## Housing Opportunity Through Modernization Act (HOTMA) Video Series for Multifamily Owners and Property Managers

Notice H 2023-10 Implementation Guidance: Section 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

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| Slide No. | Slide Title | Script |
| 1 | Cover | * Welcome to HUD’s video of the Overview of Notice H 2023-10 Implementation Guidance: Section 102 and 104 of the Housing Opportunity Through Modernization Act of 2016, commonly known as HOTMA. Today we will be walking through the Notice to highlight key elements that Multifamily Housing property owners should be aware of. In doing so, we will provide strategies to assist you in meeting the implementation requirements set forth under the notice and the related HOTMA final rule. |
| 2 | Multifamily Housing HOTMA Training Series | * This is the first in a series of eight videos created specifically for Multifamily Housing Property Owners. * Other videos in the series are currently under development at HUD and will be released in the upcoming weeks. * Links to the videos and the accompanying PowerPoint presentations will be posted on HUD’s Multifamily Housing (MFH) HOTMA site. |
| 3 | Today’s Agenda | * In today’s session, we will briefly touch on the purpose, background, applicability, and structure of Notice H 2023-10. We will walk through effective dates, compliance dates, required owner actions, and updates to multifamily housing owner policies. Then, we will review the list of superseded and rescinded notices and other HUD guidance. To close out the session, we will provide a brief overview of each of the 10 attachments to the notice.   Please note that Notice H 2023-10 is a joint publication with HUD’s Office of Public and Indian Housing, and it is also referred to as Notice PIH 2023-27. When reading the notice, it is important to know that there are some sections that deal specifically with Multifamily Housing and others that pertain specifically to Public and Indian Housing (PIH) programs. This training session includes only material pertinent to Multifamily Housing owners. When appropriate throughout this session, we will point out sections of the notice that should be viewed with this distinction in mind. |
| 4 | Learning Objectives | * Today’s learning objectives will be to: * Understand the purpose of Notice H 2023-10. * Identify important dates, actions, and updates related to Notice H 2023-10. * Review superseded and rescinded notices and attachments.   Examine Notice H 2023-10 attachments. |
| 5 | Purpose of Notice 2023-10 | * The purpose of Notice H 2023-10 is to provide guidance to MFH owners on the implementation of the many program changes brought about by: * HOTMA Sections 102 and 104, and * The Final Rule published in Federal Register Notice 88 FR 9600 on February 14, 2023.   HUD is modernizing its documentation requirements to reduce the burden on families accessing housing assistance in support of the Office of Management and Budget (OMB) Memo M-22-10, Improving Access to Public Benefits Programs Through the Paperwork Reduction Act. |
| 6 | Background | * HOTMA was signed into law on July 29, 2016 (Public Law 114-201, 130 Stat. 782). It consists of 14 sections affecting public and assisted rental assistance programs. The final rule for implementing Sections 102, 103, and 104 of HOTMA was published on February 14, 2023. * Only Sections 102 and 104 apply to HUD’s multifamily housing programs. * Section 102 changes requirements related to income reviews. * Section 104 sets maximum asset limitations.   Notice H 2023-10, initially published on September 29, 2023, and updated on February 2, 2024, addresses implementation of Sections 102 and 104. You can refer the notice to learn more about changes to program regulations in 24 CFR Parts 5, 882, 960, and 982. You may also refer to MFH’s HOTMA Implementation Notice Training for additional guidance, which can be found at: <https://www.hud.gov/sites/dfiles/Housing/documents/HOTMA_Notice_Training.pdf>.  As a side note, HOTMA more closely aligns MFH and Public and Indian Housing (PIH) policies. |
| 7 | Burden Reduction and Program Alignment | * Pursuant to the Office of Management and Budget OMB Memo M-22-10, Improving Access to Public Benefits Programs Through the Paperwork Reduction Act, HUD has reviewed verification and documentation requirements for program participants, including the use of the Enterprise Income Verification (EIV) system. * HUD is also aligning required document date timeframes and document submission requirements for bank accounts and employment income across MFH and Public and Indian Housing PIH programs.   Consistency among HUD programs will reduce burden among tenants who move from one program to another and among entities that administer multiple HUD programs. |
| 8 | Notice H 2023-10 Applicability | * HOTMA updates and creates new rules for MFH programs. Notice H 2023-10 applies to the following MFH programs: * Section 8 Project-Based Rental Assistance (PBRA). * Section 202/8 Supportive Housing for the Elderly and Persons with Disabilities. * Section 202/162 Project Assistance Contract (202/162 PAC). * Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC). * Non-insured 236 Projects with Interest Reduction Payments (236 IRP). * Section 811 Project Rental Assistance Demonstration (811 PRA). * Senior Preservation Rental Assistance Contract (SPRAC).   As you review this section of the notice, you will see the combined list of MFH and Public and Indian Housing PIH affected programs. MFH programs are listed at the end of the complete bulleted list. |
| 9 | Structure of Notice H 2023-10 | * Notice H 2023-10 comprises the HUD executed notice and the following 10 attachments:  |  |  | | --- | --- | | Asset limitation.  Calculating income.  Deductions and expenses.  Applicable Fair Housing and Civil Rights requirements.  Household composition. | Income.  Income inclusions.  Inflationary adjustments.  Interim reexaminations.  Verification. |   Once we have completed our discussion on the notice, we will briefly present each attachment. |
| 10 | Divider Page  -Important Dates, Actions and …. | In this section, we will discuss effective dates, compliance dates, required owner actions, and updates to multifamily housing owner policies. |
| 11 | Notice H 2023-10 Compliance Dates | * January 1, 2024, is the effective date of the Final Rule. However, HUD recognizes that the Tenant Rental Assistance Certification System (TRACS) systems development timeframes and the extended time required to transition all new and existing families to the new HOTMA program requirements, make it unlikely that owners will meet this deadline. * As such, HUD has set a new deadline of May 31, 2024, by which MFH property owners must update their Tenant Selection Plans and Enterprise Income Verification EIV policies and procedures to reflect HOTMA rules and discretionary polices and make them available to the public. * HUD has set January 1, 2025, as the date by which MFH owners must be fully compliant with the HOTMA Final Rule.   Please Note: As you read Section 6.0 of the Notice, which talks through effective dates, compliance, and updates to policies, be sure to refer to Section 6.2 for guidance related to MFH owners. Section 6.1 pertains only to Public Housing Agencys PHAs and is not relevant to MFH owners. |
| 12 | HUD Monitoring of HOTMA Compliance Dates | * Prior to the January 1, 2025, compliance date: * MFH owners will not be penalized for HOTMA-related tenant file errors during the Management and Occupancy Reviews (MORs). * Contract Administrators will issue observations with corrective actions. * On or after the January 1, 2025, compliance date: * Contract Administrators will issue HOTMA-related findings during MORs. * MFH owners must correct all HOTMA-related observations that were issued by Contract Administrators in 2024.   MFH owners who fail to implement HOTMA may be found in default of their business agreements with HUD. |
| 13 | Updating Policies and Procedures | * MFH owners should immediately begin to update their Tenant Selection Plan and Enterprise Income Verification EIV policies and procedures to reflect HOTMA requirements to meet the May 31, 2024, deadline.   HUD has prepared a List of Discretionary Policies to Implement HOTMA, which is a useful tool to use when updating your policies. You can find this on the MFH’s HOTMA page, located at: <https://www.hud.gov/sites/‌dfiles/‌Housing/documents/MFH_List_Discretionary_Policies_Implement_HOTMA.pdf>. |
| 14 | Compliance with TRACS Update | * HUD is updating the TRACS system for compliance with HOTMA. Once this is done, MFH owners must also ensure their software is also HOTMA-compliant (i.e., the TRACS 203-A system requirements have been fully implemented). * Once a MFH owner’s software is HOTMA-compliant, (in other words, the software developer has fully implemented TRACS 203-A system requirements), MFH owners must:  1. Provide tenants with 60 days’ notice that their lease will be modified. 2. Begin to implement updated HOTMA-compliant policies. 3. Ensure that all tenant data submissions comply with HOTMA regulations. 4. Use the revised Tenant Consent form (form HUD-9887/9887A).   Please note: HUD’s Office of Multifamily Housing Programs strongly recommends that owners align their own HOTMA implementation timeframe with the release of TRACS 203-A (which is anticipated to be during the Summer of 2024). |
| 15 | 60 Days’ Notice to Tenants of Lease Modification | * The first required action for MFH owners once their software is compliant (i.e., TRACS 203-A system requirements have been fully implemented), is to provide 60 days’ notice to tenants that their lease will be modified at the end of the current lease term. We will discuss this requirement in detail in the next few slides. * Once MFH owners’ software is HOTMA-compliant, they must provide 60 days’ notice to tenants that their lease will be modified. * Leases will be modified at the end of the lease term after the expiration of the 60-day notice. * MFH owners must begin to use HUD’s revised model lease at the expiration of the family’s lease. * Please NOTE: MFH owners must use the revised model lease for all new families immediately after their software is HOTMA-compliant. |
| 16 | 60 Days’ Notice to Tenants of Lease Modification (Con.) | * In this example, the Smith family is in their initial 1-year lease term, which means that they will sign the modified lease at the later of either (1) the end of the initial term of the lease, or (2) the end of the 60-day period. * The owners’ software became compliant on September 15, 2024. Promptly thereafter, the owner sent a 60 days’ notice to the family for the period covering October 1 through November 30. The family will sign the modified lease to be effective January 1, 2025, which is the *later* of the December 31, 2024, end of the initial lease period date; and the end of the 60-day notice, which is November 30. |
| 17 | 60 Days’ Notice to Tenants of Lease Modification (Con.) | * In this example, the Wilson family is on a month-to-month lease term, which means that they will sign the modified lease at the end of the 60-day period. * The owners’ software became compliant on September 15, 2024. Promptly thereafter, the owner sent a 60 days’ notice to the family for the period covering October 1 through November 30. The family will sign the modified lease to be effective December 1, 2024, which is at the end of the 60-day notice, November 30. |
| 18 | Revised Model Lease | * HUD is updating model leases to conform with the requirements of the HOTMA Final Rule for the five affected MFH programs:   Section 8 PBRA.  202/8.  202 PRAC.  811 PRAC.  811 PRA.   * Existing leases must be modified by using the updated model lease only at the end of a current lease term. * No other modifications may be made to the model lease without HUD’s approval. * MFH owners may incorporate existing HUD-approved lease addenda into the revised model leases if the addenda do not conflict with the requirements of the HOTMA Final Rule.   The box to the right shows the paragraphs within the model leases where lease terms are located. |
| 19 | Renewing Families Under the Revised Lease | * MFH owners must provide families with copies of the revised HUD-approved lease at least 60 days prior to the end of a family’s lease term. * MFH owners must include a letter clearly stating the family can either accept the modification or move. The letter must also indicate that a response is due from the family in 30 days. * Families must either: * Accept, sign the modification, and return; **or** * Refuse and give 30-day notice of intent to vacate. * If the family indicates the modification is unacceptable or does not respond within 30 days, the MFH owner may begin procedures to terminate tenancy.   Please note, the Key Best Practice here is to Include both the required notice that the lease will be modified and the new lease and required letter in the same mailing. |
| 20 | Delivering the Notice of Lease Modification | * The lease modification notice must be served to families in the following manner: * The MFH owner must send a letter by first-class mail, properly stamped, addressed, and including a return address, to the family at the unit address; **and** * The MFH owner must deliver a copy of the notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.   MFH owners are not permitted to deliver lease modification notices to families electronically. |
| 21 | Effective Date of Notice Delivery | * The date on which the notice is deemed “received” by the family is the later of: * The date the first-class letter is mailed; or * The date the notice is properly given.   Service of the notice is deemed effective once the notice has been both mailed and hand-delivered. |
| 22 | Implement Updated Policies and Procedures | * The second required action for MFH owners once their software is HOTMA-compliant is to implement the revised Tenant Selection Plans and Enterprise Income Verification EIV policies and procedures. * Families who are under old leases after the MFH owner becomes compliant with HOTMA must continue to report income and household composition changes between annual reexaminations in accordance with their existing leases until they sign a revised lease. * MFH owners are required to determine whether changes reported by families under the old lease will require an interim reexamination consistent with HOTMA’s requirements.   Since the remaining final rule provisions reflect changes to existing regulatory provisions during the period of an existing lease, all other HOTMA final rule provisions can be implemented without the family’s execution of a revised lease. |
| 23 | HOTMA Compliant Tenant Data Submissions | * The third required action for MFH owners once their software is HOTMA compliant is that all tenant data submissions must comply with the HOTMA regulations. * Prior to their first reexaminations under HOTMA, MFH owners must inform families that their income determinations will be conducted in accordance with the HOTMA final rule.   As a best practice, HUD recommends that MFH owners describe to families how their income determinations will change with the implementation of the final rule. |
| 24 | Revised Tenant Consent Form | The fourth required action for MFH owners once their software is compliant is that they **must** begin to use the revised Tenant Consent Form (Form HUD-9887/9887A) and fact sheets (“How Your Rent is Determined”). |
| 25 | Suggested Roadmap for HOTMA Compliance | * For the Suggested Roadmap for HOTMA Compliance * On October 2023:You should begin updating Tenant Selection Plan and Enterprise Income Verification EIV policies and procedures * During Early Spring 2024: you should Be in communication with software provider on status of HOTMA/TRACS updates. * From May 31, 2024: begin to Finalize Tenant Selection Plan and Enterprise Income Verification EIV policies and make publicly available. * During Late Summer, 2024: is the Estimated time frame when owners’ software -compliant date. * By Fall 2024: * Owners should Implement updated Tenant Selection Plan and Enterprise Income Verification EIV policies and procedures. * Determine whether interim reexaminations under old lease require reexamination consistent with HOTMA’s requirements and proceed accordingly until all families are under updated model lease. * Ensure all tenant data submissions comply with HOTMA regulations. * Notify families that their next income determination will be conducted in accordance with HOTMA Final Rule. * Use the revised Tenant Consent Form (form HUD-9887/9887A), as available. * Begin delivering tenant 60-days’ notice for modified lease, as available. * Also during Fall 2024 into Winter and Spring 2025: Complete Modified tenant lease(s) with revised model lease at expiration date.   Please NOTE: Since the current lease cannot be modified with the revised model lease until the expiration date, it may take a full year after software becomes HOTMA-compliant before all leases are modified. |
| 26 | Divider Page | In this section we will review notices and guidance superseded and rescinded by HOTMA. |
| 27 | Superseded and Rescinded Guidance | * Notice H 2023-10 supersedes the following portions of the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs:   Chapter 3. Eligibility for Assistance and Occupancy.  Chapter 4. Waiting List and Tenant Selection.  Chapter 5. Determining Income and Calculating Rent.  Chapter 7. Recertification, Unit Transfers, and Gross Rent Changes.  Chapter 9: Enterprise Income Verification (EIV).  Glossary.  HUD plans to update and post these sections to their website. Please note that before consulting any of these resources, you should check to be sure you are using a version dated *after* publication of this notice. |
| 28 | Superseded and Rescinded Notices | * Notice H 2023-10 also supersedes and replaces guidance provided by the following notices:   Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau (H 2020–06).  Passbook Savings Rate Effective February 1, 2016 (H 2016–01).  Amendment to the Definition of Tuition (PIH 2015–21/H 2015–12).   * The following notices are rescinded by Notice H 2023-10:   Streamlining Administrative Regulations for Multifamily Housing Programs (H 2016–09).  Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice (H 2013–24).  Enterprise Income Verification (EIV) System (H 2013–06).  Again, since Notice H 2023-10 is a joint publication between MFH and Public and Indian housing PIH, the list of superseded and rescinded notices includes notices relevant to Public and Indian housing PIH as well as MFH. MFH owners should focus on MFH notices only. |
| 29 | Divider Page | * Notice H 2023-10 is organized by distinct topic areas to assist MFH owners in identifying programmatic changes that affect their operations. Each topic area is presented as an attachment to the notice, and is organized into four areas:  1. Regulations. 2. Affected programs. 3. Summary of changes, and when necessary 4. Subtopics.   In this final section of our presentation, we will look briefly at each of the 10 attachments. |
| 30 | Attachments to Notice H 2023-10 | Here we list the ten topic areas, listed alphabetically, that will be introduced in Notice H 2023-10. |
| 31 | Attachment A: Asset Limitation | * Section 104 of HOTMA creates a restriction on a family’s eligibility to receive assistance if the family:   Owns real property that is suitable for occupancy, or  Has assets in excess of $100,000, as adjusted annually for inflation.   * Pursuant to 24 CFR 5.618(c), MFH owners are given discretion at reexamination in enforcing the asset limitation on eligibility. * Refer to HUD’s guidance on the use of discretionary authority.   The Asset Limitation provision is applicable to Section 8 (PBRA) and Section 202/8. It is not applicable to Section 202/81 PRAC, Section 236 IRP, Section 811 PRA, and SPRAC. |
| 32 | Attachment B: Calculating Income | * This attachment discusses income calculations at New Admissions and Interim Reexaminations, for which owners must use the family’s anticipated income for the upcoming 12-month period. This requirement has not changed under HOTMA. * The attachment also expounds on the new HOTMA requirement for annual reexaminations, for which owners must now use the family’s income from the previous 12-month period, except when using “streamlined income determinations.” Owners do have the option to use safe harbor verification, which is discussed in detail. It should be noted that adjustments to reflect current income must be made and income from assets is always anticipated, regardless of when the examination takes place.   In this attachment, HUD provides four detailed examples of calculating income under the new HOTMA requirements. |
| 33 | Attachments C: Deductions and Expenses | Attachment C discusses deductions and expenses, including annual inflationary adjustments to the dependent deduction, an increase in the elderly/disabled deduction (which is also to be adjusted annually for inflation), and how to handle medical, childcare, and other expenses. |
| 34 | Attachment D: Applicable Fair Housing and Civil Rights Requirements | * Attachment D: Applicable Fair Housing and Civil Rights Requirements reminds MFH owners to continue to comply with Fair Housing and Civil Rights laws, including:   The Fair Housing Act.  Section 504 of the Rehabilitation Act of 1973.  Title VI of the Civil Rights Act of 1964.  The Age Discrimination Act.  HUD’s Equal Access Rule.  Title II of the Americans with Disabilities Act of 1990. |
| 35 | Attachment E: Household Income | Attachment E discusses revisions to the definition of family, as well as the new definitions for foster adult and foster child. It also sets forth alignment of the definition of family across programs. |
| 36 | Attachment F: Income | Attachment F discusses annual income and earned income, covers new program definitions, and walks through key information related to assets. |
| 37 | Attachment G: Income Exclusions | Attachment G walks through new and updated income exclusions. The attachment includes only those income exclusions that are newly added or updated by the HOTMA final rule. |
| 38 | Attachment H: Inflationary Adjustments | * Attachment H discusses the eight inflationary adjustments and includes a large, detailed table showing the item requiring the annual adjustment, lists the applicable CFR reference, and identifies in which attachment of the notice the item can be found. * HUD will annually publish the eight inflation-adjusted items no later than September 1. The updated values will be shared online at the HUDUser website. * The publication will apply to both MFH and PIH programs. * The revised amounts will be effective on January 1 of the following year.   The first set of adjustments for inflation will be made effective January 1, 2025. |
| 39 | Attachments I: Interim Reexaminations | * Attachment I focuses on HOTMA revisions to income reexamination requirements and includes detail on MFH owner discretion related to the policies. It also includes a number of helpful examples.   Decreases and increases in adjusted income.  Over income.  Non-interim reexamination transactions.  Policies for reporting income or household composition changes.  Processing time and effective dates.  Streamlined income determination.  Impact on FSS programs. |
| 40 | Attachment J: Verification | * Attachment J discusses updates to verification of income requirements, covering the following topics:   Authorization for the Release of Information.  Revocation of consent.  Mandated and discretionary use of EIV system.  Determining income using other means (or “Safe Harbor”).  Verification hierarchy, descriptions, and guidance.  Verification of social security numbers.  Verification of excluded income.  Zero income reviews. |
| 41 | Resources | For additional information, the following resources can be found on HUDs website :   * HOTMA Final Rule, ~~which can be found at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>.~~ * Notice H 2023-10~~, which you can locate at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>.~~ * HUD Multifamily HOTMA Page~~, which you will find at <https://www.hud.gov/program_offices/‌housing/‌mfh/‌hotma>.~~ * Summary of Key HOTMA Changes~~, available at <https://www.hud.gov/sites/dfiles/Housing/documents/‌HOTMA_‌One_‌pager.pdf>~~. * List of Discretionary Policies to Implement HOTMA: ~~<https://www.hud.gov/sites/dfiles/Housing/‌documents/‌MFH_‌List_Discretionary_Policies_Implement_HOTMA.pdf>.~~ * HUD User Inflationary Adjustment Page, located at ~~<https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>.~~ |
| 42 | Thank You | Thank you for watching this presentation. For technical assistance or additional questions, please contact the HOTMA Multifamily Help Desk at: [MFH\_HOTMA@hud.gov](mailto:MFH_HOTMA@hud.gov) |