

## **Introduction**

### **HOTMA CHANGES IN THE ACOP**

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs.

#### **HOTMA 102/104**

HUD published a final rule on February 14, 2023, revising regulations related to income, assets, adjusted income, verification, and reexams (among others) to implement Sections 102 and 104 of HOTMA. While the new regulations were effective January 1, 2024, HUD has delayed the compliance date for HOTMA 102/104. Initially, HUD published a delayed compliance date of January 1, 2025, but HUD again delayed the compliance date for HOTMA 102/104 and no new date has been provided. *Compliance* with Sections 102 and 104 of HOTMA means not only applying HOTMA 102/104 regulations to affected programs but also reporting in HUD's new Housing Information Portal (HIP) system. Currently, PHAs remain unable to comply with HOTMA 102/104 because compliance depends on transitioning from HUD's IMS/PIC system (which is unable to accept HOTMA-compliant Form HUD-50058) to HUD's new HIP system (which will be the only system that accepts HOTMA-compliant Form HUD-50058). PHAs cannot transition to HOTMA until HIP is in place, HOTMA-compliant, and accessible. However, HUD has determined that a few HOTMA 102/104 policies are not dependent on transition systems and easily isolated from other HOTMA 102/104 policy changes. These policies may be implemented prior to the migration to HIP.

HUD stated that PHAs may update their policy documents before determining the date at which they will transition to all HOTMA Section 102 and 104 policies. HUD stated that in order to update their policy documents for HOTMA in this circumstance, PHAs may create an appendix that contains the HOTMA policies that will be incorporated at a later date. The model policy adopts such an approach. HOTMA 102/104 policies are provided in each affected area of the model policy. However, with the exception of the policies HUD has indicated may be adopted early, HOTMA policies that are "on hold" are indicated in the model policy as such. Further, an appendix has been provided to explicitly call out those policies that are on hold.

## **ABOUT THE ACOP**

### **REFERENCES CITED IN THE ACOP**

Authority for PHA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy. Finally, the public housing lease will affect PHA policy and therefore must be consistent with federal and state laws and regulations.

### **HUD**

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations to a specific pattern.

### **State Law**

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

## RESOURCES CITED IN THE ACOP

The ACOP cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the ACOP may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the ACOP, and a list of references and document locations that are referenced in the ACOP or that may be helpful to you.

### Public Housing Occupancy Guidebook

In June 2020 HUD began issuing a new version of the *Public Housing Occupancy Guidebook* chapter-by-chapter. Unlike the previous version of the guidebook in which chapters were numbered, the new version includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the *Public Housing Occupancy Guidebook* is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *PH OCC GB* with a chapter/page reference (example: PH OCC GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New PH OCC GB* with a chapter title and page reference (example: New PH OCC GB, *Lease Requirements*, p. 11).

On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portion of the guidebook, specifically the chapters on eligibility and occupancy, income determinations, and reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the Public Housing Occupancy Guidebook.

### Abbreviations

Throughout the ACOP, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited by the ACOP.

| Abbreviation  | Document                                                                        |
|---------------|---------------------------------------------------------------------------------|
| CFR           | Code of Federal Regulations                                                     |
| HUD-50058 IB  | HUD-50058 Instruction Booklet                                                   |
| PH OCC GB     | Public Housing Occupancy Guidebook, June 2003                                   |
| New PH OCC GB | Public Housing Occupancy Guidebook, Various dates of release                    |
| RHIIP FAQs    | Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions |
| VG            | Verification Guidance, March 2004 (attachment to PIH Notice 2004-1)             |

## Resources and Where to Find Them

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website:  
[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips)

Following is a list of resources helpful to the PHA or referenced in the ACOP, and the online location of each.

| Document and Location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| Code of Federal Regulations<br><a href="http://www.ecfr.gov">http://www.ecfr.gov</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Enterprise Income Verification (EIV) System PHA Security Procedures<br><a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>                                                                                                                                                                                                                                                                                                                                                                |
| Executive Order 11063<br><a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>                                                                                                                                                                                                                                                                                                                                                        |
| Federal Register<br><a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| HOTMA Final Rule<br><a href="https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email">https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&amp;utm_source=federalregister.gov&amp;utm_medium=email</a> |
| HOTMA Implementation Notice, PIH 2023-27<br><a href="https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf">https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-27pihn.pdf</a>                                                                                                                                                                                                                                                                                                                                                                       |
| Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004<br><a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>                                                                                                                                                                                                                                          |
| Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007<br><a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>                                                                                                                                                                                                                                 |
| Notice PIH 2010-26, Nondiscrimination and Accessibility Notice<br><a href="http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf">http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf</a>                                                                                                                                                                                                                                                                                                                                       |
| Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System<br><a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a>                                                                                                                                                                                                                                                                                            |
| Public Housing Occupancy Guidebook, June 2003<br><a href="https://www.hud.gov/sites/documents/DOC_10760.PDF">https://www.hud.gov/sites/documents/DOC_10760.PDF</a>                                                                                                                                                                                                                                                                                                                                                                                                |
| VAWA Resources<br><a href="https://www.hud.gov/vawa">https://www.hud.gov/vawa</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |