

Chapter 9

PROVISIONS REQUIRED UNDER HOTMA

9-A. OVERVIEW

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. The final rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA was officially published in the *Federal Register* on February 14, 2023. HUD issued notice H 2023-10 to provide guidance to O/As on the implementation of the program changes described in the final rule. The notice required that for certain topic areas, O/As establish policies in the Tenant Selection Plan. This chapter details the O/A's policies in those areas.

9-B. DE MINIMIS ERRORS [24 CFR 5.609(c)(4); Notice H 2023-10]

O/As will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when an O/A's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). O/As will not be issued a finding by HUD or the Contract Administrator for de minimis errors in income calculation. As O/As become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error. O/As must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when O/As make de minimis errors in the income determination. Families will not be required to repay the O/A in instances where the O/A miscalculated income resulting in a family being undercharged for rent. O/As must state in the TSP how they will repay or credit a family the amount they were overcharged as a result of the O/A's de minimis error in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease may not be applied by the grantee prior to the later of the first of the month following:

- The date of the change leading to the interim recertification of family income; or
- The effective date of the family's most recent previous interim or annual recertification (or initial certification if that was the family's last certification).

O/A Policy

The O/A will repay any family the amount that the family was overcharged retroactive to the effective date of the action the error was made, regardless of the dollar amount associated with the error, because of the O/A's error, including de minimis errors in income determination.

When the resident overpaid because the resident failed to report in a timely manner, a retroactive rent decrease will not be applied prior to the effective date of the family's most recent previous certification.

9-C. HARDSHIP EXEMPTIONS FOR HEALTH AND MEDICAL CARE AND REASONABLE ATTENDANT CARE AND AUXILLIARY APPARATUS EXPENSES [24 CFR 5.611(c); Notice H 2023-10]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim recertification, whichever occurs first after the date on which the O/A implements phased-in relief.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
 - When an eligible family's phased-in relief begins at an interim recertification, the O/A must process another transaction one year later to move the family along to the next phase. The transaction can be either an interim recertification if triggered, or a non-interim recertification transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

O/As must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another unit at the same property. When the family is treated as a new admission under a different property/program (e.g., the family moves from one multifamily property to another), unless the O/A has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the O/A.

O/A Policy

The O/A will not continue the phased-in relief for families who move and are treated as a new admission at the property. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in O/A policy) that would not otherwise trigger an interim recertification.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that O/As develop policies defining what constitutes a hardship for purposes of this exemption.

The O/A must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. O/As must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

O/A Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The O/A defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim recert in accordance with O/A policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the O/A.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the O/A will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The O/A must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

O/A Policy

The O/A will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, the O/A will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the O/A may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. O/As are not limited to a maximum number of 90-day extensions.

O/As must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. O/As must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

O/A Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The O/A will extend relief for an additional 90 days if the family demonstrates to the O/A's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The O/A will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the O/A may terminate the hardship exemption if the O/A determines that the family no longer qualifies for the exemption.

9-D. CHILD CARE EXPENSE HARDSHIP EXEMPTION [24 CFR 5.611(d) and Notice H 2023-10]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the O/A's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the O/A must recalculate the family's adjusted income and continue the child care deduction.

The O/A must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The O/A must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. O/As must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

O/A Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The O/A defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The O/A will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the O/A will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The O/A must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the O/A denies the request, the notice must specifically state the reason for the denial. O/As must provide families 30 days' notice of any increase in rent.

If the O/A approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the O/A if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption.

O/A Policy

The O/A will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the family qualifies for an exemption, the O/A will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The O/A may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in O/A policies. O/As are not limited to a maximum number of 90-day extensions. O/As must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

O/As must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the O/A denies the request, the notice must specifically state the reason for the denial.

O/As must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

O/A Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The O/A will extend relief for an additional 90 days if the family demonstrates to the O/A's satisfaction that the family continues to qualify for the hardship exemption. The O/A will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the O/A may terminate the hardship exemption if the O/A determines that the family no longer qualifies for the exemption.

9-E. SELF-CERTIFICATION OF CERTAIN ASSETS

Net Family Assets [24 CFR 5.603]

For families with net assets totaling \$50,000 or less (adjusted annually for inflation), the O/A may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b). This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. The O/A may not calculate or include any imputed income from assets when net family assets total \$50,000 or less (adjusted annually for inflation). O/As must clarify during the self-certification process which assets are included or excluded from net family assets.

For O/As that choose to accept self-certification, the O/A is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

O/As who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000 (adjusted annually for inflation), the O/A may not rely on the family's self-certification. Third-party verification of assets is required. Income from assets in this situation is calculated using the following methods:

- If actual returns can be calculated for an asset, the O/A must include actual income from the asset.
- If actual returns cannot be calculated, the O/A must calculate imputed returns using the HUD-determined passbook rate, which is subject to change annually for inflation. Imputed income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the HUD-published passbook rate.
- If the O/A can compute actual income from some but not all assets, the O/A must compute actual returns where possible and use the HUD-determined passbook rate where actual income cannot be calculated.

When verification of assets is required, O/As are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

O/A Policy

The O/A will obtain third-party verification of all assets regardless of the amount.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The O/A must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation. The O/A may accept a self-certification from the family stating that the family does not have any present ownership in any real property. If the family certifies that they do not have any present ownership interest in real property, the O/A may take that as sufficient to determine the family is not out of compliance with the real property restriction. If the family declares they have present ownership in real property, the O/A must obtain 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.

O/A Policy

The O/A will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The O/A reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the O/A will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the O/A will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

9-F. INTERIM RECERTIFICATIONS

Interim Decreases [24 CFR 982.516(c)(2) and Notice H 2023-10]

A family may request an interim determination of family income for any change since the last determination. However, the O/A may decline to conduct an interim recertification if the O/A estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The O/A may set a lower threshold in the O/A's policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the O/A from setting a dollar-figure threshold.

O/A Policy

The O/A will conduct an interim recertification any time the family's adjusted income has decreased by any amount.

However, while the O/A has some discretion, HUD requires that the O/A perform an interim recertification for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last recertification.

In the above circumstances, the O/A must perform an interim recertification for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then the O/A must process the removal of the household members as a non-interim recertification transaction without making changes to the family's annual adjusted income.

Interim Increases [24 CFR 982.516(c)(3) and Notice H 2023-10]

O/As must not process interim recertifications for income increases that result in less than a 10 percent increase in annual adjusted income. O/As must conduct an interim recertification of family income when the O/A becomes aware that the family's adjusted income has changed by an amount that the O/A estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- O/As may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same recertification cycle; and
- O/As may choose not to conduct an interim recertification during the last three months of a certification period if a family reports an increase in income within three months of the next annual recertification effective date.

When the family previously received an interim recertification for a decrease to adjusted income during the same annual recertification cycle, an O/A has the discretion whether to consider a subsequent increase in earned income.

O/A Policy

Provided a family's increase meets the 10 percent threshold, the O/A will conduct an interim recertification when the family experiences an increase in earned income and the family previously had an interim recertification performed for a decrease in adjusted income (whether for earned income, unearned income, or a combination of the two) since their last annual recertification.

The O/A will not process an interim recertification for increases in earned income when an interim recertification was previously performed since the family's last annual and the interim recertification resulted in an increase in the family's rent, nor will the O/A process an interim recertification for an increase in earned income when the family has not had a previous interim recertification since their last annual recertification.

The O/A will also process an interim recertification for any other increases in income that meet the 10 percent threshold.

The O/A will not perform an interim recertification when a family reports an increase in income (whether earned or unearned income) within three months of their annual recertification effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10 percent increase threshold, at which point the O/A must conduct an interim recertification in accordance with O/A policy.

When the family reports an increase in both earned and unearned income at the same time, the O/A must look at the earned and unearned income changes independently of each other to determine if an interim recertification is performed. The O/A will only conduct an interim recertification when the increase independently meets the 10 percent threshold and all other requirements for performing interim recertifications. For example, if a family reported increases

in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the O/A may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the O/A would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the O/A would refer to O/A policy to determine whether an interim was required.

Family Reporting

The O/A must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition, or other circumstances that may affect the family's subsidy amount or rent portion. Other circumstances may include, but are not limited to, changes in eligible deductions or citizenship status.

O/A policy may require families to report only changes that the family estimates meet the threshold for an interim recertification or the O/A may establish policies requiring that families report all changes in income, household composition, and any other change that may affect the family's adjusted income, and the O/A will subsequently determine if the change requires an interim recertification.

When the O/A determines that an interim recertification is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets or other changes in circumstances that would result in a change in the family's adjusted income, the change in assets must also be reviewed.

O/A Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report all changes in income within 10 business days of the date the change takes effect. The family may notify the O/A either orally or in writing. If the family provides oral notice, the O/A may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the O/A will determine whether the change will require an interim recertification.

If the change will not result in an interim recertification, the O/A will note the information in the tenant file but will not conduct an interim recertification. The O/A will send the family written notification within 10 business days of making this determination informing the family that the O/A will not conduct an interim recertification.

If the change will result in an interim recertification, the O/A will determine the documentation the family will be required to submit based on the type of change reported. The O/A will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the O/A. This time frame may be extended for good cause with O/A approval. The O/A will accept required documentation by mail, email, fax, or in person. The O/A will conduct

the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim recertification. However, if the O/A determines that an interview is warranted, the family may be required to attend.

Changes Reported Timely

If the family reports a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with O/A policies:

- For rent increases, the O/A must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim recertification of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely

If the family failed to report a change in family income, composition, or other circumstances affecting adjusted income timely in accordance with O/A policies:

- For rent increases, the O/A must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim recertification of family income.
- For rent decreases, the O/A must implement the change no later than the first rent period following completion of the interim recertification.

However, the O/A may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the recertification. O/As may choose to establish conditions or requirements for when such a retroactive application would apply. O/As that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim recertification;
or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim recertification, the O/A must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

O/A Policy

In general, when the family fails to report a change in income, family composition, or other circumstances affecting adjusted income timely, and the change would lead to a rent decrease, the O/A will apply the decrease the first of the month following completion of the interim recertification.

However, the O/A will apply the results of the interim recertification retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to O/A management operations. The O/A will decide to apply decreases retroactively on a case-by-case basis.

When the O/A applies the results of interim decreases retroactively, the O/A will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with O/A policies.

The O/A will also clearly communicate the effect of the retroactive adjustment to the owner.

9-G. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice H 2023-10]

O/As may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs (Safe Harbor). O/As are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the O/A adopts a policy to accept this type of verification, the O/A must establish in policy when they will accept Safe Harbor income determinations and from which programs. O/As must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the O/A elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, O/As will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The 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 O/A:

- 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.

The only information that O/As are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the O/A. O/As are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the O/A is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the O/A must calculate the family's annual income using traditional methods as outlined in Notice H 2023-10.

If the O/A uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the O/A's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. O/As are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

O/A Policy

The O/A will not accept verification from other federal assistance programs. All income will be verified in accordance with the requirements of HUD's verification hierarchy and O/A policies in this chapter.

**9-H. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c);
Notice H 2023-10]**

HUD permits O/As to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained at move-in and every three years thereafter, in the intervening years, the O/A may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The O/A may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the O/A must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the O/A may apply the inflationary adjustment factor to the family's fixed income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but O/As may choose to adjust sources of non-fixed income based on third-party verification. O/As have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, O/As may apply a COLA to each of the family's sources of fixed income. O/As must determine all other income using standard verification requirements.

O/A Policy

The O/A chooses not to streamline the annual recertification process for fixed income sources. The O/A will obtain third-party verification, where applicable, of all sources of income annually.