



RBD Tenant Selection Plan Checkup

CLASS QUESTIONS & ANSWERS

MARY ROSS

RBD Tenant Selection Plan Checkup Class Questions & Answers

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The majority of the instruction provided in this workbook is based on interpretation of HSG Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) revised 02/05/2024. In addition, the handbook guidance is derived from The HUD Handbook 4350.3 Rev 1 Change 4 released in August 2013 and various notices and documents provided by the Department of Housing & Urban Development and the Department of Justice.

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These materials were updated 7/2024

The content is subject to change at any time if/when HUD provides alternative guidance or clarifications.

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INTRODUCTION

Please note that adding HOTMA language to the TSP and adding HOTMA language to the EIV Policy is the only required action the owner/agent must take by May 21, 2024. Owner/agents may not implement new TSPs or new EIV Policies until new HOTMA compliant site software is available and implemented (no later than January 1, 2024).

Owner/agents may, but are not required to, implement HOTMA changes until new HOTMA compliant site software is available and implemented (no later than January 1, 2024).

The following questions were asked during the RBD Tenant Selection Plan Checkup class held on May 21, 2024.

Responses provided by RBD are based on our interpretation of the Regulations, the HOTMA Final Rule, HH 4350.3 Change 4, Revised HSG Notice 2023-10 [Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#) revised on 2/5/2024, and HSG Notice 2024-04 [Revised Compliance Date: Updates to Tenant Selection \(Tenant Selection Plan\) and Enterprise Income Verification \(EIV\) Policies and Procedures](#).

FASTFORMS

RBD offers policies, checklists and forms designed to assist in daily operations for HUD's Multifamily Housing programs.

FASTForms can be purchased individually, in Bundles or in Packages.

As of 5/23/2024, the [HOTMA FASTForms Package](#), the [Tenant Selection Plan FASTForms Packages](#) and the [EIV FASTForms Package](#) have been updated for HOTMA. Since both the Tenant Selection Plan and the EIV Policies must be updated no later 5/31/2024, we updated those forms first.

If you want information about the forms included in each package, go to the [FASTForms Package page](#) and click on the package name. A list of forms included in each package should display. Forms descriptions are also provided.

We are currently working to update the remaining forms packages and hope to have those updates complete by June 1, 2024.

APPLICABILITY & PROGRAM SPECIFIC QUESTIONS

Question 1. When referencing the 811 PRAC programs, may owner/agents use the same rules for 811 PRA contracts?

The 811 PRAC program and the 811 PRA program are similar, but not quite the same. Eligibility requirements related to the description of an eligible family are different. However, when discussing Section 8 requirements and non-Section 8 requirements, both the Section 811 PRAC and Section 811 PRA programs will be classified as non-Section 8.

Question 2. If we manage both Section 8 properties and 811 PRAC properties, is it permissible to have one Tenant Selection Plan for both?

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Because there are so many program differences between the 811 PRAC program and the Section 8 program, combining the Tenant Selection Plans for both contract types is not recommended.

- Description of Family Type is different;
- Rules regarding the ability to add adult children/grandchildren after initial occupancy are different;
- The Student Eligibility Rules are different;
- There is no Noncitizen Rule for PRAC;
- Income Limits could be different dependent on when the PRAC contract was executed;
- PRAC Assistance Payment may be zero at MI;
- Each program uses a different lease;
- There is no Income Targeting for PRAC;
- There is no Minimum Rent for PRAC;
- Etc.

However, HUD has published no such prohibition.

Question 3. Is a 202/8 the same as an 811 program?

No, a property with a 202/8 contract is a Section 8 property set aside for elderly families and families in which the HOH or co-HOH/spouse is a person with disabilities requiring the features of an accessible unit.

Both the 811 PRAC and 811 PRA are programs set aside for families with a member who has a disability. If no member has a disability, the family would not qualify for an 811 unit.

You may be confused because most industry stakeholders refer to PRAC programs as *202/811 PRAC*. While the definition of an eligible family differs for the 202 PRAC and 811 PRAC programs, many of the other rules are the same.

Question 4. Do all these changes apply to a 236?

HOTMA rules, as appropriate, apply to non-insured 236 projects with Interest Reduction Payments (236 IRP).

Question 5. Does HOTMA apply to Rural Development (RD)?

Some aspects of HOTMA apply to RD. If there is Section 515 layering, owner/agents should refer to the latest USDA Notices explaining HOTMA implementation requirements for USDA programs.

On February 9, 2024, USDA published new guidance at <https://www.rd.usda.gov/media/file/download/memorandum-sa-administrators-exception-signed2024-03-04.pdf>.

Owner/agents are responsible for maintaining compliance with changing guidance from both HUD and the USDA.

DEADLINES & EFFECTIVE DATES

Question 6. Does the May 31, 2024 deadline apply to PRAC?

Yes. While not all HOTMA changes apply to PRAC, owner/agents managing PRAC contracts must update both the Tenant Selection Plan and the EIV policies no later than 5/31/2024. Updated PRAC Tenant Selection Plans must include any new HOTMA language that is not specific to Section 8.

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To learn which changes apply to each HUD Multifamily Housing contract type, students may want to access our [HOTMA Resource Page](#) and access [RBD HOTMA Rules and Program Type](#)

Question 7. Even if the new Tenant Selection Plan is completed, is an owner/agent allowed to follow the current Tenant Selection Plan?

Owner/agents must continue to use the current Tenant Selection Plan until HOTMA is fully implemented on site. Generally, this means when new HOTMA compliant site software is implemented (no later than 1/1/2025).

HUD's guidance, as provide in HSG Notice 2023-10 [Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#) revised 02/05/2024, is as follows:

6.2 Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing) By May 31, 2024:

- By May 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner's software is compliant with TRACS 203A.

Question 8. Should an owner/agent implement HOTMA changes now or should owner/agents wait until new HOTMA compliant site software is available and implemented?

HOTMA was effective on 1/1/2024 and owner/agents have until 1/1/2025 to implement HOTMA changes.

Owner/agents have the option to wait to implement HOTMA changes until HOTMA compliant site software is implemented. In many ways, that is the best option.

However, some owner/agents wish to implement some changes before HOTMA compliant site software is implemented and then implement remaining changes after HOTMA compliant site software is implemented.

In various communications, HUD has indicated that some changes must not be implemented until HOTMA compliant site software is available and implemented.

As a courtesy to our customers, we have created a form that explains (in our opinion) what can, should, should not and must not be implemented between now and 1/1/2025. This document - [RBD HOTMA Implementation Deadlines](#) – is available on our [HOTMA Resource Page](#)

Question 9. Do owner/agents implement new Tenant Selection Plans when software is compliant and when the new lease is executed?

For applicants, owner/agents will implement new HOTMA compliant Tenant Selection Plans when new HOTMA compliant site software is available and implemented.

For residents, it is strongly suggested to wait to implement most HOTMA changes until new HOTMA compliant site software is available and implemented.

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Question 10. If owner/agents make changes now, do they have to update the Tenant Selection Plan to incorporate those changes now?

We are not aware of any HUD guidance saying that current Tenant Selection Plans must be updated to reflect any HOTMA changes as owner/agents implement HOTMA changes.

However, if you are changing criteria related to applicant selection or eligibility, it is good to go ahead and update your existing Tenant Selection Plan so that it accurately reflects the resident selection process.

Question 11. Where do owner/agents submit Tenant Selection Plans?

There is no requirement to submit Tenant Selection Plans to HUD or CAs for approval. However, during MOR, the current and new Tenant Selection Plans may be reviewed on site.

Question 12. Do the EIV Policy updates need to be updated by the 5/31/24 Deadline

For all Multifamily Housing Programs, Tenant Selection Plans must be updated no later than 5/31/2024 but will not be implemented until new HOTMA compliant site software is available and implemented.

Question 13. Tenant Selection Plan can be changed after 5/31/2024?

HUD has never restricted an owner/agent's ability to modify the Tenant Selection Plan.

Owner/agents must notify applicants on the waiting list if the owner/agent adds a preference so that applicants may notify the owner/agent if they qualify for any available preference.

Question 14. Do owner/agents implement when software is compliant or when both software is compliant AND the new HUD forms (model leases and HUD fact Sheet 9887/A) has been released?

The Tenant Selection Plan is a document created considering applicants as the audience. The Tenant Selection Plan must be implemented when new HOTMA compliant site software is available and implemented (no later than 1/1/2025).

APPLICANT/RESIDENT NOTIFICATION

Question 15. Are owner/agents required to post the Tenant Selection Plan on 5/31?

HUD's instruction is to make the new Tenant Selection Plan publicly available. HUD does not define "publicly available".

Generally, "publicly available information" means information in any form that is generally accessible, without restriction, to the public.

Historically, for Multifamily Housing programs, that means that anyone can ask for the Tenant Selection Plan and they will receive a copy. Owner/agents should consider applicants with disabilities and applicants who may experience limited English Proficiency. If the Tenant Selection Plan is being provided to someone who is a survivor of a VAWA crime, the owner/agent should work with the applicant to determine the best method for providing the Tenant Selection Plan.

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The Tenant Selection Plan should be made available much like the AFHMP. Think about posting it on the property bulletin board, including in an electronic applicant portal, asking applicants, at the time of application, if they would like to receive a copy, etc.

While the Tenant Selection Plan must be available, owner/agents should make it clear that the current Tenant Selection Plan will be used until HOTMA is fully implemented (no later than 1/1/2025). In the “Tenant Selection Plan Sample HOTMA Language” document provided as part of the class Handouts, sample language explaining the Effective Date of the Tenant Selection Plan is provided.

Question 16. Where are the FACT Sheets referenced in the class that provide residents with new information regarding the medical expense changes and Section 8 Asset Restrictions?

HUD explains that owner/agents must notify residents about how eligibility and the rent calculation will change before the first AR or IR is created after new HOTMA compliant site software is available and implemented.

As part of our [HOTMA FASTForms](#), we have created two new FACT Sheets that can be distributed to residents. These two forms are [FACT Sheet – HOTMA Assets](#) (for Section 8 only including 202/8 and PBRA RAD) and [FACT Sheet – HOTMA Deductions](#). These two forms may be purchased individually or as part of the [HOTMA Package](#).

ASSETS

Question 17. Residents report assets but owner/agents don’t include them on the 50059, correct?

This question is not related to the Tenant Selection Plan. The specific rules about how assets are handled once new HOTMA compliant site software is available and implemented will be provided in the HUD 2.0.3.A MAT Guide when HUD publishes such guidance.

Proposed processes are discussed in our OnDemand Training [HOTMA – Multifamily Housing - Updated May 2024](#).

Until HUD’s MAT Guide and subsequently new HOTMA compliant site software is available and implemented, we would suggest owner/agents include all assets disclosed by the resident unless the cash value of the asset and the income from the asset is excluded. Examples assets where both the cash value and income from the assets are excluded include:

- ABLE Accounts;
- Baby Bond Accounts;
- Education Savings Accounts (ESA) Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code;
- Family Self-Sufficiency Escrow Accounts;
- Irrevocable Trusts (distributions from the irrevocable trust may be included when determining non-asset income)
- Necessary Personal Property;
- Retirement accounts (regular periodic payment are included as non-asset income);
- Revocable Trusts Not Under Control of a Member (some distributions may be counted as non-asset income).

Our suggestion is to delay implementing new rules about Non-necessary Personal Property (NNPP) until new HOTMA compliant site software is available and implemented. Until new HOTMA compliant site software is available and implemented, we would strongly suggest owner/agents continue to include Non-necessary Personal

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Property (NNPP) even when the net cash value of all NNPP is \$50,000 or less. *(Please note that the \$50,000 Asset Threshold for 2024 may be adjusted annually by HUD.)*

We also suggest owner/agents wait to implement new rules pertaining to federal tax refunds/tax credits.

SECTION 8 ASSET RESTRICTIONS GENERAL

Question 18. Do Section 8 Asset Restrictions apply to PRAC?

No. The Section 8 Asset Restrictions apply to the Section 8 Program only (including 202/8 and PBRA RAD).

Question 19. If an applicant owns Real Property Suitable for Occupancy but we verified that the applicant is exempt from new rules, does the property count as an asset? Or is the exempted property also exempt from the \$100,000 Section 8 Asset Cap? *(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)*

Please note that this rule is NOT to be implemented until new HOTMA compliant site software is available and implemented.

There are two separate rules: 1) Section 8 Asset Cap and 2) Section 8 Real Property Rule. After new HOTMA compliant site software is implemented owner/agents must enforce both Section 8 Asset Restrictions at MI/IC, but have to decide if and how the Section 8 Asset Restrictions apply to existing assisted residents.

If the resident owns a home, condo, townhome, etc., that a resident has the right to sell owner/agents must ask if the property is suitable for occupancy. A dwelling will be considered “suitable for occupancy” unless the family demonstrates that it:

1. Does not meet the disability-related needs for all members of the family (*e.g.*, physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
2. Is not sufficient for the size of the family;
3. Is geographically located so as to be a hardship for the family (*e.g.*, the distance or commuting time between the property and the family’s place of work or school would be a hardship to the family, as determined by the owner);
4. Is not safe to reside in because of the physical condition of the property (*e.g.*, property’s physical condition poses a risk to the family’s Health & safety and the condition of the property cannot be easily remedied); or
5. Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

The resident is exempt from the Section 8 Real Property Rule if:

1. Any property is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the person resides in the jointly owned property;
2. The member is a survivor of a VAWA crime (domestic violence, dating violence, sexual assault, or stalking); or
3. The family is offering such property for sale;
4. The family is receiving assistance under 24 CFR 982.620; or under the Homeownership Option in 24 CFR part 982.

If the property does not meet the definition of “Real Property Suitable for Occupancy”, the current expectation is that the property will be shown on the 2.0.3.A 50059 and flagged as “Other Real Property”. The cash value of the property will be included when determining the new cash value of Included Assets and income from assets. If the cash value of the property and other Included Assets exceeds \$100,000 then the Section 8 applicant would not be eligible to move-in (or the existing resident would no longer be eligible if the owner/agent has implemented Enforcement or Limited Enforcement).

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If the Section 8 resident's property does meet the definition of "Real Property Suitable for Occupancy", but the resident is exempt from the rule, it is expected that the property will be shown on the 50059 as "Real Property Suitable for Occupancy". The cash value of the property will be included when determining the new cash value of Included Assets and income from assets. If the cash value of the property and other Included Assets exceeds \$100,000 then the Section 8 applicant would not be eligible to move-in (or the existing resident would no longer be eligible if the owner/agent has implemented Enforcement or Limited Enforcement). Once HUD publishes the 2.0.3.A MAT Guide and new 50059, it is expected that owner/agents will be able to indicate that the new resident is exempt from the Section 8 Real Property Rule.

There will be more concrete guidance once HUD publishes the 2.0.3.A MAT Guide.

(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)

Question 20. Also, if an applicant or resident gave an asset away for less than fair market value (and they move in within the 2 year look back period) Does the disposed asset count towards the \$100,000 Section 8 Asset Cap? *(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)*

Yes

Question 21. What are the options for Enforcement of the Section 8 Asset Restrictions for existing residents?

For existing assisted Section 8 residents, HUD requires owner/agents to delay implementation of the Section 8 Asset Restriction until new HOTMA compliant site software is available and implemented.

Once that occurs, owner/agents must enforce the Section 8 Asset Restrictions when determining the eligibility of Section 8 applicants (MI or IC) and the eligibility of residents whose Section 8 assistance has been terminated (IC).

Non-Enforcement: OPTIONAL For existing assisted Section 8 residents, owner/agents may opt not to enforce the Section 8 Asset Cap or the Section 8 Real Property Rule. This means that the owner/agent will not assess an assisted resident's eligibility based on these rules at AR or IR after new HOTMA compliant site software is available and implemented.

Enforcement: OPTIONAL For existing assisted Section 8 residents, owner/agents may opt to enforce the Section 8 Asset Cap or the Section 8 Real Property Rule. This means that the owner/agent will assess an assisted resident's eligibility based on these rules at AR or IR after new HOTMA compliant site software is available and implemented. If the resident is no longer eligible, the owner/agent may establish policies providing no more than six months before the owner/agent will initiate termination of assistance. Owner/agents may, but are not required to, establish exceptions to this rule even when the owner/agent is enforcing the Section 8 Asset Restrictions for existing assisted residents (e.g. assisted families that include a member who requires the features of an accessible unit will not be subject to the Section 8 Asset Restrictions). Owner/agents are permitted to include more than one exception as part of any exception policy. Exception policies may be 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. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements.

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Limited Enforcement: OPTIONAL For existing assisted Section 8 residents, owner/agents may opt to implement Limited Enforcement of the Section 8 Asset Cap or the Section 8 Real Property Rule. This means that the owner/agent will assess an assisted resident's eligibility based on these rules at AR or IR after new HOTMA compliant site software is available and implemented. If the resident is no longer eligible, the owner/agent may establish policies providing no more than six months for the resident to "cure" ineligibility. If the resident cannot "cure" ineligibility within the six months (or whatever timeframe the owner/agent has established) the owner/agent will initiate termination of assistance. Owner/agents may, but are not required to, establish exceptions to this rule even when the owner/agent is implementing Limited Enforcement of the Section 8 Asset Restrictions for existing assisted residents. (e.g. assisted families that include a member who is 62 or older will not be subject to the Section 8 Asset Restrictions). Owner/agents are permitted to include more than one exception as part of any exception policy. Exception policies may be 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. All exception policies must comply with civil rights and fair housing statutes and requirements, including but not limited to requirements.

Question 22. If an applicant plans on selling their house at move in (part of exemption process) there could still be an issue with the money from the sale of the house. How would the owner/agent know what they would do with the proceeds prior to allowing them to move in to our property. There are too many variables! Unless the asset part of owning property in all of the above scenarios are exempt once the property is deemed exempt?????

We know this is new and a little difficult to digest at first. Owner/agents have to determine eligibility based on the facts at the time of the Section 8 eligibility determination. If the house is not for sale, then the applicant would be denied. If the cash value of all Included Assets exceeds \$100,000 at the time of application, then the applicant would be denied. These are the new facts. It is not up to the property staff to "help" the resident become eligible; just to determine if the applicant qualifies.

Also keep in mind that, if the cash value of Included Assets exceeds \$100,000 and the resident gives the asset/money away or puts the asset/money in an irrevocable trust, that is an Asset Disposed For Less Than Fair Market Value and the cash value of the asset, less any amounts received for that asset, would count for two years.

Example Home Disposed of for Less Than Fair Market Value

Home Value	\$150,000
Less Outstanding Mortgage	-\$45,000
Less Cost to Sell (7%)	-\$10,500
Cash Value	\$94,500
Less Amount Received	-\$5,000
Cash Value of Asset Disposed	\$89,500

Usually, income from Assets Disposed For Less Than Fair Market Value is \$0.

Property staff should not give residents advice on what to do with assets in order for an applicant (or resident when the owner/agent has implemented Enforcing or Limited Enforcement) to become eligible for Section 8 Housing Assistance.

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(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)

Question 23. In reference to Limited Enforcement, what does it mean “to cure”?

In the case of the Section 8 Asset Restrictions, “curing” is doing something:

1. So that the net cash value of Included Assets is no longer over \$100,000 (Section 8 Asset Cap); or
2. The Real Property Suitable for Occupancy (Section 8 Real Property Rule) is no longer considered or the resident is exempt.

Owner/agent must be familiar with rules surrounding Assets Disposed of for Less Than Fair Market Value.

(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)

Question 24. Do owner/agents need to outline “steps to cure” related to the Section 8 Asset Restrictions?

We strongly suggest that owner/agents train property managers that they are not there to assist applicants or residents in their efforts to become eligible for Section 8 Housing Assistance. Doing so could make the site staff and the owner/agent liable. Applicants and residents should contact a finance professional, qualified family member or other qualified advisor to assist them in their efforts.

Question 25. If owner/agents opt for Non-enforcement of the Section 8 Asset Cap for existing assisted residents, and the owner/agent has to correct a MI, do the Section 8 Asset Restrictions apply?

Our interpretation would be that, yes, the Section 8 Asset Restrictions would apply if the owner/agent has cause to correct the Move-in or Initial Certification.

Question 26. Will HUD allow owner/agents to implement Non-enforcement only until 1/1/2025, just for 2025 or permanently?

HUD has not provided a time limit for those owner/agents who wish to implement Non-enforcement. We do not foresee HUD limiting the option to those Section 8 ARs or IRs effective in 2025.

As far as we know, this would be a “permanent decision” unless the owner/agent decides to enforce later or HUD announces another change to the rule.

Question 27. For PBRA RAD conversions, when the Section 8 Asset Restrictions are implemented, does the exception apply only to the Conversion IC created after the Section 8 Asset Limits are implemented or does this apply to any cert created under PBRA?

When converting from PH, PRAC, Mod Rehab, Rent Supp or RAP to PBRA RAD, owner/agent may not apply eligibility criteria to those residents in place at the time of conversion. This means that, when creating the PBRA RAD Conversion IC, the owner/agent will NOT apply the Section 8 Asset Restrictions or any other eligibility criteria. Eligibility criteria is applied when creating the first AR or IR after conversion.

Eligibility criteria reviewed for PBRA RAD when completing the first AR or IR after conversion includes:

1. Student eligibility;
2. Eligibility based on the Noncitizen Rule;
3. Eligibility based on the Section 8 Asset Restrictions (optional);
4. Eligibility based on criminal screening (optional).

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SECTION 8 ASSET RESTRICTIONS – ASSET CAP

Question 28. Let's say a resident's Section 8 assistance is terminated and the owner/agent is not enforcing the Section 8 Asset Cap or the Section 8 Real Property Rule when completing ARs or IRs for existing assisted Section 8 residents. The resident requests an IC. When the net cash value of all Included Assets is over \$100,000 does the resident have to move or is it just that the resident can no longer receive Section 8 Housing Assistance (subsidy)? *(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)*

The current guidance indicates that the resident may remain in the unit, but must pay the Section 8 Contract Rent.

If there is LIHTC, and when the LIHTC Max Rent is lower than the Section 8 Contract Rent, the resident pays the lower LIHTC Max Rent. If there is LIHTC, and when the LIHTC Max Rent is higher than the Section 8 Contract Rent, the owner/agent may increase the rent up to LIHTC Max Rent.

Question 29. If a current resident has over \$100,000 in Included Assets, and they fail to report for AR, and assistance is terminated, is it true the resident would no longer qualify to live at the property because an IC would be the next cert? *(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)*

The resident may continue to live on the property but the resident is no longer qualified for Section 8 assistance. Owner/agents should also make sure the property managers (for all programs) understand the AR rules in relation to late ARs

Please reference Chapter 7 of HH 4350.3 and Chapter 5 of HUD's MAT Guide. Owner/agents should also reference the lease.

Here is a summary of the rule regarding late ARs.

At least annually, owner/agents must review income and expenses used to calculate a family's assistance payment. Residents are provided an Initial Notice each year at MI or AR and then three reminder notices are issued before the AR is due:

- ✧ 120 Day Reminder;
- ✧ 90 Day Reminder;
- ✧ 60 Day Reminder.

These notices should be sent to the resident until the certification is actually completed (signed). Many owner/agents make the mistake of stopping the notices once the resident schedules a meeting, but that is a mistake. Until the resident signs the cert, the AR process is not complete.

In order to process the certification in a timely manner, the resident should have provided the owner/agent with required documents and signatures for verification forms no later than the 10th day of the 11th month. For example:

- ✧ For an AR effective 7/1/2025, all documentation is provided no later than 5/10/2025.
- ✧ For an AR effective 1/1/2026, all documentation is provided no later than 11/10/2025.

While this rule allows for a timely submission of the AR, technically, residents have until the last day of the certification cycle to produce required documentation and signatures for verification forms. If the information, necessary to determine the resident's new assistance payment is received after the 10th day of the 11th month, but before the Next AR Date, then the owner/agent has an additional 90 days to complete the cert.

Please note, this extra time is for the owner/agent; the tenant is not provided with an additional 90 days to produce required information unless new information is requested by the owner/agent while the owner/agent is verifying information necessary to determine the Assistance Payment.

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The owner/agent can send an AR with an Extenuating Circumstance Code or the owner/agent can just bill for up to 15 months.

If the resident fails to provide documentation and signatures for verification forms before the Next AR Date, the owner/agent is required to terminate assistance for at least one month. See HH 4350.3 Paragraph 7-7.

Tenant responds after recertification anniversary date. Tenant is out of compliance.

a. This situation occurs when:

- (1) The owner provides all three recertification reminder notices per HUD requirements; and*
- (2) The tenant reports for the recertification interview on or after the recertification anniversary date.*

b. On the recertification anniversary date, the tenant must begin paying the market rent.

*NOTE: In a Section 202 PRAC or *Section 811 PRAC project the tenant will be evicted for failing to comply with the recertification requirements.* The tenant will pay the greater of operating rent or 30% of income until eviction procedures are completed.*

NOTE: In a Section 236 project, the tenant must pay the Section 236 market rent. In a BMIR project, the tenant must pay the BMIR market rent.

c. Assistance should be reinstated if:

- (1) Assistance is available at the property;*
- (2) The tenant submits the required information; and*
- (3) The owner determines that the tenant qualifies for assistance.*

d. The new TPP/tenant rent and assistance payment take effect the first day of the month following the date on which the tenant reported for the certification. The tenant must pay the market rent until this date. If the tenant fails to report for the recertification interview and fails to pay market rent, or make arrangements to pay, the owner is obligated to evict for nonpayment.

And in the HUD Model Lease HUD Form 90105A Paragraph 15

15. Regularly Scheduled Recertification's:

Every year around the (U) day of (V) , the Landlord will request the Tenant to report the income and composition of the Tenant's household and to supply any other information required by HUD for the purposes of determining the Tenant's rent and assistance payment, if any. The Tenant agrees to provide accurate statements of this information and to do so by the date specified in the Landlord's request. The landlord will verify the information supplied by the Tenant and use the verified information to recompute the amount of the Tenant's rent and assistance payment, if any.

a. If the Tenant does not submit the required recertification information by the date specified in the Landlord's request, the Landlord may impose the following penalties. The Landlord may implement these penalties only in accordance with the administrative procedures and time frames specified in HUD's regulations, handbooks and instructions related to the administration of multifamily subsidy programs.

- (1) Require the Tenant to pay the higher, HUD-approved market rent for the unit.*
- (2) Implement any increase in rent resulting from the recertification processing without providing the 30-day notice otherwise required by paragraph 4 of this Agreement.*

b. The Tenant may request to meet with the Landlord to discuss any change in rent or assistance payment resulting from the recertification processing. If the Tenant requests such a meeting, the Landlord agrees to meet with the Tenant and discuss how the Tenant's rent and assistance payment, if any, were computed.

RBD Tenant Selection Plan Checkup Class Questions & Answers

Before terminating assistance (or terminating tenancy for a PRAC), the owner/agent must inquire if there are any Extenuating Circumstances preventing the resident from reporting. If there are Extenuating Circumstances, the AR can be sent without a Tenant Signature Date. In lieu of the Tenant Signature Date, the owner/agent will provide the appropriate Extenuating Circumstance Code. Currently, available Extenuating Circumstance Codes include:

- 1 Medical
- 2 Late Annual Recertification due to accommodation or extenuating circumstances.
- 3 Late Annual Recertification due to owner/agent delay
- 4 Late Annual Recertification due to third party delay (For example a Guardian)
- 5 Military Deployment
- 6 Eviction In Progress. Must be for a valid Handbook reason.
- 7 Court order
- 8 No Signature Required (Retroactive GR done after a MO or a GR correction to a previously transmitted 50059 where the only change is the GR modification of the contract rent and where none of the TTP, Tenant Rent, or Utility Allowance changes).
- 9 No signature required for 60 days (based on anticipated voucher reported on date). An example would be a retroactive GR causing a correction to a previously transmitted 50059 and where any of the TTP, Tenant Rent or Utility Allowance changes. A signature is required but the cert may be transmitted immediately and the signature collected within 60 days.
- 10 Other

The mistake often seen is that the resident doesn't report before the Next AR Date and then the owner/agent does not terminate assistance.

During MOR, if the Reviewer finds that the owner/agent should have terminated assistance (or terminated tenancy for PRAC) instead of submitting an AR with an Extenuating Circumstance Code, then the CA can require the return of any assistance paid since the effective date of the AR in question. It's a risk.

If an owner/agent submits a cert because they need the 90 days to verify information submitted in a timely manner or because there really are extenuating circumstances, then the owner/agent is required to document the file explaining:

1. Why the cert was sent without signature; and
2. When the tenant will sign.

Once the signature is acquired, the owner/agent corrects the certification removing the Extenuating Circumstance Code and entering a tenant signature date.

SECTION 8 ASSET RESTRICTIONS – REAL PROPERTY RULE

Question 30. Do residents have to sell Real Property Suitable for Occupancy within a certain amount of time?

HUD has not indicated that the resident has a limited amount of time to close on the sale of a house.

Question 31. How do owner/agents handle existing residents who own Real Property Suitable for Occupancy?

See above explaining Non-enforcement, Enforcement and Limited Enforcement.

Question 32. How do owner/agents verify that the property is "suitable for occupancy"?

HUD has stated that owner/agents may accept self-certification.

RBD Tenant Selection Plan Checkup Class Questions & Answers

A MFH Owner could use a form that requests certification of the family's present ownership interest in the property, and also inquire about the family's legal right to reside in, and the effective legal authority to sell any real property that is suitable for occupancy by the family. If the family certifies that they do not have any present ownership interest in real property, the MFH Owner may take that as sufficient to determine the family is not out of compliance with the real property restriction. However, if the family owns real property, the MFH Owner must seek third-party verification of the family's legal right to reside in the property, the effective legal authority to sell the property, and whether the property is suitable for occupancy by the family as a residence.

We have created a form that may be helpful [Self Certification Real Property Exemption](#).

Question 33. If a resident currently owns a house worth more than \$100,000.00, do we need to enforce the Section 8 Real Property Rule? *(Please note that the \$100,000 Section 8 Asset Cap for 2024 may be adjusted annually by HUD.)*

If the resident is a Section 8 resident who is currently receiving assistance, Enforcement of the Section 8 Real Property Rule and the Section 8 Asset Cap is based on the owner/agent's policies. See above explaining Non-enforcement, Enforcement and Limited Enforcement.

Question 34. If an owner/agent chooses to implement Non-enforcement - then is that what is included in the Tenant Selection Plan? Are owner/agents required to include descriptions of Limited Enforcement & Enforcement in the Tenant Selection Plan?

In the FASTForm [Tenant Selection Plan Sample Language HOTMA](#) and in the [Tenant Selection Plan S8](#) there are three options. If the owner/agent chooses Non-enforcement, the owner/agent would delete the option explaining Enforcement and delete the option explaining Limited Enforcement.

CHANGES TO SOCIAL SECURITY NUMBER DISCLOSURE REQUIREMENTS

Question 35. Is it required to list the acceptable forms to use for verification of the SSN?

Pre-HOTMA, HUD's instruction in HH 4350.3 Paragraph 4-4 explains that the Tenant Selection Plan must explain requirements for disclosing and providing verification of SSNs.

When designing our Tenant Selection Plans, we have two objectives:

1. Make sure applicants understand eligibility requirements;
2. Make sure site staff understand what is acceptable.

Our Tenant Selection Plan template has always included a list of acceptable documents.

Since HUD has a new HOTMA requirement to explain what to do if an applicant has no SS Card and no permanent address, we feel it is important to include all acceptable verification documentation and not just the new HOTMA exception.

Also see [Housing Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#) as revised 2/2024
Section J.6 Verification of Social Security Number (SSN)

RBD Tenant Selection Plan Checkup Class Questions & Answers

STUDENT ELIGIBILITY & STUDENT FINANCIAL ASSISTANCE

Question 36. If a student lives with parents, are owner/agents now required to count student financial assistance for Section 8?

With HOTMA (no later than 1/1/2025), student financial assistance in excess of tuition and other included fees is included when determining Annual Income for both the Section 8 and non-Section 8 programs.

If the student is the HOH, co-HOH/spouse, and is 24 or older and has a dependent child as defined by HUD, the student financial assistance does not count.

HUD has removed the exception for students residing with parents receiving Section 8 housing.

Be sure to become familiar with student financial assistance because it is treated one way for the Section 8 program and another way for non-Section 8 programs.

Question 37. Our site is set aside for residents who are 62 years or older; does the Tenant Selection Plan have to include the language for student eligibility?

Yes, owner/agents are required to describe any eligibility criteria.

Even if the site is set aside for the elderly, owner/agents must comply with rules explained in HH 4350.3 Paragraph 3-23.

Owners may not exclude otherwise eligible elderly families with children from elderly properties or elderly/disabled properties covered by this handbook.

INCOME LIMITS

Question 38. Was there a change to who is counted for income limit purposes?

Yes. Prior to HOTMA, foster children/adults were included as part of the family and were counted when determining a family's eligibility based on the Income Limits.

With the implementation of HOTMA, and after new HOTMA compliant site software is implemented, foster children/adults will no longer be included as part of the family and will not be counted when determining a family's eligibility based on the Income Limits. Foster children/adults will be considered Non-family members much like live-in aides.

HUD does not require owner/agent to explain who is and who is not counted when determining eligibility based on Income Limits. If owner/agents are including this information, then the Tenant Selection Plan language should be modified as appropriate.

See HH 4350.3 Paragraph 4-4 for HUD's guidance:

Income limits (including economic mix for Section 8 properties). The income limit schedule used for the property must be identified (i.e., very low- or low-income. The specific maximum annual income amounts need not be included).

Question 39. Does Extremely Low Income mean 30% of Median Income?

RBD Tenant Selection Plan Checkup Class Questions & Answers

Technically, the definition of an Extremely Low Income (ELI) family is a very-low income family whose income equals or is less than the greater of poverty level or 30% of Median Income.

HARDSHIP EXEMPTIONS

Question 40. For minimum rent, do owner/agents have an option of extending the Hardship Exemption or stopping it within 90 days?

The Section 8 Minimum Rent has not been modified as a result of HOTMA. When discussing Hardship Exemptions, we have opted to include all Hardship Exemptions to avoid confusion. Based on our interpretation of the rule and Handbook Guidance provided in HH 4350.3 Paragraph 5-26 treatment of the Section 8 Minimum Rent Hardship Exemption is based on whether or not the exemption is short-term or long-term.

Question 41. Are Hardship Exemptions an option or required?

There are three Hardship Exemptions introduced through HOTMA:

- 1 – The Childcare Hardship Exemption;
- 2 – The Phase-in Hardship Exemption related to the Medical Expense and the Disability Assistance Expense; and
- 3 – The Financial Hardship Exemption (General Relief) related to the Medical Expense and the Disability Assistance Expense.

~~When asked at an industry meeting if the Childcare Hardship Exemption or the Financial Hardship Exemption (General Relief) were required, HUD indicated that these two exemptions were optional. HUD also indicated that this would be clarified in a FAQ scheduled for release later this year.~~ Updated 7/9/2024. HUD has indicated that developing policies for both the Childcare Hardship Exemption and the Financial Hardship Exemption are mandatory and must be included in the TSP.

VERIFICATION & VERIFICATION CONSENT FORMS

Question 42. Can a dependent sign a 9887 before they turn 18?

That depends on state law.

Question 43. Will the HUD Form 9886 be phased out?

HUD Form 9886 is used for HUD's Public & Indian Housing (PIH) Programs. The class focused on requirements for HUD's Multifamily Housing (MFH) programs. HUD requires that owner/agents for MFH programs use HUD Form 9887/9887A.

We do not foresee HUD replacing the PIH HUD Form 9886 with the MFH HUD Form 9887/9887A.

Question 44. Would bankvod.com and confirmation.com be considered "UIV that is not EIV"?

There are many examples of UIV that is not EIV. We would agree that bankvod.com and confirmation.com could be considered UIV along with The Work Number, MySSA.gov, state benefit web portals, etc.

Question 45. If the owner/agent is not adopting Means-tested Verification (Safe Harbor), does this have to be stated in the Tenant Selection Plan?

RBD Tenant Selection Plan Checkup Class Questions & Answers

HUD's guidance in [Housing Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#) as amended 2/2024 is as follows:

MFH Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance. MFH Owners must establish in policy whether and 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. MFH Owners must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the Tenant Selection Plan, as applicable.

Question 46. Does the Means-tested (Safe Harbor) source have to be dated within 120 days of MI?

The Means-tested (Safe Harbor) documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the owner/agent:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

Question 47. Do owner/agents now include SNAP when determining Annual Income?

No. If the owner/agent elects to adopt Means-tested (Safe Harbor) Verification, the owner/agent may use income verification determined by:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
 - HUD's Public & Indian Housing Program using HUD form 50058;
 - HUD's Multifamily Housing Programs using HUD form 50059;
 - The Treasury's Low Income Housing Tax Credit Program (26 U.S.C. 42) TIC.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice.

Even though owner/agents have HUD's permission to use income determinations from The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.), SNAP is still excluded when determining a family's Annual Income under HOTMA.

Question 48. I feel like many outside agencies will not provide their income verification calculations.

The agencies are not required to provide the information directly. Using the new HOTMA verification hierarchy, the resident would provide the owner/agent with the income verification provided by these agencies.

RBD Tenant Selection Plan Checkup Class Questions & Answers

Question 49. I have a Section 8 elderly/disabled property. Most of my residents are between 80 & 92. Some get SNAP. Are owner/agents required to verify residents' SNAP benefits?

No. HOTMA does not change the treatment of SNAP benefits.

Question 50. How do HOTMA verification changes affect the 120 day rule?

The 120 day rule still applies in most cases. However, HUD has added flexibility related to:

- Verification of fixed income such as Social Security and VA benefits. The annual Award Letters may be used for the entire award year.
- Use of EIV and Self-certification when verifying employment or unemployment income.
- Use of Means-tested (Safe Harbor) verification
- Verification of income that is not fixed when implementing Streamlined Certification for Fixed Income Families.

Question 51. Is it true that owner/agents do not have to accept family self-certification?

In most cases, it is. However, there are situations where accepting family self-certification is not only appropriate, but preferred. Some examples include, but are not limited to:

- Applicants or residents may self-certify that they do not own Real Property Suitable for Occupancy that a member has a right to sell.
- Applicants or residents may self-certify whether or not assets have been disposed of for less than fair market value in the last two years and the value of any assets disposed.
- Applicants or resident may self-certify for Streamlined Verification of Assets Equal to or Less Than \$50,000 *(Please note that the \$50,000 Asset Threshold for 2024 may be adjusted annually by HUD.)*

Question 52. Does RBD offer a class explaining the new Verification Hierarchy?

We plan to later this year.

Question 53. Does an explanation of the new HOTMA Verification Hierarchy need to be included in Tenant Selection Plan?

This is an interesting question. There are so many individual requirements to discuss verification (Noncitizen Rule, SSN, Student Rule), that we have opted to include a complete explanation of the verification process.

Question 54. At move-in, may owner/agents use the Social Security Award Letter which the applicant received in Nov-Jan for the upcoming year?

Our interpretation of HUD's guidance is that an Award Letter, issued between November 2024 and January 2025 explaining benefits for 2025, would be acceptable as verification of the award amount for 2025.

After the 2026 COLA is announced and until 2026 Award Letters are issued (and EIV is updated), the owner/agent would use the 2025 Award Letter, plus any announced 2026 COLA for certifications effective in 2026 but created in 2025.

HUD specifically says, For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

RBD Tenant Selection Plan Checkup Class Questions & Answers

STREAMLINING - GENERAL

Question 55. Is a description of Streamlining required to be included in the Tenant Selection Plan if the owner/agent has a separate Streamlining Policy?

There are three aspects to Streamlining.

1. Streamlined Determination of Fixed Income;
2. Streamlined Verification of Assets Valued at \$50,000 or less (*Please note that the \$50,000 Asset Threshold for 2024 may be adjusted annually by HUD.*);
3. Streamlined Certification for Fixed Income Families.

Owner/agents may adopt none, one, two or all three Streamlining options.

HUD requires that, for owner/agents using Streamlined Verification of Assets, the owner/agent must include, in the Tenant Selection Plan, whether or not the owner/agent will accept Self-certification of Assets at MI.

HUD's guidance is as follows:

MFH Owners are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation. MFH Owners who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and 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 must include in their Tenant Selection Plans, whether and when they accept a self-certification of assets equal to or less than \$50,000 (which amount will be adjusted annually by HUD).

Question 56. I wanted to verify that, if an owner/agent implements Streamlining, in year 2 and year 3 the owner/agent is still required to review EIV?

Implementation of Streamlining does not change the post-HOTMA requirement to review the EIV Income Report and the EIV New Hires Report when creating the Annual Recertification. If the owner/agent uses Means-tested verification (Safe Harbor), the owner/agent is not required to review the New Hires Report when creating the Annual Recertification.

Question 57. Can we choose not to implement Streamlining? Which Streamlining option is now mandatory? Just the COLA part?

In our Tenant Selection Plan Sample HOTMA language, we have included options to state that the owner/agent is not adopting Streamlining.

In reference to Streamlined Determination of Fixed Income, we do include sample language that describes the method to apply COLA to Social Security income.

Question 58. Why would we put the streamlining in the Tenant Selection Plan if it only applies to residents?

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HUD is requiring the owner/agents include many discretionary policies that do not apply to applicants, but rather to residents. HUD does not require that owner/agent describe all aspects of Streamlining.

We suggest inclusion of such language to avoid MOR findings in 2025 and beyond.

STREAMLINED DETERMINATION OF FIXED INCOME

Question 59. I guess I'm old school because I've been Streamlining since before it was called Streamlining. Do I say I will Streamline Income Determination for SS and not Verification of Assets? Normally a tenant will come in with an Award Letter.

The pre-HOTMA requirement regarding Social Security income determinations is derived from HH 4350.3 Paragraph 9-6.

Benefits that include the cost of living adjustments (COLAs) are not available from SSA for uploading into EIV until the end of the calendar year.

When processing recertifications with an effective date of January 1, February 1, March 1 and April 1, in order to complete the Recertification Steps outlined in Chapter 7, [Figure 7-3](#), and provide the tenant with the required 30-day notice of any increase in rent, the owner must use one of the methods below for determining the tenant's income.

- (1) Use the benefit information reported in EIV that does not include the COLA as third party verification as long as the tenant confirms that the income data in EIV is what he/she is receiving;*
- (2) Use the SSA benefit, award letter or Proof of Income Letter provided by the tenant that includes the COLA adjustment if the date of the letter is within 120 days from the date of receipt by the owner;*
- (3) Determine the tenant's income by applying the COLA increase percentage to the current verified benefit amount and document the tenant file with how the tenant's income was determined; or*
- (4) Request third party verification directly from SSA when the income in EIV does not agree with the income the tenant reports he/she is receiving. (See [Paragraph 9-15](#))*
- (5) All recertifications effective after April 1 **must** reflect the SSA benefit that includes the COLA.*

Based on the question, Option 3 has been implemented at your site. This means that the tenant file would include:

1. The EIV printout showing Social Security Income without the COLA increase or an Award Letter that is no more than 120 days old at the time of receipt;
2. Documentation verifying the amount of the COLA increase;
3. A 50059 showing the Social Security income amount including the COLA increase.

Please note that the above explains the Pre-HOTMA option.

Based on HUD's new guidance, the day after the COLA is announced, owner agents must apply the COLA to any incomplete certifications that are effective in the next year. The owner/agent will include in the tenant file:

1. The EIV printout showing Social Security Income without the COLA increase or an Award Letter that is for the current award year without the COLA increase; and
2. Documentation verifying the amount of the COLA increase; and
3. A 50059 showing the Social Security income amount including the COLA increase.

This is Streamlined Determination of Fixed Income.

Alternatively, the owner/agent may use the Award Letter for the new award year showing the COLA increase.

Question 60. On implementing the COLA, all our property Annual Certifications are effective in March ("mass AR"). Can I include all the COLA increases in the March AR's?

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Since the March AR process begins in November, it is highly likely that the COLA increase will have been announced when the AR process begins and no March certification will be complete.

When that is the case, the owner/agent will be required to include any announced COLA increase when determining income from Social Security – which is classified as fixed income.

STREAMLINED VERIFICATION OF ASSETS VALUED AT \$50,000 OR LESS (MAY BE ADJUSTED ANNUALLY BY HUD)

Question 61. There are two things to consider when implementing Streamlined Verification of Assets...1) whether or not the owner/agent will Streamline and 2) whether or not the owner/agent will accept Streamlined Certification of Assets at MI.

Owner/agents must make two decisions in regards to Streamlined Verification of Assets Valued at \$50,000 or less *(Please note that the \$50,000 Asset Threshold for 2024 may be adjusted annually by HUD.)*

1. Whether or not the owner/agent will implement Streamlined Verification of Assets; and
2. If so, whether or not the owner/agent will accept Self-certification of Assets at Move-in.

This must be described in the Tenant Selection Plan.

Question 62. When implementing Streamlining, do owner/agents need to notify residents about this change before implementing? Does this require a House Rules change and notice before implementation?

We do not see the need to add a description of Streamlining to the House Rules. This is an internal verification process. We do suggest owner/agents develop a Streamlining policy that describes when Streamlining would and would not be used.

For example, in our Streamlining Policy Template, we include language that states that the owner/agent will not use Streamlining if the resident family is required to return any improper payment to HUD because the family failed to full and accurately disclosed income or other information.

The policy may be purchased individually [Policy Streamlining](#) or can be purchased as part of our [Streamlining Bundle](#).

Question 63. Can owner/agents implement Self Certification of Assets using the \$50k threshold now or do owner/agents have to wait until 1/1/25?

Starting in 2018 and previous to 1/1/2024, owner/agents were allowed to Streamline Verification of Assets Valued at \$5,000 or less. By our interpretation, as of 1/1/2024, owner/agents may continue using that threshold or may implement Streamlined Verification of Assets using the new \$50,000 threshold. *(Please note that the \$50,000 Asset Threshold for 2024 may be adjusted annually by HUD.)*

STREAMLINED CERTIFICATION FOR FIXED INCOME FAMILIES

Question 64. Are owner/agents still required to verify expenses?

If an owner/agent elects to adopt Streamlined Certification for Fixed Income Families, the owner/agent:

- Uses EIV for verification of any Social Security Income amount (as applicable);
- Uses Streamlined Determination of Fixed Income for any Fixed Income (preferable to use EIV for SS income verification when appropriate);

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- Uses Streamlined Verification of Assets;
- For income that is not fixed, the owner/agent may verify or use the amount used on the prior year's certification;
- Verifies any expenses in compliance with HUD's new HOTMA Verification Hierarchy and guidance provided in HH 4350.3 Paragraph 5-10 Calculating Adjusted Income, Appendix 3 Acceptable Forms of Verification, and other supplemental guidance.

REJECTING APPLICANTS

Question 65. Does the electronic rejection have to be in the file?

In compliance with HSG Notice 2020-10 [Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners](#), owner/agents must obtain consent from applicants before implementing electronic communications.

We developed a consent form for our customers. [Consent Contact Electronic](#).

Once the owner/agent has obtained such consent, owner/agents may provide certain communications, including a rejection notice, electronically.

Certain notices, including, but not limited to, terminations and lease modification notification, may only be delivered electronically if specific deliver methods are also used.

For example, when notifying residents of modification to the lease, owner/agents must comply with HUD's delivery requirements outlined in HH 4350.3 Paragraph 6-12.

The notice must be served by:

- Sending a letter by first-class mail, properly stamped and addressed and including a return address, to the tenant at the unit address; and*
- Delivering 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.*

Question 66. During a recent MOR, the Reviewer indicated that the Tenant Selection Plan must explain that the owner/agent is required to respond to an appeal request within 5 days? Is this true?

While the Rejection Notice must include such language, HUD has not published a requirement to include such language in the Tenant Selection Plan.

HUD's current guidance regarding the description of rejection for the Tenant Selection Plan is described in HH 4350.3 Paragraph 4-4.

Procedures for rejecting ineligible applicants. The plan must describe the circumstances under which the owner may reject an applicant for occupancy or assistance. If the owner establishes a policy to consider extenuating circumstances in cases when applicants would normally be rejected but have circumstances that indicate the family might be an acceptable future tenant, such a policy must also be described in the plan.

Question 67. Is an electronic rejection maintained in the applicant file?

Yes.

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The requirement to maintain a copy of the Rejection Notice in the Applicant File is still a requirement.

If the owner/agent maintains paper files, then a printed copy of the Rejection Notice would be maintained in the paper file.

If the owner/agent maintains electronic files, then an electronic copy of the Rejection Notice is maintained in the electronic applicant file.

It is best to develop a Recordkeeping Policy. We offer two policy templates. [Policy Recordkeeping eStorage](#) and [Policy Recordkeeping Paper Files](#).

INTERIM RECERTIFICATION

Question 68. We will only process an IR if AAI increase is 10% or more, correct?

Not quite. Until HUD issues new leases, resident are required to report income increases of \$200 per month. The current Interim Recertification reporting rules apply.

However, once an owner/agent implements HOTMA IR rules, then the owner/agent will determine if an IR is required based on their own internal policies related to Income Increases, Income Decreases, Changes to Family Composition and Changes to Deductions.

Question 69. I am confused about how to handle earned income changes.

Owner/agents may not consider an increase to earned income (but would consider any other changes) unless an IR, reducing Annual Adjusted Income has been submitted since the last full cert (MI, IC, AR).

That's a rule, not a choice.

Please see the examples on the next few pages.

RBD Tenant Selection Plan Checkup Class Questions & Answers

Example 1 – No IR Reducing Income Since Last AR Reported Earned Income Increase & Increase to Childcare Expense

- ✧ In this example, the Jones' family's AR is effective 8/1/2025.
- ✧ In November 2025, Jacinda moves from part time to full time and her income increases.
- ✧ Because Jacinda is working more hours, childcare has increased as well.
- ✧ Because there has been no IR reducing income for the Jones', the owner/agent will not consider any increase to earned income when determining if an IR is required. This is true even if the increase to earned income exceeds 10% of Annual Adjusted Income.
- ✧ Since change to earned income is not considered, the owner/agent does not have to verify the increased earned income amount until the next AR.
- ✧ The change to childcare must be verified.

Jimmy (HOH), Jacinda (Spouse) and Jasmine (Minor Dependent) Jones 8/1/2025 AR		Jimmy (HOH), Jacinda (Spouse) and Jasmine (Minor Dependent) Jones IR Request 11/12/2025 Increase to earned income & increased childcare	
Jimmy's Earned Income	\$18,000	Jimmy's Earned Income	\$18,000
Jimmy's Unearned Income	\$0	Jimmy's Unearned Income	\$0
Jacinda's Earned Income (Part time)	\$12,000	Jacinda's Earned Income (Full time) Starting 11/1/2025, increase of \$12,000 (to \$24,000) but is not considered because IR reducing income has not been submitted since last AR.	\$12,000
Jacinda's Unearned Income	\$0	Jacinda's Unearned Income	\$0
Jasmine's Unearned Income	\$0	Jasmine's Unearned Income	\$0
Income from Assets (Checking Acct. Savings Acct)	\$119	Income from Assets (Checking Acct. Savings Acct)	\$119
Total Annual Income	\$30,119	Total Annual Income	\$30,119
Dependent Deduction	\$480	Dependent Deduction	\$480
Childcare	\$5,720	Childcare	\$10,920
Annual Adjusted Income	\$23,919	Annual Adjusted Income	\$18,719
		Variance \$ (23919 – 18719)	-\$5,200
		Variance % (5200 / 23919)	-21.74%

- ✧ In this example, an IR is submitted to increase the Childcare Deduction.
- ✧ However, because the owner/agent has not submitted an IR to reduce income since the last AR, the owner/agent will not increase earned income.
- ✧ Because TTP is lower, the IR will be effective 12/1/2025.

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- ❖ If the change to income is a permanent change, the increase to earned income should be included when the next AR is completed.

Note: Childcare that enables a member to work may not exceed the earned income included in Annual Income for the person enabled to work.

Example 2 Cortez Family – No IR Reducing Income Since Last AR Reported Earned Income Increase, Unearned Income Decrease & Increase to Childcare Expense

- ❖ In this example, the Cortez family's AR is effective 4/1/2025.
- ❖ In July, 2025, Carlita's unemployment stops because she becomes employed. (Earned income increases and unearned income decrease). She will stop receiving unemployment benefits 7/23/2025. Her employment will start 7/21/2025.
- ❖ Because Carlita is now working, childcare has increased as well.
- ❖ Because there has been no IR reducing income for the Cortez family, the owner/agent will not consider any earned income increase when determining if an IR is required. This is true even if the earned income increase exceeds 10% of Annual Adjusted Income.
- ❖ Since change to earned income is not considered, the owner/agent does not have to verify the increased earned income amount unless another IR is requested or until the next AR.
- ❖ The owner/agent must verify discontinuation of Unemployment and the change to childcare.

Carlos (HOH), Carlita (Spouse), Corrina (Minor Dependent) and Cesar (Minor Dependent) Cortez		Carlos (HOH), Carlita (Spouse), Corrina (Minor Dependent) and Cesar (Minor Dependent) Cortez IR Request	
Carlos's Earned Income	\$18,000	Carlos's Earned Income	\$18,000
Carlos's Unearned Income	\$0	Carlos's Unearned Income	\$0
Carlita's Earned Income	\$0	Carlita's Earned Income - new job \$8600 but not considered because IR reducing income has not been submitted since last AR	\$0
Carlita's Unearned Income (Unemployment)	\$16,380	Carlita's Unearned Income (Unemployment)	\$0
Corrina's Unearned Income	\$0	Corrina's Unearned Income	\$0
Cesar's Unearned Income	\$1	Cesar's Unearned Income	\$1
Income from Assets (Checking Acct. Savings Acct)	\$119	Income from Assets (Checking Acct. Savings Acct)	\$119
Total Annual Income	\$34,500	Total Annual Income	\$18,120
Dependent Deduction	\$960	Dependent Deduction	\$960
Childcare	\$3,900	Childcare	\$5,000
Annual Adjusted Income	\$29,640	Annual Adjusted Income	\$12,160
Monthly Adjusted Income	\$2,470	Monthly Adjusted Income	\$1,013
TTP	\$741	TTP	\$304
		AAI Variance \$ (12160 - 29640)	-\$17,480
		AAI Variance % (-17480 / 29640)	-58.97%

- ❖ In this example, an IR is submitted to reflect the unearned income decrease and increase the Childcare Deduction.

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- ✧ However, because the owner/agent has not submitted an IR to reduce income since the last AR, the owner/agent will not increase earned income.
- ✧ Because TTP is lower, the IR will be effective 8/1/2025.
- ✧ If the change to income is a permanent change, the increase to earned income should be included when the next AR is completed.

**Note. This IR is reducing Annual Adjusted Income. If the Cortez family reports another earned income increase before the next AR, the owner/agent's policy is to include the new increased earned income when creating the next IR (before the next AR) See the next example.*

Second IR Request - Reported Earned Income Increase

- ✧ On 10/1/2025, the Cortez family reports that Carlos received a raise. Since an IR reducing income has been submitted since the last AR, the owner/agent will now consider increases to earned income.
- ✧ Both the earned income increase for Carlita and the earned income increase for Carlos must be verified.
- ✧ Both increases will be included on the new 50059.

Cortez IR Request - Carlita gets a job 7/21/2025		Cortez IR Request - Carlos gets a raise 10/1/2025	
Carlos's Earned Income	\$18,000	Carlos's Earned Income increase is now considered because IR reducing income has been submitted since last AR	\$22,000
Carlos's Unearned Income	\$0	Carlos's Unearned Income	\$0
Carlita's Earned Income - new job \$8600 but not considered because IR reducing income has not been submitted since last AR	\$0	Carlita's Earned Income - new job \$8600 is now considered because IR reducing income has been submitted since last AR	\$8,600
Carlita's Unearned Income (Unemployment)	\$0	Carlita's Unearned Income (Unemployment)	\$0
Corrina's Unearned Income	\$0	Corrina's Unearned Income	\$0
Cesar's Unearned Income	\$1	Cesar's Unearned Income	\$1
Income from Assets (Checking Acct. Savings Acct)	\$119	Income from Assets (Checking Acct. Savings Acct)	\$119
Total Annual Income	\$18,120	Total Annual Income	\$30,720
Dependent Deduction	\$960	Dependent Deduction	\$960
Childcare	\$5,000	Childcare	\$5,000
Annual Adjusted Income	\$12,160	Annual Adjusted Income	\$24,760
Monthly Adjusted Income	\$1,013	Monthly Adjusted Income	\$2,063
TTP	\$304	TTP	\$619
		AAI Variance \$	\$12,600
		AAI Variance %	103.62%

- ✧ The owner/agent sends a Notice of Rent Increase (which should include a Notice of Requirement to sign) to the Cortez family on October 15, 2025.
- ✧ The new IR is effective on 12/1/2025.

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Owner/agents also have the option to disregard ANY increases to earned income except at MI, IC and AR (no IR). When this is the case, the owner/agent is no longer required to review the EIV New Hires Report.

Owner/agents must document their practice and it must be explained in the property TSP. The deadline for updating the TSP is May 31, 2024.

Increase to Unearned Income. If a resident reports an increase to **unearned income**, the owner/agent must determine if that increase results in an AAI increase of 10% or more. If it does, then the owner/agent **MUST** submit an IR. An owner/agent must not modify the 10% for Annual Adjusted Income increases related to unearned income or deductions.

Owner/agents also need to decide if they want to consider increases to earned income at all between certifications. Owner/agents have the option to ignore all increases to earned income until the next AR. Ignoring all earned income increases during a certification cycle is an option and must be described in the Tenant Selection Plan. If owner/agents don't consider increases to earned income during the certification cycle, this must be explained in the property Tenant Selection Plan.

Owner/agents also need to decide if they will consider any increase to Annual Adjusted Income if the change is reported in a timely manner and within 3 months of the AR Anniversary Date. This is optional but must be explained in the property Tenant Selection Plan.

Question 70. For IR's, when considering deductions, are those taken into consideration because we are looking to see if they make the Adjusted income increase/decrease standard % rate we implement?

The Interim Recertification has become significantly more complex. First of all, owner/agents must submit an IR if there is an Annual Adjusted Income Decrease of 10% or more. Owner/agents may establish a lower percentage.

Because HUD requires owner/agents to use Annual Adjusted Income and not Annual Income, owner/agents must consider any changes to expenses when determining whether or not an IR is required.

UNIT TRANSFERS

Question 71. Can a UT preference apply to Section 8 residents as well as non-Section 8?

HUD's requirements for all MFH programs can be found in HH 4350.3 Paragraph 4-4.

Owner/agents must describe Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur.

We have opted to include specific resident preferences in the Tenant Selection Plan template under the Preference topic.

There are certain situations where an in-place resident would be offered a unit before an applicant:

1. If there is change to household composition and the current unit is no longer suitable;
2. If a resident has requested and qualifies for an internal VAWA Emergency Transfer;
3. If a Unit Transfer Request has been approved to address a Reasonable Accommodation/Modification Request;
4. If a resident currently lives in an accessible unit and no longer needs the features of an accessible unit when an applicant on the waiting list has a verified need for such features.

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How and where owner/agents describe selection of in-place residents versus applicants is left up to the owner/agent.

Question 72. If a resident has requested a larger unit and two unit offers have been extended and refused, may the owner/agent remove the family from the Unit Transfer Waiting List?

It would depend on the reason for the request for the unit transfer. Owner/agents may establish “Right to Refusal” policies related to Unit Transfers when appropriate.

LEASES & HOUSE RULES

Question 73. Should the termination of assistance for revoking consent be in the House Rules? Should owner/agents also include language about 9887/9887A signature requirements for residents who turn 18?

When an owner/agent has developed and implemented House Rules, owner/agents should strongly consider adding language explaining the penalty for revoking consent provided through the 9887/9887A.

However, in compliance with HH 4350.3 Paragraph 6-9, most owner/agents are not required to establish House Rules.

Question 74. Should we be updating the House Rules to mirror the Tenant Selection Plan?

That is up to the owner/agent. I would suggest review of the House Rules and new HOTMA requirements to determine which modifications are needed.

Question 75. I work with a Cooperative so we don't use the HUD lease. How can we get the new lease language necessary to update occupancy agreement?

HUD would have to provide an explanation of any new requirements for Cooperative Agreements.

MISCELLANEOUS QUESTIONS

Question 76. What recent HUD reference provides guidance regarding Accessibility of the Application?

HUD strongly encourages owner/agents to ensure that the application process is available to persons with disabilities and persons with limited English proficiency.

Recent guidance is provided in a 2022 HUD publication entitled [Marketing and Application Processing at Subsidized Multifamily Properties](#).

Question 77. Does an owner/agent have to put sample notices in Tenant Selection Plans?

We are not aware of any HUD requirement to include sample notices as part of the Tenant Selection Plan.

Question 78. Where is the Electronic Communication Memo?

Owner/agent of Multifamily Housing programs should reference HUD HSG Notice 2020-10 [Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners](#) which can be found on HUD’s HUDClips web site.

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This Notice explains federal requirements related to electronic signatures, electronic transmission and electronic storage.

Question 79. What HUD Housing Notice(s) can be referencing for the screening of applicants?

We mentioned two new publications in the class. The first document referenced in the class was published on April 24, 2024 provides new fair housing guidance and is entitled [Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing](#). This is guidance and not regulation.

The second publication is a Proposed Final Rule related to removing barriers preventing criminals from receiving Housing Assistance. The Proposed Final Rule is currently available for comment until June 10, 2024. [Reducing Barriers to HUD-Assisted Housing](#).

We STRONGLY recommend that industry stakeholders submit comments.

Owner/agents should also take in to consideration, other guidance provided by HUD.

- HSG Notice 2002-22 [Screening and Eviction for Drug Abuse and Other Criminal Activity - Final Rule](#);
- HSG Notice 2009-11 [State Lifetime Sex Offender Registration](#);
- Housing Notice 2012-11 [State Registered Lifetime Sex Offenders in Federally Assisted Housing](#);
- Housing Notice 2011-20 [Guidelines on Bed Bug Control and Prevention in HUD Insured and Assisted Multifamily Housing](#);
- HH 4350.3 Paragraph 4-7 Screening for Suitability and 4-8 Prohibited Screening Criteria;
- Etc.

Question 80. How should an owner/agent treat an application who is a sex offender but not listed as life-time registrant?

While HSG Notice 2002-22 [Screening and Eviction for Drug Abuse and Other Criminal Activity - Final Rule](#) – which introduced restrictions for lifetime sex offender registrants – discusses only those offenders subject to lifetime registration, the Notice specifically states that owner/agent policies may be “more stringent”.

So, if preferred, and if there is no local ordinance prohibiting such change, owner/agents could indicate that anyone subject to any state or federal sex offender registration would be denied.

Owner/agents must be familiar with local, or any new HUD protections, as they relate to criminal history and restricted screening criteria.

Question 81. Are owner/agents required to explain what happens when a resident is overcharged due to owner/agent error?

[Housing Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](#) as amended 2/2024 specifically provides that requirement.

MFH Owners must revise Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged as a result of the MFH owner's de minimis error in income determination.

In our Tenant Selection Plan HOTMA Language and in the Tenant Selection Plan Templates, we have added a Section explaining the Rent Calculation.

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That Section includes an explanation of how the owner/agent will treat errors in the Assistance Payment calculation.

We go above and beyond HUD's requirement by describing any error, not just de minimis errors.

We do not discuss de minimis errors specifically, because most applicants would not understand the term.

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ATTACHMENT A: REFERENCES USED WHEN CREATING A TENANT SELECTION PLAN (HUD MULTIFAMILY HOUSING PROGRAMS)

Owner/agents can refer to HUD resources including:

[HH 4350.3 Revision 1, Change 4 Occupancy Requirements of Subsidized Multifamily Housing Programs \(Please note, some sections of this Handbook are superseded by HSG Notice 2023-10\)](#)

[Housing Notice 2024-04 Revised Compliance Date: Updates to Tenant Selection \(Tenant Selection Plan\) and Enterprise Income Verification \(EIV\) Policies and Procedures.](#)

[Housing Notice 2023-10 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\) as amended 2/2024](#)

[Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing](#)

[Housing Notice 2023-08 Rental Assistance Demonstration - Supplemental Notice 4B](#)

[DAS Memorandum Housing Provisions of the Violence Against Women Act Reauthorization Act of 2022](#)

[FHEO Memorandum Marketing and Application Processing at Subsidized Multifamily Properties](#)

[Housing Notice 2020-10 Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners](#)

[Housing Notice 2019-09 Rental Assistance Demonstration-Final Implementation Rev. 4](#)

[Housing Notice 2017-05 – VAWA Violence Against Women Act \(VAWA\) Reauthorization Act of 2013 – Additional Guidance for Multifamily Owners and Management Agents](#)

[Housing Notice 2016-09 Streamlining Administrative Regulations for Multifamily Housing Programs \(Please note, some sections of this Notice are superseded by HSG Notice 2023-10\)](#)

[Housing Notice 2015-12 Amendment to the Definition of Tuition \(Please note, some sections of this Notice are superseded by HSG Notice 2023-10\)](#)

[Housing Notice 2015-10 Guidance for Public Housing Agencies \(PHAs\) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions](#)

[Housing Notice 2015-06 Program Eligibility in Multifamily Assisted and Insured Housing Programs in Accordance with HUD's Equal Access Rule](#)

[Housing Notice 2015-01 Notice of Program Eligibility for HUD Assisted and Insured Housing Programs for All People Regardless of Sexual Orientation, Gender Identity or Marital Status as Required by HUD's Equal Access Rule](#)

[Housing Notice 2014-16 Waiting List Administration](#)

[Housing Notice 2014-09 Relocation Requirements under the Rental Assistance Demonstration \(RAD\) Program, Public Housing in the First Component](#)

[Housing Notice 2014-01 HUD Real Estate Owned \(REO\) Lead Disclosure Requirements](#)

[Housing Notice 2013-21 Implementation and approval of owner-adopted admissions preferences for individuals or families experiencing homelessness](#)

[Housing Notice 2013-06 Enterprise Income Verification \(EIV\) System \(Please note, some sections of this Notice are superseded by HSG Notice 2023-10\)](#)

[Housing Notice 2012-22 Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies](#)

[Housing Notice 2012-11 State Registered Lifetime Sex Offenders in Federally Assisted Housing](#)

[Housing Notice 2012-09 Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing](#)

[Housing Notice 2012-05 Guidelines on Addressing Infestations in HUD-insured and Assisted Multifamily Housing](#)

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[Housing Notice 2011-20 Guidelines on Bed Bug Control and Prevention in HUD Insured and Assisted Multifamily Housing](#)

[Housing Notice 2010-21 Optional Smoke-Free Housing Policy Implementation](#)

[HSG Notice 2009-11 State Lifetime Sex Offender Registration](#)

[HSG Notice 2002-22 Screening and Eviction for Drug Abuse and Other Criminal Activity - Final Rule](#)

[Various Federal Register Notices](#)

[The Code of Federal Regulations \(24CFR\)](#)