



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

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:

Office of Native American Programs
Tribes
Tribally Designated Housing Entities

Notice PIH 2023–34

Issued: December 8, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Statutes and Regulations: HOTMA; 24 CFR 5.609; 24 CFR 1000.10

Transition and Implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

1. Purpose

The purpose of this notice is to provide guidance to Indian tribes and Tribally Designated Housing Entities (TDHEs) on the transition period preceding the implementation of program changes brought about by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and detailed in the final rule published in the *Federal Register* at 88 FR 9600 on February 14, 2023.

Through this notice, HUD is announcing that it is granting Indian tribes and TDHEs up to an additional year to implement and come into compliance with the new Part 5 definition of “annual income” under the Indian Housing Block Grant (IHBG) program.

2. Background

Under the Native American Housing and Self-Determination Act of 1996, IHBG assistance is generally limited to low-income Indian families. To qualify families as low-income, Indian tribes and TDHEs must calculate families’ annual income. Pursuant to 24 CFR 1000.10, Indian tribes and TDHEs have the option to choose from one of three definitions of “annual income”: 1) HUD’s 24 CFR part 5 income definition for Section 8, public housing, and other HUD programs found at 24 CFR 5.609; 2) the Census Bureau definition of annual income; or, 3) the adjusted gross income definition used on the IRS Form 1040.

HOTMA was signed into law on July 29, 2016 (Public Law 114-201, 130 Stat. 782). While HOTMA made significant changes to various HUD programs, its impact on the IHBG program was limited. HOTMA primarily impacts the program by revising the commonly used Part 5 definition of “annual income” codified at 24 CFR 5.609.

On February 14, 2023, HUD published a final rule implementing Sections 102 and 104 of HOTMA (88 FR 9600). In the final rule, HUD stated that the effective date of most of the changes would be January 1, 2024. This meant that HUD grantees that adopt the Part 5

definition of “annual income” were required to begin using the new revised definition on the effective date of the final rule.

Recently, HUD issued additional guidance to Public Housing Authorities ([PIH 2023-27](#)) on HOTMA. Recognizing that full implementation of the various changes made by HOTMA will take some time, HUD afforded Public Housing Authorities (PHAs) up to one additional year to make policy, programmatic and system changes to implement HOTMA. PHAs may now set a compliance date of anytime between January 1, 2024, and January 1, 2025, to come into compliance with HOTMA.

3. Transition and Implementation

To ensure parity for Indian tribes and TDHEs administering IHBG grants, HUD is providing a similar one-year transition period to comply with the new definition of “annual income” as modified by HOTMA. Accordingly, Indian tribes and TDHEs that choose to adopt the Part 5 definition of annual income will have until January 1, 2025, to implement and come into compliance with the new Part 5 definition of annual income. This additional flexibility will allow time to update processes, procedures, and policies for Indian tribes and TDHEs that need it. During the transition and implementation period, IHBG grantees may continue to rely on the definition of annual income contained at 24 CFR 5.609 prior to the HOTMA changes effective on January 1, 2024, when determining annual income for families.

HUD will publish additional detailed ONAP program guidance covering the revised Part 5 definition of annual income pursuant to the HOTMA final rule soon. If you have any questions, please contact your [Area ONAP office](#).



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