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MEMORANDUM

December 28, 2023

TO: TRIBAL HOUSING CLIENTS

FROM: Ed Clay Goodman and Cari L. Baermann
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RE: ***Implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)***

On December 8, 2023, the U.S. Department of Housing and Urban Development (HUD) published a Notice PIH 2023–34 ("Notice") on the Transition and Implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and its effects on the Indian Housing Block Grant (IHBG) program. This memorandum provides a summary of the Notice, which is attached to this memorandum.

Under the Native American Housing and Self-Determination Act of 1996 (NAHASDA), IHBG assistance is generally limited to low-income Indian families, based on the families' annual income. Pursuant to 24 CFR 1000.10, Indian tribes and tribally designated housing entities (TDHEs) may use one of three definitions of "annual income" to calculate a family's annual income: 1) HUD's 24 CFR Part 5 income definition for Section 8, public housing, and other HUD programs found at [24 CFR 5.609](#); 2) the Census Bureau definition of annual income; or, 3) the adjusted gross income definition used on the IRS Form 1040.

HOTMA was enacted in 2016, and on February 14, 2023, HUD published a final rule implementing Sections 102 and 104 of HOTMA ([88 FR 9600](#)). The HOTMA made significant changes to various 1937 Act housing programs, but it does not directly apply to NAHASDA. However, since the HOTMA amendments and the implementing regulations revised how annual income is calculated for Section 8 purposes (*see* 24 CFR 5.609), HOTMA indirectly impacts all tribes and TDHEs who use the Section 8 methodology to calculate income. The Notice gives tribes and TDHEs an additional year, until January 1, 2025, to implement and come into compliance with the new Section 8 definition of "annual income" under the IHBG.

Conclusion

If you have any questions about this memorandum, please contact Ed Clay Goodman (egoodman@hobbsstrauss.com) or Cari Baermann (cbaermann@hobbsstrauss.com); both may be reached by phone at 503-242-1745.