



Office of Affordable Housing Programs - NSPIRE and HOTMA

COSCALA Annual Training Conference – September 13, 2023



NSPIRE in HOME and HTF

NSPIRE Final Rule

- National Standards for Physical Inspection of Real Estate (NSPIRE) Final Rule published May 11, 2023
 - Effective for new HOME or HTF commitments made on or after October 1, 2023 (the effective date)
 - Includes conforming changes for HOME and HTF regulations
 - OAHP will publish a Federal Register Notice outlining how NSPIRE applies to HOME and HTF
 - Based on deficiencies established in the NSPIRE Inspection Standards Federal Register Notice published June 22, 2023



NSPIRE Final Rule – Purpose

- Strengthens HUD’s physical condition standards, and aligns inspections for HUD-assisted housing inspected by HUD’s REAC
 - Increases the number of applicable programs defined as “HUD Housing” under 24 CFR 5.701
 - Does not include HOME and HTF
 - Redefines “decent, safe, and sanitary” and similar standards as “safe, habitable dwellings”
 - Reduces the categories of inspectable areas from five to three
 - Removes superficial and cosmetic deficiencies and frames all deficiencies in terms of health and safety
 - Allows for continual updates through Federal Register Notice
- Replaces UPCS and HQS, and consolidates multiple standards under Part 5
- Incorporates affirmative requirements at 24 CFR 5.703



Key Provisions for HOME and HTF – Affirmative Requirements

- Parts 92 and 93 apply the affirmative requirements at 24 CFR 5.703, for example
 - Smoke detectors
 - GCFI outlets
 - Guardrails and interior lighting fixtures
 - A permanent heating source
 - Prohibition on unvented space heaters that burn gas, oil or kerosene
 - Source of safe drinking water
 - Sanitary facility and kitchen area requirements
- Exceptions:
 - Carbon monoxide detectors (as required by 2021 Appropriations Act for applicable programs)
 - Sanitary facilities and kitchens in SRO units



Key Provisions for HOME and HTF – Rehabilitation and Acquisition of Standard Housing

- Conforming changes replace references to UPCS in Parts 92 and 93 with NSPIRE
 - HUD must establish and publish in the Federal Register lists of specific deficiencies that must be corrected in HOME- and HTF-assisted housing based on NSPIRE
- Affirmative requirements at 24 CFR 5.703 apply, except:
 - Carbon monoxide detectors
 - Sanitary facilities and kitchens in SRO units
- Continues to require compliance with state and local housing quality standards and codes
- Clarifies that 24 CFR 5.705 through 5.713 (inspection procedures; scoring, ranking and appeals; etc.) do not apply to HOME and HTF



Key Provisions for HOME and HTF – TBRA and Ongoing Occupancy of HOME Rental Housing

- HOME TBRA: PJs must establish written property standards for housing occupied by tenants receiving HOME TBRA
 - Removes references to HQS
 - Rule aligns TBRA with ongoing property condition standards of rental housing
 - Must require that housing meet state and local codes and ordinances;
 - Be free of health and safety defects; and
 - Meet lead-based paint requirements.
- TBRA/Rental Housing: Strengthens property standards for ongoing inspections
 - In absence of state/local codes, HOME and HTF housing must not contain specific deficiencies established by HUD in the Federal Register based on NSPIRE
 - Previously, HOME and HTF required that inspections include all inspectable items and areas specified by HUD
- Clarifies that 24 CFR 5.705 through 5.713 do not apply to HOME and HTF



Implementing NSPIRE for HOME and HTF

- HUD will publish a Federal Register Notice to:
 - Clarify property standards and inspections requirements, and
 - Establish lists of specific deficiencies that must be corrected in HOME/HTF housing based on activity undertaken and tenure type.
- HTF Monitoring Exhibits in development will include NSPIRE requirements
- Additional OAHP HOME/HTF TA Plan:
 - Live webinar with opportunity for QA following publication of the Notice
 - Inspection checklists by activity (rehabilitation, acquisition of standard housing, TBRA and ongoing property condition of rental housing)
 - Written rehabilitation standards toolkit
 - Primers on Capital Needs Assessments, analysis of useful life of major systems, and sizing replacement reserve
 - How to evaluate construction costs, schedule for progress inspections
 - Sample form for annual owner certification



Resources

- NSPIRE Final Rule: <https://www.govinfo.gov/content/pkg/FR-2023-05-11/pdf/2023-09693.pdf>
- NSPIRE Inspection Standards Federal Register Notice: <https://www.govinfo.gov/content/pkg/FR-2023-06-22/pdf/2023-13293.pdf>
 - Also available as a website: https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/standards





Questions on NSPIRE for HOME & HTF?



HOTMA

HOTMA Final Rule

- Housing Opportunity Through Modernization Act of 2016 (HOTMA)
 - Major reform legislation for public housing and Section 8 programs
 - Revises HUD's Part 5 income regulations- creates new requirements for determining a family's assets and income
 - Streamline and align administrative processes in HUD rental programs
 - Target scarce resources to most needy families through the income and asset examination process
 - OAHP issued conforming regulations for HOME and HTF to align and reduce administrative burden of calculating income on units assisted by multiple HUD programs
 - Final Rule published on February 14, 2023; effective date January 1, 2024



HOTMA Final Rule: Key Provisions

24 CFR Part 5: Use by PIH, MFH & CPD programs

- **Annual Income (24 CFR 5.609):** used to determine eligibility for assistance
 - Revises the definition of income (It's income unless it's excluded by the rule)
 - 28 income exclusions
 - HUD will publish Federally mandated exclusions via federal register, as necessary
 - Increases threshold for imputing income from assets from \$5k to **\$50k**, (amt. adjusted annually for inflation)
 - HUD will publish passbook saving rate used to impute income from assets
 - Establishes how annual income is calculated (**not applicable to HOME/HTF**)
 - Creates Safe Harbor – can accept income determination done by provider of means tested federal public assistance (TANF, Medicaid, SNAP, WIC)



HOTMA Final Rule: Key Provisions (Cont.)

- **Adjusted Income (24 CFR 5.611):** used to calculate a tenant's rent and/or amt. of rental assistance
 - All mandatory deductions will be adjusted for inflation annually
 - Increases the threshold for health/medical/attendant care expense deduction (3% to 10%)
 - Makes financial hardship relief available if ineligibility to claim the health/medical, attendant care/auxiliary apparatus poses financial hardship
 - Makes financial hardship relief if the loss of the childcare expense deductions lead to inability to pay rent



HOTMA Final Rule: Key Provisions (Cont.)

- **Earned Income Disallowance (EID) (24 CFR 5.617):** sunsets a benefit which disregards increases in income for persons with disabilities 2 years after effective date of rule
- **Asset Restrictions (24 CFR 5.618):** sets limits on value of Net Family Assets and real property ownership for participation in most HUD programs-
 - Not applicable to HOME/HOME-ARP/HTF but impacts tenant if unit/family is assisted by another HUD program subject to requirement



HOTMA Final Rule: Key Definitions

- The Final Rule revises and codifies new definitions
- 24 CFR 5.100
 - Earned and unearned income
- 24 CFR 5.403
 - Family (includes youth aging out of foster care)
- 24 CFR 5.603
 - Net Family Assets (codifies new exclusions)
 - Dependent (full time student), foster adult, foster child, minor (the treatment of their income)
 - Day laborer, independent contractor, seasonal worker (for the purpose of nonrecurring income)
 - Health and medical care expenses (used in adjusted income)



Adjusted Income- Financial Hardship Relief

- 24 CFR 5.611(c): Hardship Deduction for -
 - Unreimbursed health and medical care expenses for elderly family or disabled family AND
 - Reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family to be employed
- 24 CFR 5.611(a) increased the threshold for the above deduction to 10% of a family's income
 - If family was taking the deduction before 1/1/24, then the family gets phased-in relief
 - 1st 12 months- family may receive deduction of the expenses that exceed 5% of annual income
 - 2nd 12 months- family may receive deduction of the expenses that exceed 7.5% of annual income
- If the family was not taking the deduction, the expenses increased, OR family circumstances changed and no interim reexamination is triggered, then
 - family may receive deduction of the expenses that exceed 5% of annual income
 - Up to 90-day period (may be extended)



Adjusted Income- Financial Hardship Exemption

- 24 CFR 5.611(d): Exemption to continue reasonable child care expense deduction
 - Family is unable to claim child care deduction under 24 CFR 5.611(a) because:
 - No family member is employed AND
 - No family member is furthering their education AND
 - The family still requires child care
 - The loss of the deduction creates inability to afford rent without the child care deduction
 - Relief is 90-days, can be extended in 90-day increments



Implementing Financial Hardship Exemption/Relief

- PHAs, owners, and CPD grantees may develop hardship provisions if they calculate adjusted income under 24 CFR 5.611(a) and (c)-(e)
 - 24 CFR 5.611(e) requires the responsible entity to define hardship for 24 CFR 5.611(c) and (d)
 - 24 CFR 5.611(e) requires the responsible entity to define the family's inability to pay rent for the child care hardship exemption in 24 CFR 5.611(d)
- ESG grantees, CoCs, CDBG grantees, and HTF grantees DO NOT have the ability to grant hardship exemptions
- HOME PJs may grant hardship exemptions (relief)



HOTMA Changes to the HOME Program

Changes to the HOME Program

- Conforming regulatory changes to align with revisions to:
 - New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
 - Annual Income at 24 CFR 5.609(a) and (b)
 - Adjusted income 24 CFR 5.611(a) and Hardship Exemptions at 24 CFR 5.611(c)-(e)
 - Removal of EID (24 CFR 5.617), sunset after 2 years
 - Families can self-certify the value of Net Family Assets under \$50k (24 CFR 5.618(b)(1))



New Requirements for the HOME Program

New HOME provisions to align and reduce administrative burden:

- Requires PJs to accept income determinations made in units assisted by Federal or state project-based rental assistance programs (e.g., PBV)
 - Includes initial, interim & annual reexaminations of income
- Permits PJs to accept income determinations made by PHAs/Other entity in units occupied by federal TBRA recipients (e.g., HCV, HUD-VASH)
 - Includes initial, interim & annual reexaminations of income
- Requires use of Part 5 definition of annual income (24 CFR 5.609(a) and (b)) in rental projects where PJ is required to or chooses to accept income determinations done by PHAs, Section 8 owner, or rental assistance provider



Clarifications in the HOME Program

- Identifies four cases when a PJ must calculate a tenant's adjusted income
- Clarifies who is a member of the family (excludes income of live-in aides, foster children and foster adults) for both income definitions (Part 5 & IRS Form 1040)
- Clarifies that federal TBRA is excluded from annual income when determining eligibility for HOME assistance



HOTMA changes to the HOME Program & Impacts on **HOME-ARP**

HOME-ARP: Current Income Requirements

- PJs must use definition of annual income in 24 CFR 5.609 & calculate income in accordance w/ the requirements of 24 CFR 92.203(a)(1)
 - For all income calculations to meet income criteria of certain QPs
 - For all income determinations required in HOME-ARP eligible activities (e.g., HOME-ARP low-income units)
- PJs must accept income determinations made in HOME-ARP low-income units assisted by Federal or state project based rental assistance programs
- PJs may accept income determinations made by rental assistance providers in HOME-ARP low-income units w/ families assisted by federal TBRA



HOME Changes that Apply to HOME-ARP

- Must make conforming regulatory changes to the HOME-ARP Notice to align with revisions to the HOTMA Final Rule on:
 - New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
 - Annual Income at 24 CFR 5.609(a) and (b)
 - Adjusted income 24 CFR 5.611(a) and Hardship Exemptions at 24 CFR 5.611(c)-(e)
 - Used in limited set of circumstances (e.g., HOME-ARP low-income units, over-income tenants)
 - Families can self-certify the value of Net Family Assets under \$50k (24 CFR 5.618(b)(1))



HOTMA changes to the Housing Trust Fund (HTF) Program

Changes to the HTF Program

- Conforming regulatory changes to align with revisions to:
 - New definitions at 24 CFR 5.100; 24 CFR 5.403; 24 CFR 5.603
 - Annual Income 24 CFR 5.609(a) and (b)
 - Families can self-certify the value of net family assets under \$50k (24 CFR 5.618(b)(1))
- Codified existing program requirements:
 - Method for calculating annual income (projecting the prevailing rate of income)
 - Income determinations are good for (6 months)
 - Excludes income or asset enhancements derived from the investment of HTF-assisted projects



New Requirements for the HTF Program

New requirements to align and reduce administrative burden:

- Requires HTF grantees to accept income determinations made in Federal or state project based rental assistance programs, public housing, or HCV programs
 - Includes initial, interim & annual reexaminations of income
- Requires the use of annual income at 24 CFR 5.609(a) and (b) in rental projects where HTF grantee is required to accept income determinations done by PHAs, section 8 owner, or rental assistance provider



Clarifications in the HTF Program

- Clarifies who is a member of the family (excludes income of live-in aides, foster children and foster adults) for both income definitions (Part 5 & IRS Form 1040)
- Clarifies that federal TBRA is excluded from annual income when determining eligibility for HTF assistance
- Clarifies adjusted income does not apply to HTF



Inconsistencies Between Program Regulations (Part 5 & HOME/HOME-ARP/HTF)

- HOME/HOME-ARP/HTF do not apply asset limitations in 24 CFR 5.618
 - The programs must comply with tenant protections in 24 CFR 92.253 (HOME) and 24 CFR 93.303 (HTF) for good cause evictions (being over-income is not good cause)
- HOME/HOME-ARP/HTF do not calculate income in accordance with 24 CFR 5.609(c)
 - Annual income is calculated in accordance with new citations of 24 CFR 92.203(e)- HOME and 24 CFR 93.151(e)- HTF (project annual income for upcoming 12 months)
 - Conforming changes will be necessary to clarify this for HOME-ARP
 - Programs have similar safe harbor provisions in 24 CFR 92.203(a)(1) & (2) and (b)(1)(iii)- HOME and 24 CFR 93.151(a)(1-3 and (d)(3)- HTF (accepting incomes done by administrator of government program during compliance period (years 2-5, 7-11, & 13-17)



Annual Publications to lookout for

HUD will annually adjust the following amounts for inflation and publish on www.huduser.gov

- Annual Income 24 CFR 5.609 (a) and (b)
 - Amt. for threshold for imputing income from assets above **\$50k**
 - Amt. for the combined value of all non-necessary items of personal property that is not included in net family assets **\$50K** (definition of net family assets)
 - Amount of dependent full-time student exclusion, all amounts above **\$480**
 - Amount of adoption assistance payments for a child, all amounts above **\$480**
- Adjusted Income 24 CFR 5.611(a)
 - Amt. for deduction for each dependent, **\$480** Amt. for deduction for any elderly family or disabled family, **\$525**
- Asset Restriction 24 CFR 5.618 (a) and (b)
 - Amt. for restriction on net family assets, **\$100k**
 - Amt. of net family assets based on self-certification from family, not greater than **\$50K**
- HUD will issue passbook saving rate (used to impute income from assets)



HOTMA Compliance Dates

- Effective Date: 1/1/2024; Compliance Date: 1/1/2025
 - PIH will establish by Notice a Final Rule compliance date to address numerous challenges because HUD systems are not ready for all PHAs
 - “Compliance” means to administer all aspects of the affected programs in accordance with the HOTMA Final Rule
 - **PIH delays do not apply to HOME/HOME-ARP/HTF programs**
 - **CPD is assessing impact of compliance date delays on CPD grantees and will issue requisite guidance - Stay tuned!**



Implementing HOTMA: OAHP

- Issue guidance and provide training for HOME, HOME-ARP and HTF
- Update [Technical Guide for Determining Income and Allowances for the HOME program](#)
- Update [HOME Monitoring Exhibits](#)
- HTF Monitoring Exhibits currently underway and will include HOTMA requirements
- Update [CPD Income Calculator](#) on the HUD Exchange



Implementing HOTMA: PJ & HTF Grantees

- PJs must decide if it will make financial hardship relief/exemption available (rental programs)
- Complete the necessary public processes to update HOME/HTF program guidelines
- Update program policies and procedures, internal systems, templates (intake forms, program applications, contracts, written agreements, self-certification forms., etc.)
- Train PJ/HTF grantee staff on new income requirements
- Ensure housing partners are ready to implement new income requirements (project owners, landlords, entities under contract to PJ/HTF grantee, etc.)
- Prepare appropriate notifications to HOME/HTF-assisted units/families of upcoming income changes and potential impacts to their rents or amt. of rental assistance.



Stay Connected!

- **Subscribe to HOME, HOME-ARP, and HTF Mailing Lists**
 - <https://www.hudexchange.info/maillinglist/subscribe/>





Questions on HOTMA?