

**MTW Extension Discussion**  
**Follow Up Recommendations from Advocacy Community**  
**Submitted: January 12, 2015**

**Recommendations to increase fiscal transparency & accountability**

**We urge HUD to take steps to prevent de-regulated PHAs from diverting significant resources out of their housing programs into unrestricted cash reserves or towards other questionable uses such as excessive executive compensation.** These actions clearly contradict one of MTW’s statutory goals to, “reduce cost and achieve greater cost effectiveness.”<sup>1</sup>

Specifically we urge HUD to make the following changes in any new or renewed MTW Agreements to improve fiscal transparency and accountability:

- **Require PHAs to clearly explain their use of “single fund flexibility” in their MTW Annual Plan and Report, by providing a clear narrative of how much funding they are diverting from one programmatic area to another and why, including which MTW statutory goal(s) the diversion serves.** HUD Form 50900 should specifically require that PHAs report this information.
  
- The PHA should be required to explain its rationale for re-allocating funds from the original federal revenue stream to a different PHA cost center.
  - HUD should evaluate whether the proposed shifting of funds will in fact enhance the PHA’s ability to achieve a specific statutory goal of the MTW Demonstration.
  - If a PHA uses the rationale of “increasing housing choice” as its justification for moving funds allocated for a specific housing program to a different function, FHEO should be required to review the PHA’s proposal before the MTW Plan is approved.
  
- Improve fiscal accountability of PHAs’ use of “single fund flexibility” by
  - Requiring PHAs to report in their MTW Reports on the actual use of funds diverted from the original federal revenue stream to a different PHA cost center.
  - Requiring PHAs to submit an application for a “substantial amendment” to the PHA’s Annual Plan if there will be a variance above 5% between the actual and proposed use of diverted funding.
    - An amendment to the Annual Plan should trigger resident participation requirements such as notification to residents, a public hearing, and a public comment period.

---

<sup>1</sup> Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104–134, § 204(a), 110 Stat. 1321.(emphasis added)

<sup>2</sup> Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104–134, § 204(c)(3)(A)

- HUD should require PHAs to publish comments received with PHA responses so it is clear which comments have been incorporated by the PHA, which comments have been rejected, and why.

## Recommendations to increase efficiency/ maximize resources & families served

- **Incentivize PHAs to fully deploy available resources in a timely manner:** HUD should not allow the financial flexibility of MTW to enable PHAs to underutilize available resources. HUD should establish clear guidelines for how much money MTW PHAs are allowed to keep in reserves and establish protocols for sanctions, rescissions, and offsets when agencies exceed those limits.
- **Improve enforcement of the requirement for MTW agencies to assist substantially the same number of low-income families** as they would without funding flexibility by (1) revising the baselines to reflect the number of families each agency could assist with the funding it receives, and (2) only counting as “assisted” families that receive substantial on-going rental assistance.
- **Improve enforcement of the requirement to maintain a comparable mix of families** by requiring PHAs to give a baseline profile of families served by program and bedroom size, and a similar profile for each reporting period. If there are any changes or trends over time, the PHA should explain the reasons and provide a justification, supported by reliable data and/or description of corrective actions to restore the original mix.

## Recommendations re: evaluations of major policy changes

**We urge HUD to require evaluation of the real effects of proposed and existing major policy changes allowed under MTW, such as time limits, work requirements, and major rent changes,** to assess whether these changes are achieving the MTW program’s statutory goals of helping families achieve economic self-sufficiency and increasing housing choice, or instead are just creating a revolving door of homelessness and hardship, while failing to remedy barriers to broader choice and housing availability.

### **Impact Analysis, Annual Re-evaluations of Rent Reform Initiatives, and Fair Housing**

When Congress authorized the MTW Demonstration it provided that (A) at least 75 percent of the families to be assisted by participating agencies shall be very low-income; (B) agencies would establish a reasonable rent policy; (C) they would continue to assist substantially the same total number of eligible low-income families as would have been served had their funding not been combined; (D) they would maintain a comparable mix of families; and (E) any

housing assisted under the program would meet housing quality standards.<sup>2</sup> To meet these mandates:

- HUD should require PHAs to undertake a community housing needs and capacity study to determine whether there is sufficient, private, affordable, standard market rate housing, including a sufficient supply of units outside Section 8 submarkets and/or areas of poverty concentration, abandonment or high crime, before implementing time limits or work requirements, imposing major rent changes, or taking other action under MTW that might result in families having to move out of public housing or to find new landlords willing to accept Section 8 vouchers. Where there is not an adequate supply of such housing, an agency should not be allowed to implement such rent reform initiatives.
- HUD should require PHAs to engage in a robust public participation process regarding the impact analysis before adopting or implementing any rent reform initiative to ensure that families are not excessively rent burdened (rent burden meaning rent and resident/participant paid utilities) or otherwise harmed. HUD should publish guidance as to how to conduct the impact analysis.
- HUD should mandate that MTW agencies annually reevaluate rent reform initiatives as contemplated by HUD Form 50900 and that the reevaluation is as least as rigorous as its initial rent impact analysis.
- HUD should provide additional guidance beyond that set forth in PIH-2011-31 (6/3/11) to MTW agencies that have adopted major rent reform initiatives and other major policy changes and MTW agencies considering such rent reform initiatives to ensure that those initiatives comply with civil rights obligations including the Fair Housing Act, equal opportunity laws and the PHA's duty to Affirmatively Further Fair Housing under 42 U.S.C. § 3608 and 24 C.F.R. § 903.2.
- HUD's Office of Fair Housing and Equal Opportunity should independently review all MTW agencies who have adopted mobility/portability restrictions to determine whether these activities comply with civil rights obligations including the Fair Housing Act, equal opportunity laws, the PHA's duty to Affirmatively Further Fair Housing and the PHA's de-concentration goals. FHEO shall assess whether the Agency's mobility/portability restrictions impede the MTW Demonstration's statutory goal of increasing housing choice. HUD should issue guidance providing for a strong presumption against the use of such restrictions. Further, HUD should provide guidance and technical assistance to

---

<sup>2</sup> Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-134, § 204(c)(3)(A) through E, 110 Stat. 1321.

PHAs regarding the use of MTW flexibility to reduce regulatory barriers to mobility/portability.

### **Annual Reporting and Rigorous Evaluation of Existing and New MTW Rent Reform Initiatives**

In establishing the MTW Demonstration program, Congress directed HUD to identify replicable program models that promote the purposes of the program. It also required participating PHAs to submit reports to HUD that (A) Document the use of funds made available under [the MTW demonstration];(B) Provide such data . . . to assist the Secretary in assessing the demonstration; and (C) Describe and analyze the effect of assisted activities in addressing the objectives of [the MTW demonstration].<sup>3</sup> To fulfill this congressional mandate, HUD should take steps to strengthen the annual MTW reporting requirements and to require rigorous evaluation of both existing and new MTW rent reform initiatives:

- HUD should revise Form HUD 50900 to take into account the comments they received from the National Housing Law Project, the Housing Justice Network, NLIHC and PRRAC dated July 15, 2011.
- HUD should condition the continuation of any existing MTW rent reform initiatives or other major policy changes on rigorous third-party evaluations funded by both HUD and the agency seeking to continue the activity if these policy changes either alone or in combination with other MTW initiatives have likely resulted in rent burdens exceeding 30% of the family's monthly adjusted income, or involved time limits or work requirements. The lack of funding for such evaluations should not be grounds to allow any agency to continue such activities.
- HUD should require a more rigorous evaluation by third-parties of any new major, rent reform initiatives or other major policy changes. This evaluation should be done in accord with standard experimental design, including the use of control groups. Evaluations should be subject to IRB/Human Subjects review and residents should have the right to opt out of study participation. No new major rent reform initiative or other major policy change should be undertaken unless it is designed to be rigorously evaluated, the agency retains a qualified third-party to undertake the evaluation, and sufficient funding is available to determine the impact of the rent reform initiative on program participants.
  - HUD should establish baseline framework for the data-points third-party evaluations should collect and evaluate.

---

<sup>3</sup> *Id.* at § 204(g)(2).

- At minimum, HUD should require that third-party evaluations evaluate the following metrics among both the control group and the participants in the rent reform initiative experiment.
  - Incidence of economic-based eviction and other evictions;
  - Incidence of termination of assistance;
  - Levels of rent-burden (rent burden meaning rent and resident/participant paid utilities) among program participants;
  - Income targeting by the PHA overall across all program participants, and for both the control and the experimental groups;
  - Number of hardship exemption applications submitted and number of hardship applications granted by the PHA;
  - Changes to resident income and employment levels;
  - Changes to rental income collected by the PHA.

## Recommendations re: definition of voucher utilization

**We submit the following recommendations for how HUD defines, monitors, and enforces the new standard of 90% voucher utilization, both before and after new MTW agreements go into effect.**

- HUD should determine compliance with the 90 percent utilization requirement based on the share of the agency's voucher subsidy funds that are expended on vouchers or other direct rental assistance. HUD should not count expenditures on services or development as voucher expenditures for purposes of the utilization requirement. HUD also should not allow agencies to be considered in compliance based solely on the share of their authorized vouchers in use (since this would encourage agencies that want to shift funds to other purposes to use their MTW flexibility to cut payment standards or raise rents to serve the required number of families with less money).
- To provide a strong, consistent utilization incentive, HUD should base the bulk of MTW agencies' voucher subsidy funding on utilization in the previous year, and reduce funding proportionately if an agency's utilization rate fell below 90 percent. (For example, if an agency spent 87 percent of its voucher subsidy funds on direct rental assistance, it should receive 97 percent of its full funding level the following year.) HUD should apply this policy each year starting in 2019 and running through the end of the extensions.
- If the share of an agency's voucher holders living in high-poverty areas exceeds a HUD-established target, the agency should be required to develop a plan to use its MTW flexibility to reduce concentration of voucher holders in high-poverty areas, including mobility counseling.

- If such an agency shifts some voucher subsidy funds to purposes other than direct rental assistance, it should be required to use at least 5 percent of the shifted funds for activities such as mobility counseling supporting the de-concentration plan.
  - (For example, if an agency shifts the full 10 percent of its voucher funds permitted under the utilization requirement, it should be required to use 5 percent of that 10 percent — so 0.5 percent of its total voucher funds — to support the de-concentration plan.)
- Agencies should be required to spend at least 90 percent of their voucher administrative funding on (1) administration of vouchers or other voucher-funded direct rental assistance or (2) services or other assistance such as housing search assistance/mobility counseling, security deposit assistance, etc., to help households use vouchers or other voucher-funded direct rental assistance.

## Recommendations regarding operating fund formula

**We urge HUD to restore the link between occupancy levels and operating fund grants** to incentivize PHAs to maintain high occupancy rates in their developments and conduct timely modernization of any units designated “offline” due to poor physical conditions or planned revitalization.

In PIH 2011-07, HUD has established a sensible and responsible framework for when PHAs may leave a unit vacant with HUD approval and still receive operating funds. We urge HUD to restore this essential connection between operating funding and occupancy for all MTW PHAS with alternative operating fund formulas. HUD will better serve the MTW Demonstration’s statutory goal of “achieving greater cost effectiveness” by restoring a financial incentive for all MTW PHAs to keep their public housing stock occupied and to conduct planned modernizations of units in a timely manner, keeping vacancies to a minimum in the meantime.

## Recommendations Regarding Clarification of the “Increasing Housing Choices” Goal

MTW agencies have yet to be provided with guidance or benchmarks on the MTW statutory goal of “Increasing Housing Choices,” as noted by GAO in 2012 (HUD’s Moving to Work Demonstration: Opportunities Exist to Improve Information and Monitoring,” GAO-12-490 (April 2012)). We recommend that HUD:

- 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.
- Establish methods for evaluation of the demonstration and specific pilot activities in increasing choice, to fulfill the intent of the authorizing legislation.
- Clarify that the goal to increase housing choice cannot be set aside in order to meet either or both of the other two MTW statutory goals.

## **Resident and Public Participation in PHA Applications to Extend MTW**

When Congress first authorized the MTW Demonstration Program and HUD invited agencies to submit applications, it mandated a public participation process, including a public hearing.<sup>4</sup> To ensure meaningful consultation with residents and resident-advocacy organizations consistent with the consultation requirements of the statutory language that created the MTW Demonstration program<sup>5</sup>, HUD should not extend an agency’s MTW agreement without requiring a similar resident and public participation process:

- HUD should not extend an agency’s MTW Agreement without documentation that prior to any such extension the agency provided meaningful notice to its residents and the local community, undertook sufficient outreach to engage its residents, held a public hearing, and gave adequate consideration of any testimony or comments received. PHAs should be required to make public written responses to public comments received so it is clear which comments are incorporated, result in revision of the proposal, or are rejected by the PHA, and why.
- An agency seeking to extend their MTW agreement should be required to show that they actively sought and have the support of the local community and of the families who are or will be affected by the continuation of existing MTW activities and the implementation of any future initiatives.

---

<sup>4</sup> Id. at §204(c)(2) and (3); 61 Federal Register 66855 (December 18, 1996)(Notice of MTW demonstration program and invitation to apply).

<sup>5</sup> Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104–134, § 204(h)(1), 110 Stat. 1321 (emphasis added).

## HUD's process for finalizing terms of MTW Extensions

By soliciting this input, HUD has taken a meaningful step towards creating a more open, inclusive, and transparent process as HUD negotiates the terms for potential extensions to Moving to Work Agreements past their current 2018 expiration.

We request that HUD provide written feedback to this Memo and the feedback we provided in HUD's 12/9/2014 "Listening Session," indicating which of the recommendations we've submitted HUD will adopt, in full or in part.

We request that HUD continue to involve us in the MTW extension process.

We also continue to urge HUD to make the baseline language it is crafting for MTW extension contracts available for public notice and comment and discussion with stakeholders other than the PHAs currently in MTW Demonstration before finalizing the new MTW terms.

We cannot overstate the significance of the decisions HUD makes about this program, for the well-being and opportunities of families in our respective jurisdictions, for the generation to come.

Sincerely,

Atlanta Legal Aid Society, Inc.  
Atlanta, Georgia  
Margaret L. Kinnear

Center for Tax and Budget Accountability  
Chicago, IL  
Ralph Martire, Executive Director

Columbia Legal Services  
Olympia, Washington  
Greg Provenzano, Staff Attorney

Connecticut Publicly-Assisted Housing Resident Network  
State of Connecticut  
Kim McLaughlin, Director of Organizing

Community Legal Services  
Philadelphia, Pennsylvania  
Rasheedah Phillips, Housing Law Division

Homeless Persons Representation Project  
Baltimore, Maryland  
Karen Wabeke, Staff Attorney

Homeline  
State of Minnesota  
Eric Hauge, Lead Tenant Organizer

Housing Action Illinois  
State of Illinois  
Bob Palmer, Policy Director

Jane Addams Senior Caucus,  
Chicago, IL  
Lori Clark, Executive Director

Kenwood Oakland Community Organization  
Chicago, IL  
Jawanza Malone, Executive Director

Law Foundation of Silicon Valley  
San Jose, California  
Nadia Aziz, Senior Attorney

Legal Aid Society of San Mateo County  
San Mateo County, California  
Shirley E. Gibson, Directing Attorney

Legal Assistance Foundation  
Chicago, IL  
Lawrence Wood, Housing Practice Group Director

Logan Square Neighborhood Association  
Chicago, IL  
John McDermott, Housing & Land Use Director

Lugenia Burns Hope Center  
Chicago, IL  
Rod Wilson, Executive Director

Massachusetts Alliance of HUD Tenants  
State of Massachusetts  
Michael Kane, Executive Director

Metropolitan Housing Coalition  
Louisville, Kentucky  
Cathy Hinko, Executive Director

Metropolitan Tenants Organization  
Chicago, IL  
John Bartlett, Executive Director

Mid-Minnesota Legal Aid  
Minneapolis, MN  
Dorinda L. Wider

National Alliance of HUD Tenants  
National  
Charlotte Delgado, Board President

National Housing Law Project  
Nationwide  
Deborah Thrope, Staff Attorney

Organizing Neighborhoods for Equality  
Chicago, IL  
Jennifer Ritter, Executive Director

People for Community Recovery,  
Chicago, IL  
Cheryl Johnson, Executive Director

Poverty & Race Research Action Council  
Washington, DC  
Megan Haberle, Policy Counsel

Sargent Shriver National Center on Poverty Law  
Chicago, IL  
Kate Walz, Director of Housing Justice

Tenants Union of Washington State  
State of Washington  
Jonathan Grant, Executive Director

Washington Legal Clinic for the Homeless  
Washington, DC  
Patricia Mullahy Fugere, Esq., Executive Director

Cc:

Senator Dick Durbin, Illinois

Senator Mark Kirk, Illinois

Senator Jeff Merkley, Oregon

Senator Amy Klobuchar, Minnesota

Senator Al Franken, Minnesota

Senator Patty Murray, Washington State

Congresswoman Jan Schakowsky, 9<sup>th</sup> Congressional District, IL

Congressman Robin Kelly, 2<sup>nd</sup> Congressional District, IL

Congressman John Lewis, 5<sup>th</sup> Congressional District, GA

Congressman John Yarmuth, 3<sup>rd</sup> Congressional District, KY

Congressman Zoe Lofgren, 19<sup>th</sup> Congressional District, CA

Congressman Mike Honda, 17<sup>th</sup> Congressional District, CA

Congressman Anna Eshoo, 18<sup>th</sup> Congressional District, CA

Congressman Sam Farr, 20<sup>th</sup> Congressional District, CA

Congressman Luis Gutierrez, 4<sup>th</sup> Congressional District, IL

Congressman Danny Davis, 7<sup>th</sup> Congressional District, IL

Congressman Mike Quigley, 5<sup>th</sup> Congressional District, IL

Congressman Bobby Rush, 1<sup>st</sup> Congressional District, IL

Congressman Keith Ellison, 5<sup>th</sup> Congressional District, MN