Multifamily Housing Programs
List of Discretionary Policies to Implement HOTMA

This chart is meant to help MFH owners think about the policies they need to set in their Tenant Selection Plans (TSPs).

Topic	HOTMA Policy Background	HOTMA Discretionary Policies These are policy choices that MFH Owners must make and include in their TSPs.
Asset Limitation for New Admissions (24 CFR § 5.618) **Section 8 and 202/8 programs only.**	• MFH Owners must deny admission of an applicant family for the following: 1. Net family assets that exceed $100,000 (adjusted annually for inflation); and/or 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence. • MFH Owners must include this admission and termination policy in their TSPs.	No discretion.

Asset Limitation for Interim and Annual Reexaminations (24 CFR § 5.618) **Section 8 and 202/8 programs only.**	• MFH Owners must initiate eviction termination (Section 8 and 202/8) of a family's assistance no later than six months after the effective date of an annual or interim reexamination for the following: 1. Net family assets that exceed $100,000 (adjusted annually for inflation); and/or 2. The family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell the real property (based on laws of the state or locality in which the property is located) that is suitable for occupancy by the family as a residence.	**<u>Non-enforcement policy & cure period:</u>** • MFH Owners may choose to establish a written policy to not enforce the asset limitation for all families, for up to six months after the effective date of a family's annual or interim reexamination. Families are given the opportunity to cure noncompliance with the asset limitation during this period. • Non-enforcement policies must address the timeframe for curing non-compliance (e.g., MFH Owners may choose to adopt policies to allow any number of months, up to six months, to cure). **<u>Asset limitation exception policy & cure period (interim/annual reexamination only):</u>** • MFH Owners may also establish in written policy exceptions to the asset limitation based on family type and may take into consideration such factors as age, disability, income, the ability of the family to find suitable alternative housing, and whether supportive services are being provided. • Excepted families are given the opportunity to cure noncompliance with the asset limitation during this period (e.g., MFH Owners may choose

		to adopt policies to allow any number of months, up to six months, to cure). • Exception policies **must** conform with applicable fair housing statues and regulations. Exception policies must address which families are excepted and the timeframe for curing compliance. ***Note:*** MFH Owners may establish **both** non-enforcement and exception policies. MFH Owners who do not establish nonenforcement and/or exception policies must include a policy in the TSP to indicate when they will initiate termination proceedings after participant families are determined to be out of compliance. MFH Owners may delay initiation of termination for up to six months after the effective date of a family's annual or interim reexamination. The above discretion is **not** applicable to eligibility determinations for new admissions.

Self-Certification – Real Property Ownership (24 CFR § 5.618(b)(2)) **Section 8 and 202/8 programs only.**	• MFH Owners must determine whether a family has present ownership in real property for the purposes of determining whether the family is compliant with the asset limitation provision. • If a family declares present ownership in real property, MFH Owners must seek third-party verification of the following, as applicable: o Whether or not the family has the legal right to reside in the property; and o Whether or not the family has the effective legal authority to sell the property; and o Whether or not the property is suitable for occupancy by the family as a residence.	• MFH Owners may rely upon a self-certification from the family at both admission and reexamination stating that they do not have any present ownership interest in any real property. • MFH Owners must include in their TSPs whether they will accept a family's self-certification of present ownership of real property. • In the case of a family member who is a victim of domestic violence, dating violence, sexual assault, or stalking, the MFH Owner must comply with the confidentiality requirements under 5.2007. The MFH Owner must accept a self-certification from the family member, and the restrictions on requesting documentation under § 5.2007 apply.
Self-Certification of Net Family Assets Equal to or Less Than $50,000 (adjusted annually for inflation) (24 CFR §§ 5.603; 5.609; 5.618; 5.659;	• MFH Owners must determine if the family's total net family assets are equal to or less than $50,000 (adjusted annually for inflation), and they must determine the actual income earned from the asset(s).	• MFH Owners may accept a family's self-certification of net family assets equal to or less than $50,000 (adjusted annually for inflation) and anticipated income earned from assets without taking additional steps to verify accuracy, at admission and at reexamination. • Accepting a family's self-certification at admission may reduce the initial burden on applicants and

891.105; and 891.655)		speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance. • MFH Owners who choose to accept self-certification of net family assets equal to or less than $50,000 (adjusted annually for inflation) at reexamination are required to fully verify net family assets every three years (5.659(e)) • MFH Owners who choose not to accept self-certification must verify net family assets. • MFH Owners must include in their TSPs whether they will accept a family's self-certification of net family assets equal to or less than $50,000 (adjusted annually for inflation) at admission (only for new admissions effective on or after 1/1/2024) and/or at reexamination.
Hardship Exemptions for Health/Medical Care Expenses &	N/A	• MFH Owners must develop written policies in their TSPs defining what constitutes a hardship for the purposes of the general relief hardship exemption for health and medical care expenses and

Reasonable Attendant Care & Auxiliary Apparatus Expenses – <u>General Relief</u> (24 CFR § 5.611(c)(2))		reasonable attendant care & auxiliary apparatus expenses. • MFH Owners may, pursuant to their own discretionary policies, extend the hardship relief for one or more additional 90-day periods while the family's hardship condition continues. • MFH Owners must state whether they will allow extensions of the 90-day hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. ***Note***: MFH Owners are not limited by HUD to a maximum number of 90-day extensions. MFH Owners must obtain third-party verification of the hardship or must document in the file the reason that third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day hardship period.
Hardship Exemption to Continue Child Care Expense	• MFH Owners must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of	• MFH Owners must develop written policies to define what constitutes a hardship, which includes the family's inability to pay rent, for the purposes of the childcare expense hardship exemption. • MFH Owners must include this policy in their TSPs.

Deduction (24 CFR § 5.611(d))	the childcare expense hardship exemption. • MFH Owners must include this policy in their TSPs. • MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file with the reason third-party verification was not available. MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.	• MFH Owners may, pursuant to their own discretionary policies, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. • MFH Owners must include in their TSPs whether they will allow extensions of the 90-day hardship period and the maximum number of 90-day extension periods (if establishing a maximum policy) that a family may receive. ***Note:*** MFH Owners are not limited by HUD to a maximum number of 90-day extensions
De Minimis Errors in Income Determinations (24 CFR §§ 5.609(c)(4); 5.657(f); 891.105; and 891.655)	• MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent because of de minimis errors in calculating family income. MFH Owners may not implement policies to require families to repay in instances resulting in a family being undercharged for rent where the MFH Owner miscalculated the family's income.	MFH Owners must include in their TSPs how they will repay or credit a family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the MFH Owner's de minimis error in income determination.
Interim Reexaminations - Decreases in	• MFH Owners are required by HUD to process interim reexaminations for *all* decreases in adjusted income when a	• MFH Owners may decline to conduct an interim reexamination of family income if the MFH Owner estimates that the family's annual adjusted income

Adjusted Income (24 CFR §§ 5.657(c)(1); 891.105; 891.410(g); 891.610(g); and 891.750(c))	family member permanently moves out of the unit. • MFH Owners must conduct an interim reexamination when a family's annual adjusted income has changed by an amount that would result in an estimated decrease of ten percent or more in annual adjusted income or another amount established through a HUD notice. • MFH Owners **<u>are not permitted</u>** to establish a dollar figure threshold amount instead of a percentage threshold less than ten percent.	will decrease by an amount that is less than ten percent of the family's annual adjusted income, or such lower threshold established by the MFH Owner. • MFH Owners must identify in their TSPs the percentage threshold they will use for conducting interim reexamination for decreases in a family's adjusted income. • MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5% may be rounded up to 10%).
Interim Reexaminations - Increases in Adjusted Income (24 CFR §§ 5.657(c)(3); 891.105; 891.410(g); 891.610(g)(2); and 891.750(c)(2))	• MFH Owners must conduct an interim reexamination of family income when they become aware that the family's annual adjusted income has changed by an amount that would result in an estimated increase of ten percent or more in annual adjusted income or another amount established through a HUD notice. • MFH Owners **<u>may not</u>** consider any increases in *earned* income when estimating or calculating whether the family's adjusted income has increased,	• MFH Owners may choose not to conduct an interim reexamination if a family reports an increase in income within three months of their next annual reexamination effective date. • MFH Owners may choose not to include *earned* income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual adjusted income (earned, unearned, or combined) since the last annual reexamination. • MFH Owners must describe these policies in their TSPs.

	unless the family has previously received an interim reduction during the same reexamination cycle. • MFH Owners **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income, with the exception of circumstances in which household members are added or removed. MFH Owners **may not** establish a different threshold to conduct interim reexaminations for increases in adjusted income.	
Interim Reexaminations - Reporting Changes & Effective Date (24 CFR §§ 5.657(c)(4); 891.105; 891.410(g)(2); 891.610(g)(2))	• Families must report household composition changes consistent with HOTMA requirements; however, MFH Owners determine the timeframe in which reporting must occur to be considered "timely." • If the MFH Owner has adopted a retroactive rent decrease policy, it may not be applied prior to the later of: o The 1st of the month following the date of the actual decrease in income; or	• MFH Owners must develop policies that describe when and under what conditions families must report changes in adjusted income consistent with HUD's requirements for processing an interim reexamination or other non-interim reexamination transaction. • MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported and the timeline for reporting the change to be considered timely. • MFH Owners may adopt a policy to apply rent decreases retroactively and establish additional

	○ The 1st of the month following the most recent previous income examination. • ***Note:*** MFH Owners must clearly communicate to the family how a retroactive adjustment will affect the family's responsibility for rent.	criteria to describe the conditions under which retroactive decreases will be applied. • MFH Owners must describe these policies in their TSPs.
Revocation of Consent Form (Form HUD-9887)[1] (24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c)); 891.105; 891.410(g)(3)(ii); 891.610(g)(3)(ii); and 891.750(c)(ii)	• The executed consent form will remain effective until the family is denied assistance, the assistance is terminated, or the family provides written notification to the MFH Owner to revoke consent. • Families have the right to revoke consent by notice to the MFH Owner; however, revoking consent can result in termination or denial of assistance if the MFH Owner has established an admission and occupancy policy that the revocation of consent will result in termination of assistance or denial of admission.	• MFH Owners may establish in written policy that revocation of consent will result in termination of assistance or denial of admission. • When MFH Owners do not establish a policy such that revoking consent will result in termination of assistance, participant families will be required to sign a new consent form by the next regularly scheduled reexamination or interim reexamination, whichever occurs first. • MFH Owners may establish policies to deny admission but allow existing participant families to continue to receive assistance after revoking their consent until the next interim or annual reexamination, whichever is sooner.

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

	• MFH Owners may not process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s). • MFH Owners must explain to families the consequences, if any, of revoking their consent. • MFH Owners **must** notify their local HUD office when an applicant or participant family member revokes their consent. ***Note:*** Data matches between HUD and other agencies will continue to automatically occur, when consent is revoked, if the family is not terminated from the program.	
Determination of Family Income Using Other Means Tested Public Assistance, i.e., "Safe Harbor" (24 CFR §§ 5.609(c)(3); 891.105;	• MFH Owners may determine the family's income prior to the application of any deductions based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:	• MFH Owners that choose to implement Safe Harbor income determinations must: o Establish in policy when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations; and

891.410(b)-(c) and (g); 891.610(b)-(c) and (g); and 891.750	o The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.). o Medicaid (42 U.S.C. 1396 et seq.). o The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.). o The Earned Income Tax Credit (26 U.S.C. 32). o The Low-Income Housing Tax Credit (26 U.S.C. 42). o The Special Supplemental Nutrition for Woman, Infants, and Children (42 U.S.C. 1786). o Other programs administered by the Secretary. o Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding. o Other Federal benefit determinations made by other means-tested Federal programs that the Secretary determines to have comparable reliability and	o Create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., MFH Owners could establish policies to accept the most recent income determination). MFH Owners must include in their TSPs whether they will accept Safe Harbor income determinations, along with the accompanying policies described above, if applicable.

	announces through a Federal Register notice. • MFH Owners are not required to accept or use determinations of income from other Federal means-tested forms of assistance. • Safe Harbor verification must be obtained by means of third-party verification and must state the family size, must be for the entire family (i.e., the family members listed in the documenting must match the family's composition in the assisted unit, except for household members) and must state the amount of the family's annual income. Safe Harbor verification must not be mixed and matched with other income verifications, including other Safe Harbor income determinations.	
Enterprise Income Verification (EIV) Usage (24 CFR § 5.233)	• MFH Owners must use HUD's EIV system in its entirety, in accordance with 24 CFR 5.233. • MFH Owners must update their EIV policies and procedures to reflect their discretionary use of EIV reports (e.g.,	• MFH Owners are not required to use EIV during interim reexaminations. • MFH Owners who adopt local to not include *earned* income increases in determining whether the 10% threshold is met for increases in adjusted income when the family previously had an interim reexamination performed for a decrease in annual

	Income Report, zero income reports, New Hires Report, etc.) under HOTMA.	adjusted income (earned, unearned, or combined) since the last annual reexamination, are not required to use the EIV New Hires report between annual reexaminations. • MFH Owners who have a policy to consider *earned* income increases in calculating whether the 10% threshold has been met for an interim reexamination are required to review the EIV New Hires report at least quarterly, for the remainder of the reexamination period **after** the interim reexamination to decrease rent occurs. • MFH Owners are not required to use the Income Report at annual reexamination if they use Safe Harbor verification to determine the family's income. • MFH Owners are not required to use EIV Income Discrepancy Report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination.