

# Summary of the Public Feedback on the draft MTW Expansion Operations Notice from the HUD HQ and Field Office Listening Sessions, April-May 2017

## **Background**

On January 23, 2017, HUD published Federal Register Notice FR-5994-N-01, Operations Notice for the Expansion of the Moving to Work (MTW) Demonstration Program Solicitation of Comment (Operations Notice). The Operations Notice requested public comment on the implementation and operations of the MTW Expansion, as authorized by the 2016 Consolidated Appropriations Act (Appropriations Act). On May 4, 2017, the comment period was reopened to give the public more time to comment on the Operations Notice and closed on June 5, 2017.

As part of HUD's continuing efforts to foster dialogue with our partners, the MTW Office held four listening sessions for PHAs interested in applying to MTW and other industry partners. These sessions were held in Denver, Ft. Worth, Newark, NJ and Washington, DC between 4/26/17 and 5/4/17. Through these listening sessions, HUD heard feedback on the entire Operations Notice. Special attention was paid to the following sections: statutory and regulatory waivers; evaluation and performance assessment; calculation of funding and regionalization.

## **Listening Sessions Overview and Discussion**

This document provides a summary of comments of the attendees at the listening sessions. Due to the large volume of comments, responses are grouped by agenda item and then subdivided by the questions which are found in the Operations Notice.

### **Session 1: Introduction and General Comments**

To begin each listening session, the director of the MTW demonstration program, Marianne Nazzaro, provided an introduction to MTW and to the Appropriations Act which authorized its expansion. At this point, before being presented with the other sessions and HUD's questions in each of them, some attendees had comments related to the statutory language and some requirements of the program. They are summarized as follows:

- *The Operations Notice*

Commenters took issue with the Operations Notice and how it differed from the MTW Standard Agreement, some felt that HUD was creating two separate programs.

- *High performance requirement in "PHAS or SEMAP"*

The Appropriations Act stated that a perspective agency must be a high performer in "PHAs or SEMAP". In previous invitations for application a prospective agency had to have both public housing and vouchers while being a high performer

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in both. Commenters felt that the “or” should be interpreted literally and high performance in only one of the two systems was required.

- *Term of a new Agency’s MTW status*

Current MTW agencies status was set to expire in 2018 but through the 2016 Appropriations Act they received a 10-year extension. The Appropriations Act does not mention a term limit for new agencies, but it does give HUD 7 years to bring on the 100 agencies. In general commenters felt that an agencies term limit should begin at admittance and be a minimum of 10 years.

- *75% VLI requirement*

Per the original 1996 MTW authorizing statute MTW agencies must ensure that at least 75% of the individuals they serve meet HUD’s definition for Very-Low Income. Some commenters found this requirement constrictive and in opposition the MTW statutory goal of self-sufficiency; they felt that the expansion was an opportune time to reexamine this requirement.

### **Session 2: Waivers**

The Operations Notice proposed dividing the waivers of the statutory and regulatory requirements found in Sections 8 and 9 of the 1937 Housing Act, into two groups: General and Conditional Waivers. The intention was that any waiver in the General category could be implemented without HUD approval; while, Conditional Waivers required HUD approval. For this and all the remaining sections HUD had developed a brief presentation followed by discussion questions which were also found in the Operations Notice. Often before getting to the questions attendees had comments and questions of their own.

There were varying opinions on the division of General and Conditional Waivers. Many individuals expressed relief after HUD clarified that Conditional Waivers only included those areas that significantly impacted families, such as time-limits, work requirements, and alternative rent calculations. Commenters suggested clarification in the Notice, for many had interpreted General Waivers to be analogous to the Standard Agreement while Conditional waivers would be under a level of scrutiny greater than any current MTW agency is subject to.

Many attendees felt that the lists of activities under the categories felt prescriptive, like it was a list they must choose from. The parameters for enacting certain activities also drew criticism. There was a general perception that this waiver format was somehow less than the Standard Agreement, not just organized differently. HUD reminded attendees that additional activities and waivers could always be proposed by an agency. Commenters agreed that HUD

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could make that option more prevalent in the Notice. Some perceived this format to be more administratively burdensome than the current MTW Plan/Report process. HUD assured attendees that the opposite was its intention and that through an MTW supplement to a standard Annual PHA Plan, HUD's goal was for agencies to have less MTW specific administrative responsibilities. However, some existing agencies at the sessions spoke in defense of the MTW Plan/Report process calling it an improvement on the Annual PHA Plan.

- *General Waivers*

- Does the list of General Waivers contain the needed flexibility to achieve the three MTW statutory objectives? If not what is missing?

In general attendees were supportive of all of the General Waivers and the parameters required for their implementation. Several commenters wanted to know what if any flexibilities could be extended to HUD's varying Special Purpose Vouchers, as well as its VASH vouchers. There were also several more specific requests for adjustments or inclusions in the General Waivers, they were as follows:

- Waiving the 120-day rule for the recertification of FSS enrollment;
- Being able to give higher deductions to households with full-time students;
- More control over HCV reexamination policies;
- A waiver around rent policies for households with a fixed income;
- A waiver to make it easier to incentivize landlords, for instance with an initial bonus payment for accepting their first voucher;
- Additional flexibilities around designated housing;
- A higher, or no, minimum rent cap (currently proposed at \$250) and
- For units converted through RAD to PBV, the ability to waive the requirement that a 3<sup>rd</sup> party must conduct the rent reasonableness assessment.

- Are there any activities and/or waivers that should not be included as General Waivers?

No attendees felt that anything in the General Waivers was excessive or unnecessary, and many called for some of the Conditional Waivers to instead be moved to General; for example, one commenter felt that the waivers necessary to change how an agency calculates income deductions should be in the General category as opposed to the Conditional one.

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- *Conditional Waivers*

- Does the list of Conditional Waivers contain the needed flexibility to achieve the three MTW statutory objectives? If not what is missing?

Largely attendees were supportive of what was contained within the Conditional Waivers, voicing particular interest in being able to raise the PBV cap for development. There were, however, additional comments on the prescriptive nature of the format and some expressed concerns that with local needs being so varied it is hard to say if the waivers in both sections would be adequate. However, one current MTW agency pointed out a benefit the of Conditional Waivers lacking from the General Waivers, stating that in their MTW Plans when they propose a more controversial activity, like a time-limit or work requirement, having HUD's prior evaluation and approval is useful when discussing it with the public.

- Are there any activities and/or waivers that should not be included as Conditional Waivers?

This question perhaps produced the most pronounced divide between commenters. Those representing a housing authority or one of their trade groups felt that many of the waivers found in this section could be put into General Waivers, with a robust hardship requirement and strong parameters. Many of the same also felt that if a waiver would remain conditional then the parameters should be relaxed, since HUD would still be looking at the proposed activity in detail and could raise objections. However, various housing advocates applauded the additional level of scrutiny for these waivers, and even felt that some, like work requirements and time-limits, should not be included at all. And if HUD remains interested in the effectiveness of these policies than a cohort should be designed instead.

- *Proposing Additional Waivers*

Throughout the discussion on waivers, many commenters expressed concern that listing them as such, whether General or Conditional, felt like choosing from a menu and that it represented all that was available. HUD assured attendees that new waivers and activities could be proposed and if they fell within Sections 8 and 9 of the Housing Act of 1937 HUD would consider them. However, this was brought up at each session, making it clear that clarification in the Notice was required to make this option more prevalent. Those who had noticed this section further requested that it be more detailed. Several agencies went on to detail what they

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thought they might propose including, activities focused on incentivizing the educational attainment of their youth population, particularly by engaging with their heads of household. As well as ways to broaden the support of traditional HUD self-sufficiency programs like ROSS.

### Session 3: Evaluation

For this session HUD divided the presentation into explaining each of the three MTW statutory objectives and solicited input in how HUD could measure an agency's success in each. During each section attendees offered various comments on additional metrics they thought were appropriate; both metrics that they were already reporting in a HUD system, or ones they felt were important and would not add much administrative burden to report on. Their recommendations are organized by statutory objective. HUD then closed the session with some more general questions, attendees' responses are also detailed below.

- *To reduce costs and achieve greater cost-effectiveness in federal expenditures*
  - Rate of unit turnover.
  - Management Costs, for example one PHA had contracted out property management and found it greatly reduced management costs.
  - Average operating costs per unit.
  - Leveraged dollars for services, development, etc.
  - Change in cost of rental assistance and services per household
  - Changes in average HAP costs.
  - Graduation rate in the FSS program.
  - # of transactions completed by PHA.
  - Total federal expenditures received over number of units served.
  
- *To give incentives to low-income families to achieve greater economic self-sufficiency*
  - Establish baselines for things like average HAP and exits.
  - Changes in income of residents.
  - Changes in employment status of residents.
  - Evaluate the dollars spent (leveraged) on programs v. changes in resident earning.
  - Funds attained and disbursed for scholarship.
  - Changes in household income levels: ELI, to VLI, to market rate.
  - Track how many MTW agencies are using ROSS?
  - Exits due to rent burden.
  - Changes in assets of households.
    - Already a line in PIC, but most families are below the threshold.

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- Expansion of training choices.
  - Number of partnerships with workforce development organizations.
  - Number of resident community service hours.
  - Reductions in HAP burden.
- *To administer housing assistance in ways that increases housing choice*

For this section attendees had many useful recommendations but also posed questions and challenges for tracking whether or not a resident has experienced increased housing choice. Several spoke about while it is simple to track movement to higher opportunity areas, it is harder to show that having the choice to stay can be equally important. Several commenters spoke at length about how the gentrification of their jurisdictions can be of great benefit to their households, if they are capable of preserving the housing units in those areas, either through redevelopment or the project-basing of new units. They acknowledged the difficulty in tracking this but encouraged HUD to give it consideration. Another commenter pointed out that sometimes residents need assistance to be aware and capable of moving to a different area. More specifically attendees recommended tracking the:

- Number of newly constructed units.
  - Number of households transitioning to homeownership.
  - Number of individuals in homelessness programs like VASH.
  - Number of Landlords Participating in the voucher program.
  - Number of evictions.
  - The rate of turnover.
  - Number of units preserved:
    - In areas which are experiencing rising rents (gentrifying),
    - That were past their useful life, and
    - Extending low-income availability of LIHTC units, after the required term.
- Is there any information not captured in HUD administrative data systems that would provide informative data points or performance metrics for evaluating the MTW demonstration?

Responses to this question would require various levels of sophistication and effort to obtain, but overall spoke to the enthusiasm for a general evaluative structure which extended beyond just HUD systems. Often what was discussed was something of particular interest to a specific PHA, seeking feedback on ways to track a metric from their colleagues, and not necessarily a proposal for a standardized metric. Commenters expressed a desire for better access to HUD's historical data to

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create their own benchmarks and baselines which may or may not be appropriate to require of every agency. This and others comments implied that while prospective agencies might be wary of too much standardized evaluation, they fully intended to conduct internal evaluations on their own policy goals.

Ways to compensate for and track gentrification were again discussed in detail. They spoke about wanting to better track some of the sub-populations they already served, like tracking veteran use of public housing. One commenter speculated on whether or not they could track the major employers of its residents and see if it changed overtime. Several commenters pointed out that while HUD systems capture a lot of quantitative data, evaluation of more qualitative measures had lead some agencies to employ third party software. Also a commenter asked if HUD could engage in data sharing with other federal agencies to track the other types of federal assistance their residents often receive like: SNAP, Medicare, and Medicaid.

- What is the best way to capture and report exit data on families exiting the Public Housing, Housing Choice Voucher, and local non-traditional housing programs? What are the appropriate exit reasons to capture?

Many commenters agreed that HUD Form-50058 is already capable of tracking exits, whether they are neutral exits (death or moving to another PHA), successful exits (homeownership, increasing quality of life, or access to better schools), or negative ones (termination or eviction). One commenter added that since MTW can create additional reasons for an exit, through things like work requirements and time limits, that this should be referenced when relevant to an exit.

- In the list of performance metrics provided, should any be clarified or removed?

When asked this question several commenters asked if HUD could provide a more detailed and holistic definition of what constitutes an “area of opportunity” for a resident, which is a major factor in tracking housing choice. While tracking income by things like zip codes or census tracks is a good start. Commenters felt other factors like: quality of education, access to transportation, access to jobs, and the availability of local services for low-income individuals were also important factors. They also mentioned their enthusiasm for more data sharing between HUD and agencies, as well as agencies and other local institutions like school districts. Some speculated that MTW may make data sharing easier to accomplish, which could make otherwise unavailable data available for evaluation.

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## Session 4: Funding

Fungibility, which allows an MTW agency to combine its public housing and voucher funds and spend it on anything eligible under sections 8 and 9 of the 1937 Housing Act, is a cornerstone of the MTW demonstration. Under the Standard Agreement, the Attachment A details how an agencies funding is calculated. While the Attachments have a lot in common there are several significant variations, and numerous subtler ones. For the expansion HUD proposed to standardize how new MTW agencies would receive their funding. For Section 9, public housing funds would continue to be calculated in accordance with 24 CFR section 990 (same as non-MTW PHAs). For Section 8, because the expansion PHAs cannot receive more or less funds than a non-MTW PHA (per the Appropriations Act) HUD proposed the following methodology for Housing Assistance Payments (HAP) in the Operations Notice. In an Agency's initial year under MTW their HAP would be calculated using the Appropriations Act for that year. Then in subsequent years an agency's renewal eligibly would equal: HAP expenses+ MTW expenses+ commitments and obligations; 90% of HAP funds would be required to be spent on eligible HAP expenses, and the final 10% would be fully fungible.

- Is a 90 percent HAP budget utilization requirement the appropriate amount?

The 90 percent HAP requirement was met with almost unanimous opposition at all of the listening sessions, it was decried as restrictive and against the spirit of MTW. Existing agencies asked what was the point of requiring 90% utilization when MTW agencies already had a statutory requirement to serve substantially the same number of families. Some said the policy was in opposition to the MTW goal of self-sufficiency; where if on average a voucher holder's income rises than HUD rental assistance would decline but if 90% is required than the agency is not rewarded for their actions with additional fungible funds. Several housing advocates voiced support for the requirement saying that current MTW agency had the ability to divert too much money away from HUD's core mission of housing families.

Attendees also offered feedback on ways they felt a 90% requirement would be in their estimation more sustainable and fair. At the foundation of the requirement many felt that the 90% shouldn't be budget based but based on the number of vouchers as stated in the Annual Contributions Contract (ACC). Others were concerned with running afoul of the requirement by accident and suggested they not be evaluated every year but over three year periods. Additionally, one commenter felt that the current voucher calculation method doesn't adequately account for rent inflation and was disappointed that MTW would not be testing a



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new method. Another commenter suggested that an Agency should be able to apply fungibility to another 10% of its HAP under a conditional waiver, to be approved by HUD.

- What sanctions or restrictions should HUD consider if an agency fails to meet the budget utilization requirement?

In general commenters opposed the idea of any sanctions particularly ones that would occur immediately after a violation. They recommended things like: a three strike rule, that in the first year of a violation an agency could be required to issue a proposal on how it will reach 90% utilization the following year, or to provide a justification for failing to meet the requirement. Some commenters suggested that STS was the more appropriate method for enforcement and would be more holistic; also encompassing public housing and Local, Non-Traditional housing. Generally, individuals from PHAs and their trade associations answered this question with further opposition to a 90% requirement. While advocates questioned the efficacy of the STS requirement for current agencies, voicing support for leniency in the first year, but clear sanctions for the continued failure to meet 90% HAP budget utilization.

- Are there other methods for calculating HCV funding that HUD should consider?

A few commenters favored freezing the amount HCV funding in a similar manner as it is for existing MTW agencies. Additionally, commenters felt that fungibility allowed an MTW agency to balance funding between public housing and vouchers as it saw appropriate, and that the 90% requirement undermined this.

- Are there other factors HUD should consider in the calculation of funding?

There were several comments on how adjustments to the Administration Fee could be calculated, such as including MTW expenses.

### Session 5: Regionalization

For the session on regionalization HUD restated the statutory language from the 2016 expansion statute:

- *The Secretary may, at the request of a Moving to Work agency and one or more adjacent public housing agencies in the same area, designate that Moving to Work*

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*agency as a regional agency. A regional Moving to Work agency may administer the assistance under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and g) for the participating agencies within its region pursuant to the terms of its Moving to Work agreement with the Secretary. The Secretary may agree to extend the term of the agreement and to make any necessary changes to accommodate regionalization. A Moving to Work agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 by that agency across multiple jurisdictions will lead to efficiencies and to greater housing choice for low-income persons in the region.*

In general commenters expressed both curiosity and concern on the topic of regionalization. They cautioned against a standardization of regionalization, instead recommending that an agency be able to propose a regional structure to HUD, which HUD could evaluate. When asked what they might propose, for their own agencies, many stated that they were not interested in regionalizing; citing local concerns, laws, the political difficulties of altering Boards, or consolidating executive staff. Some even expressed concern that this could be mandated at some point in the future, either within MTW or more generally. The questions, which reflect what was asked in the Operations Notice, and the comments HUD received are detailed below.

- How should “adjacent” be defined for the purposes of identifying which PHAs should be allowed to be part of an MTW agency’s regional agency designation? Should regional MTW agencies extend across state borders?

Commenters recommended making the definition of adjacent as broad as possible. This would allow agencies the flexibility to propose multiple types of partnerships. For example, one commenter stated how in their area PHAs can be localized to very small towns or counties and having a PHA in between two agencies interested in regionalizing should not be a barrier for doing so. Commenters also did not feel that crossing state lines should be prohibited, but speculated that it could be difficult depending on the confluence of the two states’ laws.

- What flexibilities should the regional MTW agency be able to administer on behalf of its regional partners? Should the partner PHAs have full flexibility in the use of funds?

Many attendees expressed a desire to see the entirety of MTW extended to a regional partner, including all waivers and the single fund budget. This was met with criticism from other commenters who felt that MTW flexibilities should only be extended to a regional partner where the partners are pursuing some sort of unified

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administration; whether it be a partnership in mobility, inspections, or services to residents. In this case, at the time of the regional application, the MTW agency would propose what it wished to extend to its partner and explain how it would be of benefit to one of the MTW statutory objectives. Should regional partners devise new ways to improve administration through regionalization, they could submit an amendment to their regional agreement for HUD's approval.

- How should regional partners be included in the MTW evaluation process? What data should they need to submit in conjunction with the MTW agency?

Most commenters found this to be a difficult question, for some they felt that the privilege of becoming a regional partner should require an agency to have high-performer status, and thus be capable of being evaluated equally with their partner agency. While others saw regionalization as an opportunity for a sophisticated agency to mentor and support an agency struggling with its performance. Most commenters stated that the original MTW agency should be treated as a lead agency, and those under it would be evaluated with a subset of the total metrics. One commenter suggested that the lead agency could be accountable to HUD while its partners could be accountable to the lead agency. Another important question raised by attendees was: would the cohort evaluations for new agencies apply to a regional partner?

- What form of governance structure, if any, should be formed between the regional MTW agency and its partner PHAs?

There was not a consensus among attendees on a form of governance structure, like elsewhere they suggested it be proposed by the agencies. However, they did agree that the structure would need to be detailed in the application for HUD approval. Some commenters suggested an MOU, others that the boards could be lessened and then combined. Another proposal was a joint ACC between the agencies and HUD. While another asked: what would happen to regional partners if their MTW agreement ended?

- What form should the agreement (i.e., contract, memorandum of understanding, partnership agreement, etc.) take between the regional MTW agency and its PHA partners?

Again attendees felt that agencies should be able to propose different forms of a regional agreement to HUD. Whether it be an MOU, an agreement between their

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respective boards, a contract, or some sort of partnership agreement. One commenter pointed out that depending on the state there could be limitations in the types of agreements that the state's laws would allow, and that HUD should not add further potential restrictions.

- Should the criteria for regionalization be the same for current MTW agencies and PHAs that join under the expansion?

Attendees felt that both existing and prospective agencies should have equal access to regionalization. Most commenters felt that both existing and new agencies, once they had entered the demonstration, should have the ability to regionalize with their PHA partners. Alternatively, several commenters suggested that, for prospective agencies interested in regionalization who had already identified partners, that they should apply to the expansion jointly.

- Should HUD issue a revised Public Housing and Voucher Consortia Rule to further the regionalization concept?

Attendees were split on this question, half recommended revising the proposed consortia rule to explicitly allow MTW PHAs to enter into a partial consortium, while the other half recommended keeping regionalization and the proposed consortia rule completely separate.