



Operations Notice for the Expansion of the Moving to Work Demonstration Program

Technical Revisions

[Docket No. FR-5994-N-06]

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice.

Summary: This notice provides technical revisions that make no material changes to the notice entitled “Operations Notice for the Expansion of the Moving to Work Demonstration Program” published in the *Federal Register* on August 28, 2020.

DATES: The changes described in this notice are effective **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: John Concannon, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4130, Washington, DC 20410; email address: mtw-info@hud.gov, telephone number 202-402-6231 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

The Moving to Work (MTW) demonstration program was established under Section 204 of Title II of section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104-134 (approved April 26, 1996). The MTW demonstration was significantly expanded under the 2016 MTW expansion statute, Section 239 of Division L, Title II of the Consolidated Appropriations Act, 2016, Public Law 114-113 (approved December 18,

2015) (2016 MTW expansion). The 2016 MTW expansion authorized HUD to expand the MTW demonstration program from 39 PHAs by an additional 100 PHAs over a period of seven years.

On January 23, 2017, HUD published a notice seeking public comment in the *Federal Register* (82 FR 8056), entitled “Operations Notice for the Expansion of the Moving to Work Demonstration Program Solicitation of Comment.” On May 4, 2017, the notice was republished with three technical revisions and an extension of the comment period (82 FR 20912). HUD considered all relevant comments received. On October 5, 2018, HUD republished the notice (83 FR 50387) with revisions based on public comments and policy determinations and provided an additional comment period. On August 28, 2020, HUD published the last version of the notice (85 FR 53444) after the addition of information in the “Additional activities and waivers” section and was effective immediately.

This notice makes technical revisions that make no material changes in Sections 5, 9 and 13 of the August 28, 2020, notice. It also makes technical revisions to Appendix I of the notice. HUD intends to provide guidance on these changes through supplemental PIH notice.

II. Technical Revisions to Operations Notice for the Expansion of the Moving to Work Program

A. Changes to Section 5 - MTW Funding Flexibility and Financial Reporting

(1) Section 5.a., paragraph 4, sentence 3 reads:

This additional flexibility will expire at the end of Federal fiscal year 2020 (on September 30, 2020) unless Congress includes it again in subsequent appropriations acts.

The sentence is revised to read as follows to clarify the incorporation of appropriations acts beyond 2020:

This additional flexibility will expire at the end of each Federal fiscal year unless Congress includes it again in subsequent appropriations acts.

(2) Footnote 22 is added to refer the reader to the Voucher Management System (VMS) User Manual on the need to create a specific field for the reporting of Admin Fee reserves for Housing Assistance Payments (HAP) purposes. The footnote reads:

For more information about VMS Reporting, please see the VMS User Manual at: <https://www.hud.gov/sites//dfiles/PIH/documents/INSTRUCTIONS.pdf>.

(3) The second sentence of Section 5.b.III.c.v. reads:

If the MTW agency is using administrative fee reserves for HAP expenses, the MTW agency must enter the amount of the administrative fee reserves used for HAP expenses in the comments section in VMS.

The sentence is revised to read as follows to provide more specific guidance on VMS reporting:

MTW PHAs must report the use of HCV Unrestricted Net Position (UNP) for HAP and the use of HCV UNP for non-HAP expenses in the Expense 1-5 fields in VMS.

(4) Additional clarification is needed on the impact of outside uses of funds. A sentence and a footnote are added to enhance this clarification. The additional sentence added to the end of Section 5.b.III.c.v. reads:

Expansion MTW PHAs may not bring in outside sources of funds to cover administrative costs in order to increase their HCV Administrative Fee Reserves and then use those increased HCV Administrative Fee Reserves to cover HAP costs.

Footnote 23 is added to reference the applicable PIH notice and reads:

Please see PIH Notice 2013-28 for more guidance on the use of outside funding sources for Expansion MTW PHAs.

(5) Additional clarification is needed on the HAP renewal eligibility cap. In order to ensure that the amount of funding an MTW agency is eligible for is not diminished by its participation in the MTW demonstration program, actual HAP expenses higher than the HAP renewal eligibility cap will be included in the renewal calculation and reflected in the MTW agency's annual funding allocation. An additional sentence has been added to enhance this clarification at the end of Section 5.b.III.d.ii that reads:

If HAP expenses alone exceed the HAP Renewal Eligibility Cap, any HAP expenses over the cap will also be included in the MTW agency's renewal eligibility.

(6) Additional clarification is needed on the HAP renewal eligibility cap example. The final sentence at the end of Section 5.b.III.d.iii reads:

If the total combined HAP and non-HAP MTW expenses exceed \$6,854,400, the MTW agency's CY 2021 renewal funding will be \$6,854,400 adjusted by the RFIF and any national proration.

The sentence is revised to read as follows to provide clarification in the example:

If the total combined HAP and non-HAP MTW expenses exceed \$6,854,400, the MTW agency's CY 2021 renewal funding will be \$6,854,400 plus an adjustment for HAP expenses if HAP expenses alone exceeded \$6,854,400 adjusted by the RFIF and any national proration.

(7) The Emergency Housing Vouchers (EHV) and Stability Vouchers (SV) categories, programs that originated after the current publication of the notice in 2020, must be added to the list of voucher types that are not included in the MTW program. The first sentence of Section 5.b.III.1 reads:

Vouchers and funding provided for the following special purpose vouchers, or any new special purpose vouchers provided in future appropriations acts, whether for new allocations or renewal of existing increments, shall not be included in the HCV MTW renewal calculation: HUD-VASH, FUP, FYI, NED, and Mainstream.

This sentence is revised to read as follows to add the EHV and SV categories:

Vouchers and funding provided for special purpose vouchers, including any new special purpose vouchers provided in future appropriations acts, whether for new allocations or renewal of existing increments, shall not be included in the HCV MTW renewal calculation: HUD-VASH, FUP, FYI, NED, Mainstream, Emergency Housing Vouchers (EHV), and Stability Vouchers (SV).

B. Changes to Section 9 – Applying MTW Flexibilities to Special Purpose Vouchers

(1) Additional language is added to further clarify that MTW flexibilities may be applied to Special Purpose Vouchers (SPVs). A sentence and a footnote are added to enhance this clarification. The additional sentence added to the end of the second paragraph in the introduction to Section 9 reads:

Approved MTW flexibilities may be applied towards SPVs according to HUD's current guidance.

Footnote 37 is added to reference the applicable PIH notice:

This process is explained further in the SPV FAQ available at: https://www.hud.gov/program_offices/public_indian_housing/programs/ph/mtw/policyguidance.

C. Changes to Section 13 – Administrative and Contact Information

(1) The contact information in Section 13.b is revised to reflect John Concannon, the current MTW Director.

D. Changes to Appendix I – MTW Waivers

(1) Waiver and associated activity 1.g on Tenant Payment as a Modified Percentage of Income should include a citation to 24 CFR 5.628. This citation is added to the “Statutes and Regulations Waived” section.

(2) Waiver and associated activities 1.t and 1.u on Standard Deductions erroneously includes language on a single deduction. The word “single” is removed from the “Activity” section of both 1.t and 1.u.

(3) Additional language and a citation are added to clarify waiver and associated activity 2.d on Rent Reasonableness – Third Party Requirement.

The “Activity” section of 2.d reads:

The agency is authorized to perform rent reasonable determinations on PBV units that it owns, manages, and/or controls.

This “Activity” section of 2.d is revised to include the step of negotiating rent to owners and to incorporate units beyond only PBVs. It is revised to read as follows:

The agency is authorized to perform rent reasonable determinations and to assist the family in negotiating the rent to owner on units that it owns, manages, and/or controls.

Waiver and associated activity 2.d on Rent Reasonableness – Third Party Requirement should include a citation to section 8(o)(11) of the 1937 Act and 24 CFR 982.506. These citations are added to the “Statutes and Regulations Waived” section.

(4) Language is deleted to clarify waiver and associated activity 5.c on Third Party Requirement. The “Activity” section of 5.c reads:

The agency is authorized to perform HQS inspections on PBV units that it owns, manages, and/or controls.

This “Activity” section of 5.c is revised to incorporate units beyond only PBVs. It is revised to read as follows:

The agency is authorized to perform HQS inspections on units that it owns, manages, and/or controls.

(5) The implementation of waiver and associated activity 5.c on Third Party Requirement inadvertently conflicts with safe harbors under waiver and associated activity 9.c on Elimination of Project Based Voucher (PBV) Selection Process for PHA-owned Projects without Improvement, Development, or Replacement and under waiver and associated activity 9.d on Alternative PBV Selection Process. Language is added to both applicable safe harbors to resolve this conflict.

In waiver and associated activity 9.c on Elimination of PBV Selection Process for PHA-owned Projects without Improvement, Development, or Replacement, Safe Harbor 9.c.iii reads:

HQS inspections must be performed by an independent entity according to 24 CFR 983.59(b) or 24 CFR 983.103(f).*

Safe Harbor 9.c.iii is revised to read as follows to resolve this conflict:

HQS inspections must be performed by an independent entity according to 24 CFR 983.59(b) or 24 CFR 983.103(f), unless MTW waiver 5.c or an Agency-Specific Waiver is implemented.*

In waiver and associated activity 9.d on Alternative PBV Selection Process, Safe Harbor 9.d.i reads:

If the selected project is PHA-owned, HQS inspections must be performed by an independent entity according to 24 CFR 983.59(b) or 24 CFR 983.103(f).*

Safe Harbor 9.d.i is revised to read as follows to resolve this conflict:

If the selected project is PHA-owned, HQS inspections must be performed by an independent entity according to 24 CFR 983.59(b) or 24 CFR 983.103(f), unless MTW waiver 5.c or an Agency-Specific Waiver is implemented.*

(6) The term “portability” as used in waiver and associated activity 9.h on Limit Portability for PBV Units does not accurately title this waiver and associated activity, as it addresses mobility from PBV and not necessarily portability to another jurisdiction. In the Appendix I Table of Contents and throughout the discussion of the waiver and associated

activity, the title is amended from “Limit Portability for PBV Units” to “Limit Choice Mobility” for PBV Units.

(7) The development of project-base voucher units was incorrectly included as an example of how to use waiver and associated activity 17.c on Housing Development Program.

The “Activity” section of 17.c reads:

Programs that use MTW Funding to acquire, renovate and/or build affordable units for low-income families that are not public housing units. Eligible activities may include: gap financing for non-PHA development of affordable housing, development of project-based voucher units or tax credit partnerships.

The “Activity” section of 17.c is revised to address this and will read as follows:

Programs that use MTW Funding to acquire, renovate and/or build affordable units for low-income families that are not public housing units. Eligible activities may include: gap financing for non-PHA development of affordable housing or tax credit partnerships.

Benjamin Hobbs,

Principal Deputy Assistant Secretary for Public and Indian Housing.

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