

April 10, 2015

Dominique Blom
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U.S. Department of Housing and Urban Development
Washington, DC 20410-5000

Dear Ms. Blom:

Thank you for your letter of February 25, 2015, and for meeting with advocate representatives on March 3, 2015. We very much appreciate the opportunity to engage with your department about these vital issues as HUD prepares to extend its Moving to Work contracts.

In light of HUD's plans for evaluation of the MTW programs, and in keeping with the intent of MTW as a demonstration, we strongly urge HUD to limit the time period of these extension contracts to no later than 2020. We also ask that HUD include more explicit evaluation criteria in all future contracts, such that the efficacy and impacts of MTW innovations will be more readily apparent. Likewise, we are deeply concerned about expressed intentions within the FY2016 budget process to expand the number of MTW demonstrations in advance of the planned evaluation.

Recommendation Regarding Limited Period of Renewal Contracts

We are glad to learn that evaluation of the MTW program to date is planned, and that major new initiatives -- including major rent changes, time limits, and work requirements -- will be subject to evaluation in the future. Ongoing evaluation plays critical role in determining the success of this demonstration. On pages three and four of your letter, for example, a number of activities by MTW jurisdictions are highlighted, and it will be tremendously valuable to have data and analysis about their results. In addition, we want to re-emphasize our previous recommendation that agencies should not be permitted to undertake major policy changes unless there is sufficient funding for a rigorous evaluation to determine the impact on participants.

HUD's request for proposals for an evaluation of MTW activities, outcomes and impacts, and program performance, released just this month (FR-5800-N-26, March 11, 2015), strongly underscores the case against long-term contract renewals at this juncture. HUD proposes a comprehensive backward-looking evaluation of activity and performance in the MTW program to date. This evaluation would for the first time provide HUD and the public with data-driven analytical information on how MTW agencies have used their program flexibility, and what the results have been toward the goals of increasing housing choice and self-sufficiency for residents and achieving cost efficiency for PHAs. HUD will be accepting proposals in April to perform this evaluation, with work anticipated to be final by August 2018. It is frankly hard to imagine the case for locking down the programs into 2028 without the benefit of this information. A limited period of renewal through 2020 is appropriate to enable PHAs to plan for and maintain current programs, while preserving flexibility to be responsive to the results of the evaluation.

Recommendations Regarding Performance Criteria in Renewal Contracts

1. Definition of Assistance for "Substantially the Same" Requirement

Regarding the requirement to serve substantially the same number of families, we appreciate your openness to suggestions on modifying the criteria for counting families as assisted. Under the current criteria, virtually any eligible family that receives any MTW-funded housing assistance, or lives in a unit that has received it, can be counted. Since this would allow agencies to meet their "substantially the same" obligation with only a modest

share of their voucher and public housing funding, it would undercut Congress' intent to establish a meaningful requirement for agencies to maintain the number of families they assist. It would also diminish the value of HUD's plans to re-benchmark the assisted family baseline.

As we have stated in our earlier letters, the best way to implement the statutory intent of the MTW program would be to count only families receiving substantial rental assistance. HUD should implement this by establishing a specific quantitative definition of the level of assistance that will be counted.

One option would be to set a dollar threshold. For example, HUD could count only families assisted through programs where the average subsidy funded by public housing and voucher funds is \$4,000 or more, with adjustments for inflation. (For families in units that received upfront development subsidies, the total subsidy should be divided by the project's affordability term.) This would require meaningful assistance, but still allow subsidies that are significantly smaller than is typical in the voucher program. HUD could also allow these thresholds to vary from one community to another, for example by setting them as a multiple of the local fair market rent or a percentage of an agency's pre-MTW per-voucher cost.

A second option would be to count only families with rent burdens below a specified level. This was the approach taken in the 2012 MTW stakeholder agreement, which established criteria that allowed substantial variation in rent rules but required that rent burdens be roughly comparable on average to those in the regular public housing and voucher programs.

2. Maintaining a Comparable Mix of Families Served

As you know, in addition to serving the same number of households, the statute authorizing the MTW demonstrations requires an MTW housing authority to maintain a comparable mix of families served by family size as would have been provided had the authority not participated in the demonstration. This requirement does not seem to have received much attention from the PHAs, perhaps because they are not required to track or report it in their MTW Plans and Reports. (It is otherwise difficult for residents and advocates to track because demographic data on MTW housing authorities' public housing and HCV households is not made available in the Resident Characteristics Report (RCR) system that contains data for non-MTW PHAs). As a result, we have seen some very significant changes in the mix of families served during the demonstration, and reductions in the housing made available to certain types of households, for example, families with children who require two, three, or four bedroom units.

MTW agencies should be required to maintain demographic data, track it over time and evaluate how actions undertaken by the PHA have served households at particular income levels and impacted the mix of family size. The data and analysis should be reported out in the MTW Annual Plan separately for public housing, the HCV program, and overall (the data should be included in the Plan, which PHAs are required to make available to stakeholders and the public, and should not be relegated solely to the MTW Annual Report, which some PHAs do not make available to the public or post on their websites). For example, for the baseline year and each year of the PHAs participation in the MTW demonstration, the PHA should show the percentage of households leased under the HCV program that are families with children, elderly households, single persons with disabilities, and other households, and the resulting overall mix of families served by the HCV program at the close of the previous (fiscal or calendar) year. Similarly, it should provide data on the percentage of vouchers leased each year to households that qualify for one, two, three, or four or more bedrooms.

If the data and analysis shows that there has been a shift in the mix of families served, or a reduction of the number or proportion of families served in one or more of the PHA's programs, then the PHA should be required to describe the actions or factors causing the change and the actions it will take to bring itself back into compliance with the statutory requirement. For example, if the data shows that families with children comprise

a declining share of the households served by the HCV program as compared to the baseline year, the PHA should be required to identify the actions or factors leading to the change in the mix of families, and the steps that it will take to increase leasing to families with children over a defined timetable until it comes into compliance.

If the PHA believes that the change in family mix is caused by circumstances outside its control, it should be required to provide data explaining the variance, which could be considered by HUD in determining whether sanctions for non-compliance are warranted. But since the “comparable mix” requirement is a statutory requirement at the core of the MTW demonstration, waivers should not be granted by HUD.

3. Voucher Utilization Requirement

We appreciate that HUD plans to prohibit agencies from meeting the 90 percent utilization requirement based on the share of authorized vouchers in use or through expenditures on services. We hope that, as HUD continues to consider enforcement options, it will adopt our recommendation that throughout the term of the extensions 90 percent of MTW funding be based on prior-year utilization.

We were disappointed, however, that HUD intends to allow MTW agencies to count development expenditures toward their 90 percent utilization requirement, and urge you to reconsider this plan. If HUD does include such a policy in its final MTW agreements, we strongly encourage you to take three steps to limit the degree to which counting development expenditures can reduce the number of families an agency assists.

First, HUD should require agencies to show that they have pursued all other options to fund a development project before they will be permitted to count development expenditures as utilization. This should include making full use of available agency funds (including using all Replacement Housing Factor funds to develop replacement housing) and applying for resources such as the Low-Income Housing Tax Credit.

Second, HUD should limit the percentage of an agency’s voucher funds that can be spent on upfront development subsidies and count as utilization to 5 percent. Together with the 10 percent of voucher funds that the 90 percent requirement already allows to be used for any eligible purpose, this would allow agencies to use up to 15 percent of their voucher funds for development, the same percentage used to cap rental assistance “dips” for development in the 2012 stakeholder agreement.

Third, HUD should set per-unit caps on the development costs that can be counted toward utilization that are low enough to exclude expenditures that would assist many fewer families than the same funds could assist through vouchers. HUD indicated that it was considering using the full total development cost (TDC) limit as a cap, but **these amounts are far too high. For example, the \$264,344 TDC for a two-bedroom elevator unit in Philadelphia is equivalent to the cost of assisting 34 families in that agency’s voucher program.** It would be highly unlikely that an expenditure of this magnitude would be as cost-effective as a voucher.

Moreover, use of the full TDC seems premised on the idea that PHAs would -- and should be permitted to -- fund the entire cost of a project through up-front transfers of voucher funds. In most or all cases, however, voucher funds would be combined with other sources such as LIHTC, HOME, RHF, and debt financed with future rent revenues or ongoing rental assistance such as project-based vouchers. HUD should set the per-unit limit no higher than one-third of the TDC, which would still provide agencies broad flexibility to use voucher funds for development in combination with other resources.

4. Advancing the statutory goal of “increasing housing choices”

Failure to develop or track activities that “increase housing choices” remains a significant shortfall of the MTW program. As noted in HUD’s February response to our memorandum, there have been encouraging efforts by some individual housing authorities to develop activities that “increase housing choices for low-income families.” However, such isolated initiatives do not address the problems identified by GAO and advocates: the failure to provide a clear definition of this goal or to require outcome-based evaluations. Many activities identified as “increasing choice” are targeted at increasing housing supply or tenant self-sufficiency, but may fail to expand choices outside of segregated, high-poverty areas. We emphasize the continuing need for clarity and accountability around this goal. Specifically, we recommend that HUD:

1) Clarify the “housing choices” goal for participating agencies, to avoid conflation with the other MTW goals and to align with the “affirmatively furthering fair housing” (AFFH) mandate. We recommend that HUD issue guidance recommending activities for this goal, to include:

- Targeted landlord/property manager outreach and provision of leasing incentives in low poverty communities with greater racial, ethnic and income diversity and that provide improved educational and employment opportunities.
- Redistribution of project-based vouchers through the targeted use of new vouchers in high-opportunity neighborhoods, and affirmative marketing to ensure access to these units by families in high poverty neighborhoods.
- Provision of mobility counseling to voucher holders or families about to receive vouchers or come to the top of a waiting list for tenant and/or project-based voucher assistance, including through briefings, community tours, and housing search assistance on a group or individual basis.
- Financial assistance (such as payment toward security deposit, last month’s rent or moving allowance) to reduce barriers that impede families moving to high-opportunity areas.
- Use of exception payment standards in designated high-opportunity areas.

2) Establish methods for evaluation of the demonstration and specific pilot activities in increasing choice, to fulfill the intent of the authorizing legislation. Evaluations should be outcome-based, and should measure progress in promoting racial and economic deconcentration and access to housing in areas of opportunity, as well as measures of other resident outcomes.

3) Extensions should provide that for PHAs with high concentrations of HCV families leased in high poverty/low opportunity areas, the MTW Plan must identify the specific strategies and steps it will take to reduce the concentrations, and report on progress in its annual MTW Report. Similarly, PHAs with low utilization or lease up rates, or that otherwise have difficulty complying with the obligation to house the same number and mix of families can benefit from these strategies. They should likewise be required to consider these strategies, including those listed above, to develop a plan to increase voucher leasing, and to report on progress.

As in our prior correspondence, we want to reiterate the significance of the decisions HUD makes about this program, for the well-being and opportunities of families in our respective jurisdictions.

Sincerely,

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