form may result in the denial of eligibility or termination of assisted housing benefits, or both. Denial of eligibility or termination of benefits is subject to the HA's grievance procedures and Section 8 informal hearing procedures.

**Revocation of consent:** If you revoke consent, the PHA will be unable to verify your information, although the data matches between HUD and other agencies will continue to automatically occur in the Enterprise Income Verification (EIV) System if the family is not terminated from the program.

**Sources of Information to be Obtained**

State Wage Information Collection Agencies. (This consent is limited to wages and unemployment compensation I have received when I have received assisted housing benefits.)

U.S. Social Security Administration (HUD only) (This consent is limited to the wage and self-employment information and payments of retirement income as referenced at Section 6103(l)(7)(A) of the Internal Revenue Code.)

U.S. Internal Revenue Service (HUD only) (This consent is limited to unearned income [i.e., interest and dividends].)

Information may also be obtained directly from: (a) current and former employers concerning salary and wages; and (b) financial institutions as defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the HA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits. I understand that income information obtained from these sources will be used to verify information that I provide in determining eligibility for assisted housing programs and the level of benefits. Therefore, this consent form only authorizes release directly from employers and financial institutions of information.

Original is retained by the requesting organization.

ref. Handbooks 7420.7, 7420.8, & 7465.1

form HUD-9886-A (10/23)  
exp. 10/31/26



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## 3. Apply the newly added or updated HOTMA income exclusions (20 exclusions revised or newly added).

- **Certain trust distributions** from irrevocable/revocable trusts outside the family's control are excluded (5.609(b)(2)). (Income only counted when it is accessible and earned. Distributions such as principal is not counted).
- **Earned income of dependents under 18** is excluded; only their unearned income counts (5.609(b)(3)).
- **Payments for foster children/foster adults** (incl. state or Tribal kinship/guardianship payments like Kin-GAP) are excluded (5.609(b)(4) & (8)).
- **Insurance payments/settlements** for personal or property losses are excluded (5.609(b)(5)).
- **Health & medical care reimbursements** that offset documented expenses are excluded (5.609(b)(2)(i)(B)).
- **Non-recurring income** that will not repeat in the coming year is excluded (5.609(b)(24)). Lottery, US Census work, gifts for a life event.
- **Civil rights settlements or judgments** are excluded (5.609(b)(25)).
- **Gross self-employment/business receipts** are excluded to the extent only net income is counted (clarified at 5.609(b)(24) & (28)).
- **Amounts excluded by other federal statutes** stay excluded; HUD will maintain the qualifying list (5.609(b)(22)).

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### 3. State Payments to Allow Individuals with Disabilities to Live at Home

The regulation at 24 CFR § 5.609(b)(19) is as follows:

Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit are excluded from the calculation of the family's annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

Question: For families that receive Personal Preference Program (PPP) payments, is this income excluded for those that are caring for the family member that are not on the lease?



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## 3. Clarification for Students under the HCV Program

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

However, for over 10 years through FY 2022, HUD appropriations have included a provision that for Section 8 students who are age 23 and under or without dependent children any amounts received in excess of tuition and any other required fees and charges shall be considered income.

This limitation has been interpreted to apply when the student is the head of household or spouse, but not when the student resides with parents in a Section 8 unit (71 FR 18146). For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants.

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### 3. Student Financial Assistance for PH Participants

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

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.	
Total assistance received under 479B of HEA: \$25,000 (Federal Pell Grant)  Total other student financial assistance received: \$18,000	Juan's actual covered costs: \$28,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance.  \$28,000 (actual covered costs) <b>minus</b> \$25,000 (total assistance received under 479B of HEA) <b>equals</b> \$3,000	Step 2: Determine amount of student financial assistance to include in income.  \$18,000 (other student financial assistance received) <b>minus</b> \$3,000 (actual covered costs exceeding section 479B assistance) <b>equals</b> \$15,000 (if negative, then use \$0)
Amount of student financial assistance included in Juan's income: \$15,000	

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### 3. Student Financial Assistance for PH Participants

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

<p>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.</p> <p>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).</p>	
<p>Total assistance received under 479B of HEA: \$2,000 (Federal Perkins Loan)</p> <p>Total other student financial assistance received: \$500</p> <p>Total non-student financial assistance: \$1,000</p> <p>Total student financial assistance: \$2,500</p>	<p>Sarah's actual covered costs: \$3,000</p>
<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$3,000 (actual covered costs) <b>minus</b> \$2,000 (total assistance received under 479B of HEA) <b>equals</b> \$1,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>\$500 (other student financial assistance received) <b>minus</b> \$1,000 (amount of actual covered costs exceeding section 479B assistance) <b>equals</b> -\$500 (if negative, then use \$0)</p>
<p>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.</p> <p>Amount of student financial assistance included in Sarah's income: \$0</p>	



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### 3. Student Financial Assistance for PH Participants

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

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.	
Total assistance received under 479B of HEA: \$22,000 (Federal Pell Grant plus Federal Perkins Loan)  Total other student financial assistance received: \$1,000	Dante’s actual covered costs: \$16,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance.  \$16,000 (actual covered costs) <b>minus</b> \$22,000 (total assistance received under 479B of HEA) <b>equals</b> \$-6,000	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
Amount of student financial assistance included in Dante’s income: \$1,000	

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3. Student Financial Assistance for Section 8 Participants

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 determines 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.	
Total assistance received under 479B of HEA: \$12,000 (Federal Pell Grant)	Total tuition + required fees and charges: \$27,000
Total other student financial assistance received: \$25,000	
Total student financial assistance from all sources: \$37,000	
Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: \$37,000 – \$27,000 = \$10,000	
The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.	
Excess student financial assistance: \$10,000	
Amount of student financial assistance included in Roberto’s income: \$10,000	

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### 3. Student Financial Assistance for Section 8 Participants

Cedric is a 28-year-old head of household and a full-time student with a 5-year-old daughter and a 9-year-old son who are his dependents. The PHA will follow the rules under § 5.609(b)(9) (the same as for non– Section 8 programs). Cedric received the following amounts to cover his first year of college: Teach Grant: \$8,000; Federal Pell Grant: \$3,000; College Scholarship: \$6,000.	
Total assistance received under 479B of HEA: \$11,000 (Teach Grant plus Federal Pell Grant)  Total other student financial assistance received: \$6,000	Total tuition + required fees and charges: \$26,000
Step 1: Determine amount of tuition plus required fees exceeding 479B assistance. \$26,000 (total tuition + required fees and charges) <b>minus</b> \$11,000 (total assistance received under 479B of HEA) <b>equals</b> \$15,000	Step 2: Determine amount of student financial assistance to include in income. \$6,000 (other student financial assistance received) <b>minus</b> \$15,000 (amount of tuition + required fees and charges exceeding 479B assistance) <b>equals</b> –\$9,000 (if negative, then use \$0)
The amount of other student financial assistance received by Cedric does not exceed the total amount of tuition and required fees and charges.	
Excess student financial assistance: \$0	
Amount of student financial assistance included in Cedric’s income: \$0	



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4. Apply provisions related to de minimis errors.
  - A **Housing Agency (PHA)** makes a determination of a family's income that differs from the correct amount by **no more than \$30/month**.
  - HUD will **not penalize** the PHA for this error during Management or Occupancy Reviews.
  - The PHA must **still correct the certification**, but:
    - If the family was **overcharged**, the PHA must **repay or credit** the family retroactively.
    - If the family was **undercharged**, the error is corrected going forward—**no repayment required** from the family.

“The family’s rent portion will be temporarily adjusted down with additional HAP going to the property owner. The JCHA will send a letter to the family and the landlord prior to the change in payments notifying them of the change and the duration of the change. If the participant has vacated the unit, the credit will be mailed or provided to the family within [1 month] of becoming aware of the error. If the error in rent calculation is caused by the information reported by the resident at admission or any re-examination, resulting in an overpayment by the resident, the resident’s rent will decrease effective the month after reporting.”

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## HUD HOTMA IMPLEMENTATION GUIDANCE



### 5. Use of new HOTMA Definitions

Most of the new and revised definitions identified in Notice PIH 2024-38 relate to new and revised income exclusions, so PHAs will use those definitions when determining whether a particular source of income is partially or fully excluded from the annual income determination.

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New HOTMA Definitions in Effect

## HUD HOTMA IMPLEMENTATION GUIDANCE



**“Earned income” & “unearned income” (24 CFR 5.100):** Used to apply exclusions like 5.609(b)(3) (earned income of children <18) and 5.609(b)(14) (portion of dependent students’ earnings over the deduction).

**“Family” (5.403):** Determines basic eligibility for PIH programs; HOTMA expanded which single persons qualify as a “family” Ex. A single person family can be a youth aged 18-24 who has left foster care.

**“Day laborer,” “independent contractor,” “seasonal worker” (5.603):** These terms support the nonrecurring income exclusion at 5.609(b)(24). HUD wants to make sure that income that is “sporadic” or “temporary” but recurs (Ex. Seasonal work or irregular gig income) is no longer excluded.



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New HOTMA Definitions in Effect

**“Dependent” (5.603):** Clarifies (explicitly) that foster children and foster adults are **not** part of the assisted family and aren’t counted as dependents—this wasn’t a policy change, just codified.

**“Foster child” & “foster adult” (5.603):** New definitions; used in exclusions at 5.609(b)(4) & (8) (payments for their care; income of live-in aides, foster children/adults).

**“Health and medical care expenses” (5.603):** Replaces “medical expenses” in exclusions at 5.609(b)(2)(i)(B) and 5.609(b)(6).

**“Minor” (5.603):** Amends the definition to address the trust distribution exclusion at 5.609(b)(2)(i)(B). When proceeds from a trust distribution is used to pay for medical or health care expenses of a minor it is excluded as income.

## HUD HOTMA IMPLEMENTATION GUIDANCE



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## Deferred HOTMA Regulations

### HUD HOTMA IMPLEMENTATION GUIDANCE



1. All asset provisions including asset limitations and ownership of real property
2. All adjusted income provisions for example allowances for senior/disable \$400 to \$525 and medical deduction for out of pocket expenses.
3. Inflationary adjustments (Ex. Allowances)
4. Percentage thresholds for interim re-examination triggers

# NEXT STEPS

## UPDATE YOUR POLICIES:

Admissions and Occupancy Policy and your Administrative Plan needs to be update to comply with HOTMA. There are discretionary policies that need to be taken into account.

## UPDATE YOUR PHA PLAN:

The local policies can be approved by residents through the Annual PHA Plan process. Otherwise the substantial deviation route must be taken.

## UPDATE ALL FORMS:

All PHA affected forms need to be updated.

## TRAINING:

Staff and supervisors will need to receive training to adjust to new rules, regulations, and expectations.



# RESOURCES



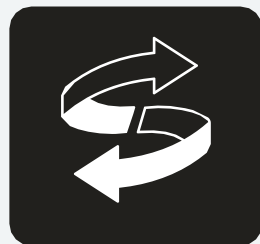
## NOTICE PIH 2023-03:

Supplemental guidance for the implementation of Section 103. Published November 2, 2023.



## NOTICE PIH 2024-38:

Implementation guidance for Section 102 and 104. published on December 18, 2024. Outlines a tiered timed approach to implementing HOTMA initiatives.



## HUD EXCHANGE

Guidance including fact sheets and resource sheets.

[www.hudexchange.info](http://www.hudexchange.info)

DEPARTMENT  
OF  
HOUSING  
AND  
URBAN  
DEVELOPMENT

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THE END