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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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

[Docket No. FR-5994-N-07]

AGENCY: Office of Public and Indian Housing (PIH), HUD.

ACTION: Notice.

SUMMARY: This Notice provides revisions 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, with technical revisions published in the Federal Register on March 20, 2025.

DATES: *Comment due date:* **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

ADDRESSES: Interested persons are invited to submit comments regarding this Notice. All submissions must refer to the above docket number and title. There are two methods for submitting public comments. To receive consideration as public comments, comments must be submitted through one of the two methods specified below:

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at https://www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the https://www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

No Facsimile Comments. Facsimile (Fax) comments will not be accepted or considered.

Public Inspection of Public Comments. HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202-708-3055 (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.

FOR FURTHER INFORMATION CONTACT: Pravin Krishnan, Director, Moving to Work Demonstration Program, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email address: mtw-info@hud.gov, telephone number 202-402-3965 (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 from 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 Section 239 of Division L, Title II of the Consolidated Appropriations Act, 2016, Public Law 114-113 (approved December 18, 2015) (2016 MTW

Expansion Statute). The 2016 MTW Expansion Statute 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 and 11, 2018, HUD republished the notice (83 FR 50387 and 83 FR 51474) 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. On March 20, 2025, HUD published technical revisions to the notice that made no material changes that were effective immediately (90 FR 13189).

This notice makes additional revisions as described in more detail below. A future update of the "Operations Notice for the Expansion of the Moving to Work Demonstration Program" will provide updates with regard to HOTMA. Before that publication, public housing agencies should follow other applicable Departmental guidance on the interaction of HOTMA and the Moving to Work Program.

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

A. Updates were made throughout the notice to change references from the "MTW Supplement" to the "MTW Plan-Expansion."

B. Technical updates were made throughout the notice to enhance clarity and to update information.

C. Changes to Section 2 – Background: In Section (b) 2016 Expansion of the MTW Demonstration and Section (c) Eligibility and Selection for the Expansion of the MTW Demonstration, the deadline to designate MTW agencies was corrected from 2022 to 2028

to coincide with seven years from when the first MTW agencies were designated under the 2016 MTW Expansion Statute.

D. Changes to Section 5 – MTW Funding Flexibility

(1) In Section (b) Calculation of Funding, (iii) Housing Choice Voucher Funding, (c) Housing Assistance Payment Renewal Sources of Funds, edits were made to clarify sources of funds that may be used towards renewal.

(2) In Section (b) Calculation of Funding, (iii) Housing Choice Voucher Funding, (j) Local, Non-Traditional Activities, edits were made to eliminate the requirement that Local Non-Traditional activities not exceed 10% of Housing Assistance Payment budget.

E. Changes to Section 7 – Program Administration and Oversight: Throughout Section (a) Planning and Reporting, edits were made to reflect decoupling the "MTW Plan-Expansion" (formerly the "MTW Supplement") from the PHA Plan.

F. Changes to Section 9 – Applying MTW Flexibilities to Special Purpose Vouchers (SPVs) was revised to reflect renewal process.

G. Changes to Section 13 – Administrative and Contact Information: The contact information in Section 13.b was revised to reflect Pravin Krishnan, the current MTW Director.

H. Changes to Appendix I – MTW Waivers

(1) For waiver and associated activities 1.c and 1.d on Stepped Rent, Safe Harbor (viii) was edited to no longer require the stepped rent to be tied to unit size.

(2) For waiver and associated activities 1.p and 1.q on Imputed Income, Safe Harbor (i) was edited to increase the maximum hours per individual to 40 hours per week. The Safe Harbor (ii) for maximum hours per household was deleted.

(3) For waiver and associated activities 1.v and 1.w on Alternative Income Inclusions/Exclusions, Safe Harbor (i) was edited to allow the policy to apply to elderly and/or disabled individuals when there is no detrimental effect.

(4) For waiver and associated activities 7.a and 7.b on Term-Limited Assistance, Safe Harbor (i) was edited to decrease the minimum term of assistance to two years.

(5) For waiver and associated activity 11 on MTW Self-Sufficiency Programs, language regarding the consideration of disparate impact was deleted.

(6) For waiver and associated activities 12.a and 12.b on Work Requirements, Safe Harbor (i) was edited to increase the maximum hours per individual to 40 hours per week. The Safe Harbor (ii) for maximum hours per household was deleted. The Safe Harbor (iii) was edited to decrease the required notice to three months.

(7) For waiver and associated activities 17.a, 17.b and 17.c on Local Non-Traditional Programs, the Safe Harbors restricting Local Non-Traditional activities to 10% of Housing Assistance Payment budget were deleted.

I. Changes to Appendix II – Requirements for Safe Harbors – Impact Analysis

(1) The element to consider disparate impact in impact analyses was deleted.

III. Solicitation of public comments

HUD has engaged in extensive public engagement in formulating this notice, including six prior Federal Register publications with opportunity for public comment. HUD is providing additional opportunity to comment on the revisions detailed above. HUD will consider any additional comments submitted on these revisions going forward and will notify the public if there are any changes to the notice as a result. HUD will allow 60 days for public comment on the revisions, followed by an additional 30-day public comment period.

IV. Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection on https://www.regulations.gov.

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1. Purpose and Applicability

This Moving to Work (MTW) Operations Notice (MTW Operations Notice) establishes requirements for the implementation and continued operation of the expansion of the MTW demonstration program pursuant to Section 239 of the Fiscal Year 2016 Appropriations Act, Pub. L. 114-113 (2016 MTW Expansion Statute). The MTW Operations Notice applies to all public housing agencies (PHAs) designated as MTW pursuant to the 2016 MTW Expansion

Statute and to any previously-designated MTW agency that elects to operate under the terms of this notice, collectively referred to in this MTW Operations Notice as an "MTW agency."

The MTW demonstration program allows PHAs to design and test innovative, locally-designed housing and self-sufficiency strategies for low-income families by permitting PHAs to use assistance received under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and 1437g) (1937 Act) more flexibly and, as approved by HUD, with certain exemptions from existing public housing and HCV program requirements.

Through the MTW Amendment to the Annual Contributions Contract(s) (ACC),[1] an MTW agency agrees to comply with the program requirements and terms and conditions detailed in the MTW Operations Notice for the term of the MTW agency's participation in the MTW demonstration. Unless otherwise explicitly provided in the MTW Operations Notice, an MTW agency's MTW program applies to all of the MTW agency's public housing units (including MTW agency-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based HCV assistance, project-based HCV assistance under Section 8(o) of the 1937 Act, and homeownership units developed using Section 8(y) HCV assistance of the 1937 Act.

This MTW Operations Notice *does not* apply to HCV assistance that is required: 1) to make payments to other PHAs under HCV portability billing procedures; 2) to meet particular purposes for which HUD has expressly committed the assistance to the MTW agency;[2] or 3) to meet existing contractual obligations of the MTW agency to a third party (such as Housing Assistance Payment (HAP) contracts with owners under the MTW agency's HCV program), unless a third party agrees to Project-Based Voucher (PBV) activities implemented under the MTW program with the MTW agency.

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1 OMB Approval Number 2577-0294.

2 Mainstream Vouchers, HUD-Veterans Affairs Supportive Housing (HUD-VASH) Vouchers, Non-Elderly Disabled (NED) Vouchers, Mobility Demonstration Vouchers, Family Unification Program (FUP) Vouchers, and Melania Trump Foster Youth to Independence Vouchers are not part of the MTW demonstration program, however certain MTW flexibilities may be applied to these voucher types, as further described in section VI.9 of this MTW Operations Notice.

Any significant updates,[3] as determined by HUD, to the MTW Operations Notice will be preceded by a public comment period. However, HUD may supplement the MTW Operations Notice with Office of Public and Indian Housing (PIH) Notices without public comment if it determines a need to provide more detailed guidance, including with respect to implementing future appropriations act provisions and revisions to financial policies and procedures. Further, HUD will develop informational materials to address various program elements, which HUD will post on the MTW website.

2. Background

a. MTW Demonstration Program

The MTW demonstration program was first established under Section 204 of Title II of section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, 110 Stat. 1321–281; 42 U.S.C. 1437f note (1996 MTW Statute)[4] to provide certain statutory and regulatory flexibility[5] to participating PHAs to further the following three statutory objectives:

- Reduce cost and achieve greater cost effectiveness in federal expenditures;
- Give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and
- Increase housing choices for eligible low-income families.

To achieve these objectives, PHAs selected for participation in the MTW demonstration are given exemptions from some existing public housing and HCV rules and are offered more flexibility with how they use their federal funds. MTW agencies use this opportunity presented

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[3] Significant amendments could include adding or removing MTW Waivers found in Appendix I.

[4] "PHAs currently operating an MTW demonstration program" are PHAs with an active MTW Agreement as of December 15, 2015. "PHAs currently operating an MTW program" does not include PHAs that previously participated in the MTW demonstration and later left the demonstration.

[5] For more information on the history of the MTW demonstration program, please go to https://www.hud.gov/mtw.

by the MTW demonstration to better address local housing needs and encourage self-sufficiency among those families receiving HUD-assisted housing. HUD considers the experience of MTW agencies when developing new housing policy recommendations that can positively impact assisted housing delivery for PHAs and incentivize low-income families to gain self-sufficiency across the nation.

In addition to statutory and regulatory relief,[6] MTW agencies have the flexibility to apply fungibility among three core funding programs' funding streams – public housing Operating Funds, public housing Capital Funds, and HCV assistance (to include both HAP and Administrative Fees) – hereinafter referred to as "MTW Funding."[7] Throughout participation in the MTW demonstration program, MTW agencies must continue to meet five statutory requirements established by the 1996 MTW Statute, which are described further in section VI.7.c.i of this MTW Operations Notice.

As of December 15, 2015, the date the 2016 MTW Expansion Statute was signed into law, there were 39 agencies[8] participating in the MTW demonstration program. The administrative structure for these 39 agencies is outlined in the Standard MTW Agreement, an agreement between each existing MTW agency and HUD. The 2016 MTW Expansion Statute extended the term of the Standard MTW Agreement through each of the existing MTW

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6 For more information about the MTW demonstration program and the specific activities of existing MTW agencies, please refer to the MTW website at https://www.hud.gov/mtw.

7 Funds awarded under Sections 8(o), 9(d), and 9(e) of the 1937 Act are eligible for expanded uses pursuant to MTW fungibility, with the exception of funds provided for specific non-MTW HCV sub-programs. Other funds a PHA may receive (i.e. grant funds under another obligating document) are likewise not covered by MTW flexibilities and must be tracked and reported under the applicable rules and requirements.

8 The 39 agencies are: Alaska Housing Finance Corporation; Atlanta Housing; Housing Authority of the City of Baltimore; Boulder Housing Partners; Cambridge Housing Authority; Housing Authority of Champaign County; Charlotte Housing Authority (INLIVIAN); Chicago Housing Authority; Housing Authority of Columbus, Georgia; District of Columbia Housing Authority; Delaware State Housing Authority; Fairfax County Redevelopment and Housing Authority; Holyoke Housing Authority; Keene Housing; King County Housing Authority; Lawrence-Douglas County Housing Authority; Lexington-Fayette Urban County Housing Authority; Lincoln Housing Authority; Louisville Metropolitan Housing Authority; Massachusetts Department of Housing and Community Development; Minneapolis Public Housing Authority; Elm City Communities/Housing Authority of the City of New Haven; Oakland Housing Authority; Orlando Housing Authority; Philadelphia Housing Authority; Housing Authority of the City of Pittsburgh; Portage Metropolitan Housing Authority; Home Forward (Portland, OR); Reno Housing Authority; San Antonio Housing Authority; Housing Authority of the County of San Bernardino; San Diego Housing Commission; Housing Authority of the County of San Mateo; Housing Authority of the County of Santa Clara/City of San Jose; Seattle Housing Authority; Tacoma Housing Authority; Housing Authority of Tulare County; and Vancouver Housing Authority.

agencies' 2028 fiscal year. In Section 241 of Title II of the Consolidated Appropriations Act, 2024, Public Law 118-42 (approved March 9, 2024) the term of the Standard MTW Agreement was extended further through each of the existing MTW agencies' 2038 fiscal year.

b. 2016 Expansion of the MTW Demonstration Program

Through the demonstration expansion authorized by the 2016 MTW Expansion Statute, HUD will extend MTW flexibility to a broader range of PHAs regarding diversity of size and geographic location, balancing the flexibility inherent in MTW with the need for measurement, evaluation, and prudent oversight. Overall, in expanding the MTW demonstration, HUD intends to build on the successes and lessons learned from the demonstration thus far to improve the delivery of Federally assisted housing and promote self-sufficiency among assisted low-income families across the nation.

As the 2016 MTW Expansion Statute directs, HUD is authorized to expand the MTW demonstration program from the current level of 39 agencies by adding an additional 100 agencies over a period of seven years, ending in 2028. The 2016 MTW Expansion Statute requires that the 100 new MTW agencies be high-performing at the time of application to the demonstration in either HUD's Public Housing Assessment System (PHAS) or its Section Eight Management Assessment Program (SEMAP), and MTW agencies must represent geographic diversity across the country.[9] Further, the 2016 MTW Expansion Statute imposes strict size limitations[10] on these 100 PHAs and requires that five of the 100 PHAs be agencies with portfolio-wide awards under the Rental Assistance Demonstration (RAD).[11]

c. Eligibility and Selection for the Expansion of the MTW Demonstration

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[9] Geographic diversity will be considered based on both MTW agencies designated pursuant to the 2016 MTW Expansion Statute and the existing 39 MTW agencies.

[10] No less than 50 with 1,000 or fewer aggregate housing voucher and public housing units; no less than 47 with 1,001-6,000 aggregate units; no more than 3 with 6,001-27,000 aggregate units; no PHA shall be granted MTW designation if it administers more than 27,000 aggregate units.

[11] A portfolio award is defined for these purposes as a conversion of a PHA's entire public housing inventory to RAD. All RAD conversions must be closed and the former public housing units removed from IMS/PIC in order to satisfy the portfolio-wide requirement.

As required by the 2016 MTW Expansion Statute, HUD designated 100 new agencies for the expansion of the MTW designation in cohorts over a period of seven years, ending in 2028. If applicable, HUD may backfill any vacant MTW designation pursuant to the 2016 MTW Expansion Statute through 2028. For each cohort of MTW agencies selected, the 2016 MTW Expansion Statute requires HUD to direct one specific policy change to be implemented by the MTW agencies, which HUD will evaluate rigorously. MTW agencies may implement additional policy changes, as long as those policy changes do not conflict or interfere with the cohort study. As required by the 2016 MTW Expansion Statute, the HUD-appointed MTW Research Advisory Committee (the Committee), described further below, advised HUD on the policy changes to be tested through the new cohorts of MTW agencies and the methods of research and evaluation.

HUD is planning to issue separate PIH Notices for each cohort to solicit applications from eligible PHAs for participation in the MTW demonstration. These notices will outline the specific application submission requirements, evaluation criteria, and process HUD will use when selecting PHAs for MTW designation.

d. MTW Research Advisory Committee

The 2016 MTW Expansion Statute required HUD to form and consult with the Committee, which was established in May 2016.[12] The purpose of the Committee is to provide independent advice to HUD with respect to the policies and methods of research in the evaluation of the MTW expansion. The Committee is specifically charged with advising HUD on the following:

- Policy proposals and evaluation methods for the MTW demonstration to inform the one specific policy change required for each cohort of agencies;
- Rigorous research methodologies to measure the impact of policy changes studied;

[12] The Committee is governed by the Federal Advisory Committee Act (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

- Policy changes adopted by MTW agencies that have proven successful and can be applied more broadly to all PHAs; and
- Statutory or regulatory changes (specific waivers and associated activities, and program and policy flexibility) necessary to implement policy changes for all PHAs.

The Committee has no role in reviewing or selecting the 100 PHAs to participate in the expansion of the MTW demonstration.

Based on the advice of the Committee, HUD will study, by cohort of MTW agencies, the following four policies (which are in no particular order except for the first two cohorts): Impact of MTW Flexibility on small sized PHAs;[13] Rent Reform; Work Requirements; and Landlord Incentives. HUD may determine that additional policies be studied through the MTW expansion and will consider the advice of the Committee.

3. Term of Participation

The term of each MTW agency's MTW designation will be twenty years (PHA fiscal years) starting from the time of its designation as an MTW agency. All waivers and associated activities provided through the MTW Operations Notice expire at the end of the MTW agency's term of participation, unless otherwise discontinued in accordance with section VI.4.f of this notice. However, if HUD determines that additional time beyond the end of the MTW agency's MTW term is needed to evaluate a cohort-specific policy change, or if the MTW agency requests to extend a particular waiver, HUD may, if allowed by applicable law, approve an extension of any specific waiver(s).

Once an MTW agency has implemented an activity pursuant to the authority of the MTW Operations Notice, the MTW agency may continue to implement that activity throughout the term of its participation in the demonstration, subject to the terms of this notice regarding discontinuation of MTW activities, or, any amendments to this notice, or any successor notice. The MTW agency must end all activities requiring MTW-authorized waivers upon expiration of

[13] For the purpose of the MTW expansion, small is defined as managing or administering 1,000 or fewer units.

its MTW participation since HUD cannot guarantee that it will be able to extend any waivers and associated activities beyond that point. For this reason, when entering into contracts with third parties that draw upon MTW flexibility, the MTW agency must disclose that such flexibility is only available during the term of the MTW agency's participation in the MTW demonstration as permitted in this notice. An exception is third-party contracts that relate to the cohort-specific policy change and associated waiver(s).

4. Waivers

Pursuant to the 1996 MTW Statute and 2016 MTW Expansion Statute, Appendix I of this notice provides waivers of certain provisions of the 1937 Act as well as the implementing regulations. These waivers and associated activities afford MTW agencies the opportunity to use their MTW authority to pursue locally driven policies, procedures, and programs in order to further the goals of the demonstration. In addition, the MTW agency may request, and be granted, Safe Harbor Waivers and Agency-Specific Waivers, described further below, to implement innovative MTW activities unique to its community. MTW agencies may update their leases to reflect the MTW flexibilities used through these waivers. When implementing MTW waivers through MTW activities, MTW agencies must ensure assisted families are made aware of the impacts the activity(s) may have on their tenancy.

The following are the categories of waivers that MTW agencies may pursue:

- MTW Waivers – MTW agencies may conduct any permissible activity in the MTW Waivers category within the defined range of flexibility, characterized in this notice as a "safe harbor." Safe harbors contain the additional requirements (beyond those specified in the activity description) the agency must follow in order to implement the activity once it is included in an approved MTW Plan-Expansion.[14] Prior to implementation, the MTW Waivers must be included in an approved MTW Plan-

[14] MTW PHAs designated prior to December 15, 2015 (see footnote 8) submit an MTW Plan and MTW Report annually. MTW PHAs designated pursuant to the MTW Expansion statute submit an MTW Plan-Expansion only.

Expansion (see section VI.7.a). MTW Waivers are detailed in Appendix I.

- Safe Harbor Waivers – MTW agencies may request to implement activities in a manner inconsistent with the safe harbors of an MTW Waiver's activity through the submission of a Safe Harbor Waiver request.
- Agency-Specific Waivers – MTW agencies may seek an Agency-Specific Waiver in order to implement additional activities not contained in the MTW Waivers and to request to waive a statutory or regulatory requirement not included in Appendix I.
- Cohort-Specific Waivers – MTW agencies may be provided with Cohort-Specific Waivers if additional waivers not included in Appendix I are necessary to allow for the implementation of the required cohort study. Cohort-Specific Waivers will be detailed in the applicable Selection Notice for that cohort study.

a. MTW Waivers

Appendix I, MTW Waivers, is a simplified guide for MTW agencies seeking to adopt MTW initiatives that have been implemented by existing MTW agencies; it is not intended to be the complete listing of what an MTW agency can and cannot do (see Safe Harbor Waivers and Agency-Specific Waivers). MTW agencies may implement any activity contained in Appendix I without further activity-specific HUD review and approval as long as it is included in the MTW Plan-Expansion (described in section VI.7.a of this notice) and implemented within the associated safe harbor(s). MTW agencies may combine activities together at the PHA level in order to create more comprehensive initiatives.

Appendix I includes the waiver name, waiver description, statutes and regulations waived, permissible activities, and safe harbors associated with each of the MTW Waivers. The waiver description defines the authorization provided to the MTW agency, subject to the terms of this notice. The list of statutes and regulations waived details the citations of the 1937 Act requirements that may be waived by an MTW agency in order to implement an activity. The list of waivers and list of activities are organized by program type (i.e., public housing and/or HCV

program). The safe harbors section contains the additional requirements (beyond those specified in the activity description) that the MTW agency must follow in implementing activities without further HUD approval.

b. Safe Harbor Waivers

Since the safe harbors, as written in Appendix I, may not align with local priorities or market conditions at some MTW agencies, MTW agencies may request to expand an activity that is in Appendix I outside of the listed safe harbor(s).[15] Elements that are required to be provided in the request to waive Appendix I safe harbors will be identified in the MTW Plan-Expansion form.

MTW agencies must work closely with their residents and stakeholders when developing the Safe Harbor Waivers; therefore, when submitting a Safe Harbor Waiver, the MTW agency must, in addition to following the PHA Plan public process requirements, also hold a meeting to specifically discuss the Safe Harbor Waivers. The MTW agency must consider, in consultation with the Resident Advisory Board (RAB) and tenant association, as applicable, all of the comments received at the public hearing. The comments received by the public, RABs, and tenant associations must be submitted by the MTW agency, along with the MTW agency's description of how the comments were considered, as a required attachment to the MTW Plan-Expansion. This public comment and review period affords the residents and community stakeholders the opportunity to provide input on the proposed Safe Harbor Waivers prior to its submission to HUD.

Following approval of the MTW Plan-Expansion, an MTW agency must update its Administrative Plan and Admissions and Continued Occupancy Policy (ACOP), as applicable, prior to implementing the Safe Harbor Waiver. Disapproval of Safe Harbor Waivers will be communicated via the approval letter of the MTW Plan-Expansion. The MTW agency must follow the instructions provided by HUD in the letter regarding updating the MTW Plan-

[15] Certain safe harbors, such as impact analyses and hardship policies, are not waivable, as noted in Appendix I.

Expansion. Any such disapproval would only apply to a specific Safe Harbor Waiver, as noted in the approval letter, and would not apply to the entire MTW Plan-Expansion. Where additional review time may be needed by HUD, the approval letter of the MTW Plan-Expansion will state that the waiver decision is pending and the MTW agency must await further instructions from HUD prior to implementing the Safe Harbor Waiver.

Reasons that HUD may object to a Safe Harbor Waiver include, but are not limited to, the following:

- The information required in the MTW Plan-Expansion, or equivalent form as approved by OMB, is not provided or is deemed insufficient;
- The MTW agency's proposed Safe Harbor Waiver is inconsistent with requirements outside of the 1937 Housing Act or is otherwise not permissible under MTW authority;
- There are other good cause factors for objection, such as material misrepresentation, in the submission;
- The Safe Harbor Waiver conflicts with any of the five statutory MTW requirements, as determined by HUD; or
- The Safe Harbor Waiver is determined to have potential significant negative impacts on families or the MTW agency's operation of its assisted housing programs using Section 8 and 9 funds, as determined by HUD.

c. Agency-Specific Waivers

The MTW demonstration program is intended to foster innovation and HUD encourages MTW agencies, in consultation with their residents and stakeholders, to be creative in their approach to solving affordable housing issues facing their local communities. For this reason, flexibilities beyond those provided for in Appendix I may be needed. Agency-Specific Waivers may be requested if an MTW agency wishes to implement additional activities, waive a statutory

or regulatory requirement not included in Appendix I.[16]

In order to pursue an Agency-Specific Waiver, an MTW agency must include the Agency-Specific Waiver request in the MTW Plan-Expansion, for HUD review and approval. In order to pursue an Agency-Specific Waiver, an MTW agency must include an Agency-Specific Waiver request, an impact analysis, and a hardship policy (if the activity poses a potential risk to the continued tenancy of households), in the MTW Plan-Expansion. Other required elements to be provided in the request will be identified in the MTW Plan-Expansion form.

Specific requirements for conducting impact analyses and creating hardship policies are provided in Appendix II. When developing Agency-Specific Waiver requests, an agency must determine whether to implement additional hardship criteria beyond the criteria contained in Appendix II. Any additional hardship criteria must be included in the waiver request.

MTW agencies must work closely with their residents and stakeholders when developing the Agency-Specific Waivers; therefore, similar to submitting Safe Harbor Waivers, when submitting an Agency-Specific Waiver, the MTW agency must not only follow the PHA Plan public process requirements, but it must also have an additional public meeting to specifically discuss the Agency-Specific Waivers.[17] The MTW agency must consider, in consultation with the RAB and tenant association, as applicable, all of the comments received at the public hearing. The comments received by the public, RABs, and tenant associations must be submitted by the MTW agency, along with the MTW agency's description of how the comments were considered, as a required attachment to the MTW Plan-Expansion. This public comment and review period provides the residents and community stakeholders the opportunity to provide input on the proposed Agency-Specific Waiver prior to its submission to HUD.

Following approval of the MTW Plan-Expansion, an MTW agency must update its Administrative Plan and ACOP, as applicable, prior to implementing the Agency-Specific

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[16] The MTW demonstration program may only waive certain provisions of the 1937 Act and its implementing regulations.

[17] This can be the same meeting to discuss Safe Harbor Waivers (i.e., a combined meeting).

Waiver. Disapproval of Agency-Specific Waivers will be communicated via the approval letter of the MTW Plan-Expansion; the MTW agency must follow the instructions provided by HUD in the letter regarding updating the MTW Plan-Expansion. HUD may object to an Agency-Specific Waiver for the same reasons it may object to a Safe Harbor Waiver. Any disapproval would only apply to a discrete Agency-Specific Waiver, as noted in the approval letter, and would not apply to the entire MTW Plan-Expansion. In rare instances where additional review time may be needed, the approval letter of the MTW Plan-Expansion will state that the waiver decision is pending and the MTW agency must await further instructions from HUD prior to implementing the Agency-Specific Waiver.

Statutory or regulatory waiver(s) derived from the 1937 Act or its implementing regulations that are outside those listed in Appendix I cannot be granted by the MTW Office alone; therefore, the MTW Office will coordinate the approval of those waivers with the appropriate signatory (e.g., Assistant Secretary, General Deputy Assistant Secretary, etc.). HUD is committed to providing a timely review of Agency-Specific Waivers.

d. Cohort-Specific Waivers

Cohort-Specific Waivers include statutory or regulatory waivers and associated activities, outside of those included in Appendix I, that are unique to a specific cohort to allow them to complete their required cohort evaluation. Depending upon the evaluation design, HUD may restrict certain activities within the MTW Waivers or provide additional Cohort-Specific Waivers that are not included in Appendix I, and this would be articulated in the Selection Notice for the applicable cohort. Any restriction would only be in place during the evaluation period, as specified in the Selection Notice, and once the evaluation is concluded, the MTW agency would have access to all of the MTW Waivers. Specific policy changes to be tested through a given cohort may not require any Cohort-Specific Waivers. Any MTW activities that would impact or conflict with the cohort-specific policy change will be identified in the respective Selection Notice so that the MTW agency is aware of this potential restriction on its

use of waivers before it enters the MTW demonstration program. Cohort-Specific Waivers and the associated MTW activities may only be used to the extent allowed under the applicable evaluative framework provided by HUD in the applicable Selection Notice.

e. Requirements outside of the Scope of MTW Waiver Authority

The MTW demonstration program may only waive certain provisions of the 1937 Act and its implementing regulations. The MTW demonstration program does not permit waivers of statutes outside of the 1937 Act or regulations and requirements promulgated under authority outside of the 1937 Act. Accordingly, HUD and the MTW agencies may not waive or otherwise deviate from compliance with Fair Housing and Civil Rights laws and regulations, discrimination laws, labor standards, or environmental statutes and executive orders, or any other applicable statutes and regulations. Other subject matter prohibited from waivers or restricted with respect to waivers is discussed in section VI.10 of this notice. All applicable federal, state, and local requirements shall continue to apply even in the event of a conflict between such a requirement and a waiver or activity granted by this notice.

Additionally, the five statutory requirements established under the 1996 MTW Statute, hereinafter referred to as the "five statutory MTW requirements," cannot be waived. The following are the five statutory MTW requirements (discussed in more detail later in this Notice): very low-income requirement, reasonable rent policy, substantially the same requirement, comparable mix requirement, and housing quality standards. In implementing MTW activities, MTW agencies remain subject to all other terms, conditions, and obligations under this notice, and all other federal requirements applicable to the public housing program, the HCV program, federal funds, and PHAs.

f. Discontinuation of MTW Activity

To the extent any MTW activity conflicts with any of the five statutory MTW requirements or other applicable requirements, as determined by HUD, HUD reserves the right to require the MTW agency to discontinue the activity or to revise the activity to comply with

such applicable contemporary requirements.

HUD also reserves the right to require an MTW agency to discontinue any activity derived from a waiver should it have significant negative impacts on families or the MTW agency's operation of its assisted housing programs using Section 8 and 9 funds, as determined by HUD. The factors that may be considered when determining whether an activity should be discontinued include, but are not limited to, the following: rate of port-outs, attrition rates, occupancy and/or utilization levels, voucher leasing success rates, rent burdens, local market conditions, impact analyses, and number of hardship requests. Prior to requiring a discontinuation of an activity, HUD may take intermediary steps to work with the MTW agency and its residents to provide technical assistance, discuss the activity, and determine whether a discontinuation is in fact necessary.

In the event the MTW Operations Notice is updated to remove a specific Appendix I waiver, the MTW agency may continue to implement any activity that has been implemented related to that waiver through the term of the PHA's MTW designation, so long as it does not conflict with any of the five statutory MTW requirements (see section VI.7.c.i) or other applicable current requirements or have significant negative impacts on families or the MTW PHA's operation of its assisted housing programs using funds provided under Section 8 and 9 of the 1937 Act, as determined by HUD, as described in the preceding paragraph.

5. MTW Funding Flexibility and Financial Reporting

During the term of the demonstration, subject to changes in future years' appropriations, HUD will provide an MTW agency with public housing Operating Fund Program (OFP) grants, public housing Capital Fund Program (CFP) grants, and/or HCV HAP and Administrative Fee assistance as detailed in this notice. CFP grants may include Formula grants; Demolition or Disposition Transitional Funding (DDTF), which are included in regular Formula grants; and/or funds from older Replacement Housing Factor (RHF) grants (a program later superseded by DDTF). The HCV funding amount for MTW agencies may be increased by additional

allocations of vouchers that the MTW agency is awarded over the term of its participation in the MTW demonstration. MTW Funding provided to an MTW agency, including public housing OFP grants, public housing CFP grants, and HCV HAP and Administrative Fee assistance, is subject to any laws promulgated in future years, which include without limitation: statutes, appropriations acts, notices implementing appropriations acts, regulations, and executive orders.

a. MTW Funding Flexibility

MTW agencies will have the flexibility to apply fungibility among public housing Operating Fund, public housing Capital Fund, and HCV HAP and Administrative Fee assistance. These flexibilities expand the eligible uses of each covered funding stream, but do not negate the need for both the PHA and HUD to be able to account for the funding from its original source to the date of its ultimate eligible use[18] by the PHA, comply with federal grant and financial management requirements, and use funds effectively and efficiently for their eligible purposes. As HUD continues to implement program-specific financial management policies in its core housing programs, MTW agencies will be subject to the same requirements and procedures as non-MTW agencies. Therefore, the requirements and procedures described in this notice may change as new financial management policies are implemented over time. HUD will update existing guidance and issue new reporting requirements, as appropriate, to allow HUD to meet its monitoring and oversight responsibilities while ensuring MTW agencies fully utilize and benefit from the flexibilities established by Congress for these funds pursuant to the MTW demonstration and the 2016 MTW expansion. HUD will also update existing guidance and issue new reporting requirements, as appropriate, to ensure compliance with 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including with respect to Federal financial management.

An MTW agency participating in the MTW demonstration program may flexibly use

[18] The date of the "ultimate eligible use" means the date of disbursement by the PHA for an eligible purpose, which would remove the funding from the PHA's account and the PHA's control.

public housing Operating and Capital Funds provided under Sections 9(d) and 9(e) of the 1937 Act and HCV HAP and Administrative Fee program funds provided under Section 8 of the 1937 Act, referred to collectively as MTW Funding. Certain provisions of Sections 8 and 9 of the 1937 Act and implementing requirements are waived as necessary to implement this flexibility. Once the MTW agency receives its MTW designation through the execution of the MTW ACC Amendment, this flexibility in the use of MTW Funding does not require prior HUD approval.

The MTW agency may use MTW Funding covered by MTW flexibility for any eligible activity under Sections 9(d)(1), 9(e)(1) and Section 8(o) of the 1937 Act and for the local, non-traditional activities specified in Appendix I of this notice. All MTW agency expenditures must be consistent with the MTW agency's charter, approved 5-Year and Annual PHA Plans, and the approved MTW Plan-Expansion.

Under appropriations law, any reserves the MTW agency has accumulated prior to signing an MTW ACC Amendment (including public housing Operating and Capital Reserves and HCV HAP and Administrative Fee Reserves) must be used for their originally appropriated purposes and shall not be used flexibly except for when Congress provides an exception to this requirement. Subject to HUD's annual appropriations act, Congress provides temporary relief from this requirement, by allowing an MTW agency to use any reserves accumulated prior to the MTW designation flexibly. This additional flexibility will expire at the end of each Federal fiscal year (for example in Federal Fiscal Year 2026, September 30, 2026) unless Congress includes it again in subsequent appropriations acts. MTW agencies should be aware that this relief is not permanent and may not continue into the future. MTW agencies are responsible for being aware of each year's appropriations act and shall maintain careful recordkeeping to ensure they remain in compliance with the requirement. HUD will monitor the status of this flexibility closely.

b. Calculation of Funding

i. Public Housing Operating Grants

(a) *Funding Calculation.* The calculation of an MTW agency's Operating Fund subsidy grant eligibility will continue in accordance with operating subsidy formula law, regulations, and appropriations act requirements, as they may be amended.

(b) *Eligible Uses*. The MTW agency may use these funds for any eligible activity permissible under Section 9(e)(1) of the 1937 Act or, if the agency proposes to use the funding under its MTW flexibility, it may also use these funds for any eligible activity permissible under Section 8(o), Section 9(d)(1), and for the local, non-traditional activities specified in Appendix I of this notice.

(c) *Central Office Cost Center (COCC)*. For an MTW agency's COCC, which collects fees for administrative services, an MTW agency may freely use the earned fees for any eligible activity but cannot move non fee-based funds into the COCC.

ii. Public Housing Capital Fund Formula and Grants

(a) *Funding Calculation.* The MTW agency's public housing Capital Fund formula characteristics and grant amounts, including DDTF and RHF, will continue to be calculated in accordance with public housing law, regulations, and appropriations act requirements, as they may be amended.

(b) *Financial Management Requirements Apply*. MTW agencies must continue to follow the immediate need requirements applicable to all Capital funds and may not accelerate their drawdown of Capital funds for the purpose of funding reserves or for any other purpose.[19] All Capital funds, including funds in Budget Line Item (BLI) 1410 (Administrative Costs) and BLI 1492 (MTW), must be drawn down only when funds are due and payable.

(c) *Eligible Uses*. The MTW agency may use these funds for any eligible activity permissible under Section 9(d)(1) of the 1937 Act or, if the MTW agency proposes to

[19] HUD will publish a rule that will govern the establishment and maintenance of a Capital Reserve pursuant to Section 109 of HOTMA that may give PHAs authorization to draw down funds in advance of need in certain limited circumstances.

use the funding under its MTW flexibility, it may also use these funds for any eligible activity permissible under Section 8(o), Section 9(e)(1), and for the local, non-traditional activities specified in Appendix I of this notice. CFP funds used for activities under Section 9(d)(1) are subject to all requirements relevant to non-MTW agency CFP funding, including eligible activities and cost limits.

(d) *Requisitioning Funds*. In requisitioning Capital Fund grant funds, the MTW agency will request funds using traditional Capital Fund BLIs for funds to be used for activities under section 9(d) and using the available MTW Budget Line (BLI 1492) items for activities under section 9(e), section 8(o), or local, non-traditional activities. MTW agencies shall not use the Transfer to Operations Budget Line (BLI 1406) since funds for all non-Section 9(d) activities shall be included in the MTW Budget Line (BLI 1492). The MTW agency will provide to HUD information on all capital activities funded by the MTW Funding as necessary to ensure compliance with requirements outside the scope of MTW, including environmental review requirements and Energy and Performance Information Center (EPIC) reporting requirements.

(e) *Obligation and Expenditure Requirements*. The MTW agency remains subject to the requirements of Section 9(j) of the 1937 Act with respect to Capital Fund grants. Section 9(d) funds remain subject to the obligation and expenditure deadlines and requirements provided in Section 9(j) despite the fact that they may be used flexibly. Capital Funds awarded to MTW agencies must be obligated within two years and expended within four years of award. Funds not obligated or expended within those timeframes will be subject to recapture. As with all agencies, an MTW agency may requisition CFP funds from HUD only when such funds are due and payable, unless HUD approves another payment schedule.

iii. Housing Choice Voucher Funding

(a) *Funding Calculation.* As is the case for non-MTW PHAs under current appropriations law, HAP renewal funding eligibility for MTW agencies will be calculated based on each MTW agency's actual expenses for the previous calendar year (known as the re-benchmark year). Unique to MTW agencies, however, the MTW agency's actual expenses are: 1) the previous Calendar Year's HAP expenses reported in the Voucher Management System (VMS), and 2) the previous CY's eligible non-HAP MTW expenses reported in VMS.[20] For both HAP and non-HAP MTW expenses, the reported expenses must have been paid from an eligible source of funds as described in paragraph (c) below to be included in the HAP renewal funding formula. In addition, MTW HAP renewal funding is subject to an MTW Renewal Eligibility Cap derived from the number of units authorized under the MTW agency's ACC, as described in paragraph (d) below. The lower of the total combined HAP and non-HAP expenses or the MTW Renewal Eligibility Cap will then be adjusted by the Renewal Funding Inflation Factor (RFIF) and any national proration that applies to the HCV renewal appropriation to determine the MTW agency's actual CY HAP renewal funding.

Example: An MTW agency executes its MTW ACC Amendment in September 2020. In CY 2020, the MTW agency expended $3,600,000 on HAP and $400,000 on eligible non-HAP MTW expenses. The MTW agency's HCV HAP renewal funding for CY 2021 will be $4 million (assuming the HAP Renewal Eligibility Cap is greater than $4 million), adjusted by the RFIF and any applicable national proration.

(b) *Eligible Uses*. The MTW agency may use HCV renewal funds for any eligible activity permissible under Section 8(o) of the 1937 Act or, if the MTW agency

[20] MTW funds awarded to an MTW agency under Sections 8, 9(d), and 9(e) of the 1937 Act can be utilized per statute and regulation on the eligible activities listed at Sections 9(d)(1), 9(e)(1), and 8(o) of the 1937 Act and for local, non-traditional activities.

proposes to use the funding under its MTW flexibility, it may also use these funds for any eligible activity permissible under Section 9(e)(1), Section 9(d)(1), and for the local, non-traditional activities specified in Appendix I of this notice.

(c) *HAP Renewal Sources of Funds*. Only HAP and non-HAP MTW expenses that are paid for with funds from one of the following sources will be included in the MTW HAP renewal formula:

(i) HCV budget authority (first made available to the PHA for the re-benchmark year),

(ii) HUD-held HAP reserves (undisbursed budget authority from prior years),

(iii) PHA-held HAP reserves (i.e., Restricted Net Position (RNP)),

(iv) Any funds received via the HAP Set-aside (after PHA application and HUD approval),

(v) *Other sources of funds that HUD explicitly authorizes, in a separate HCV funding or other notice, to be included in the MTW HAP renewal formula, and*

(vi) *For HAP expenses only:* Administrative fee reserves (i.e., Unrestricted Net Position). Expenditures of administrative fee reserves are eligible to be included in the MTW agency's MTW HAP renewal calculation, but only if the administrative fee reserve funds are used for HAP expenses. MTW PHAs must report the use of HCV Unrestricted Net Position (UNP) for HAP and for non-HAP expenses in Expense 1-5 fields in VMS. Non-HAP MTW expenses paid from the administrative fee reserve are not eligible for renewal funding. Furthermore, when determining HAP renewal eligibility, the use of the administrative fee reserves is always first attributed to the MTW agency's non-HAP MTW expenses incurred during the calendar year before it is considered to be the source of funds for HAP expenses. If total HAP and non-HAP MTW expenses paid out of administrative fee reserves is greater than the total amount

of non-HAP MTW expenses, then the difference is assumed to have been spent on HAP and is considered in the HAP renewal calculation. Note that there is no restriction against using administrative fee reserves for non-HAP MTW expenses, just that those non-HAP MTW expenses are not eligible to be renewed under the MTW HAP renewal formula. Expansion MTW PHAs may not bring in outside sources of funds to cover administrative costs in order to increase their expenditure of HCV Administrative Fee Reserves to cover HAP costs.

HAP expenses or non-HAP MTW expenses that were paid for with any other funding source (for example, public housing Operating Funds and Capital Funds, and current year HCV Administrative Fee funds) will not be included in the MTW agency's HCV renewal funding calculation, unless HUD explicitly authorizes such inclusion in a separate funding or other notice.

(d) *HAP Renewal Eligibility Cap*. The MTW agency's renewal eligibility for all MTW Years will be limited by the HAP Renewal Eligibility Cap. The calculation multiplies (1) the MTW agency's total number of ACC authorized units in the re-benchmark year (the CY immediately preceding the CY for which the MTW agency's renewal eligibility is being calculated)[21] by (2) the MTW agency's pre-MTW monthly per-unit cost (PUC) inflated to the re-benchmark year.

(i) The number of ACC authorized units is measured in unit months available (UMAs).[22]

(ii) The inflated pre-MTW PUC is projected using, as a base, the monthly PUC for the CY in which the MTW agency signed its MTW ACC Amendment. HUD

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[21] As noted above, the re-benchmark year is also the source year for the actual expense data used in the MTW agency's HAP renewal formula.

[22] Authorized units in the HCV program context are measured in terms of unit months available. For example, if an authorized unit is under ACC as of January 1, the authorized unit equals twelve unit months available for that CY. On the other hand, if the authorized unit was added to the ACC under a new funding increment effective March 1, the authorized unit is equal to ten unit months available for that CY.

applies the RFIF to this base PUC to estimate what the MTW agency's HCV PUC would be, had the MTW agency not joined the MTW program, as of the re-benchmark year.

After the calculation of the HAP Renewal Eligibility Cap, it is compared with the MTW agency's actual total combined HAP and non-HAP MTW expenses. The lower of these two amounts – (1) the HAP Renewal Eligibility Cap or (2) the MTW agency's actual total combined HAP and non-HAP MTW expenses adjusted by the RFIF and any national proration factor – is then used to determine the MTW agency's CY renewal funding. 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.

(iii) Example*:* If an MTW agency signs its MTW ACC Amendment in September 2020, CY 2021 will be the MTW agency's first full Calendar Year in the MTW demonstration. In calculating the MTW agency's HCV renewal funding for CY 2021, the following information applies:

- The MTW PHA's average monthly PUC for CY 2019 was $700.
- The CY 2020 inflation rate is two percent.
- The number of ACC authorized units during CY 2020 is 800 units. (In this example all units were under ACC as of 1/1/2020, so the number of UMAs is simply 800 units multiplied by twelve months, or 9,600 UMAs).
- The HAP Renewal Eligibility Cap for CY 2021 is calculated by first determining the estimated PUC for CY 2020, which is $714 (the monthly PUC for CY 2019 inflated for CY 2020, or $700 x 1.02). The estimated PUC for CY 2020 is then multiplied by the MTW agency's CY 2020 ACC

authorized UMAs[23] ($714 x 9,600 UMAs) to determine the HAP Renewal Eligibility Cap, which is $6,854,400.

- The HAP Renewal Eligibility Cap ($6,854,400) is then compared to the MTW agency's total combined HAP and non-HAP MTW expenses for the re-benchmark year that originated from the eligible funding sources described earlier in this notice. If the total combined HAP and non-HAP MTW expenses do not exceed $6,854,400, the MTW agency's CY 2021 renewal funding will be the total combined HAP and non-HAP MTW expenses adjusted by the RFIF and any national proration. 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.

(e) *Financial Management Requirements Apply*. The same financial management requirements that apply to non-MTW agencies also apply to MTW agencies (e.g. Cash Management Requirements for the HCV Program with Notice PIH 2017-06 and successor notices).

(f) *Administrative Fees*. The Administrative Fee rates used to calculate fee eligibility for MTW agencies shall be established according to the same methodology used to establish Administrative Fee rates for all agencies, including non-MTW agencies. Under current appropriations law, as is the case for all agencies, administrative fees will be calculated on the basis of units leased as of the first day of each month; this data will be extracted from VMS at the close of each reporting cycle. Administrative fees for MTW agencies are also subject to the national proration factor and any other

[23] As noted earlier, these are the MTW agency's CY 2019 UMAs that are subject to the MTW renewal formula. UMAs attributable to SPVs such as HUD-VASH and FUP are included in this count.

appropriations act requirements.

(g) *Adjustments for the First-Time Renewal of Certain Vouchers*. If the MTW agency receives incremental HCV vouchers and funding (including tenant protection vouchers), other than SPVs, renewal funding for those vouchers will be included in the MTW HCV renewal funding eligibility calculation for the following year. (See section VI.9 of this notice for further discussion of tenant protection and other SPVs). The renewal amount for the following year is based on HAP costs reported for these increments in VMS in the prior year, which will be adjusted by the RFIF. Should the initial increment(s) be funded for less than twelve months due to lack of appropriations, HUD will adjust for the missing months upon renewal, by selecting the funded PUC for the initial increment times the number of units,[24] then adjusted by the RFIF. The aggregate renewal eligibility is always subject to the national proration factor.

(h) *Applicable Inflation Factor and Proration*. The same applicable RFIFs that apply to non-MTW agencies will be applied each CY to determine the MTW agency's HAP funding renewal eligibility. Likewise, the MTW agency's HAP funding renewal eligibility is subject to the same national proration as non-MTW agencies' renewal eligibility.

(i) *Reserves*. Reserves are subject to offsets as part of future Congressional appropriations acts.

(j) *Local, Non-Traditional Activities*. The MTW agency may spend its HCV HAP funding on local, non-traditional activities, as described in Appendix I, without prior HUD approval. HUD has the authority to request information and complete risk-based monitoring of the MTW agency's implementation of local, non-traditional

[24] The MTW PUC is equal to MTW HAP expenses divided by the number of MTW units leased. (Non-HAP MTW expenses are not included in the MTW PUC calculation).

activities for compliance with applicable statutory requirements, this Notice, and other program requirements. If HUD determines a use of local, non-traditional flexibility is inconsistent with these requirements, HUD may require the MTW agency to modify or discontinue the activity and take other corrective action.

(k) *Rental Assistance Demonstration (RAD)*. Any vouchers received as part of a RAD Component I conversion shall be added to the ACC for the remainder of the CY in which they are awarded. HUD will issue a new increment of voucher funding in support of those vouchers for the first full CY following a RAD Component I conversion. In subsequent years, voucher funding for RAD-converted units will be renewed under the MTW HCV renewal funding calculation, adjusted by the renewal funding inflation factor and the applicable proration factor. Tenant protection vouchers provided for RAD Component II conversions are renewed in accordance with section VI.5.b.iii.g of this notice, Adjustment for the first-time renewal of certain vouchers, above. Administrative fees for RAD vouchers will be calculated based on the same methodology used to establish administrative fees for non-MTW agencies. Fees for RAD vouchers will be prorated at the same level that applies to all non-MTW agencies.

(l) *Voucher Programs Not Included in MTW Renewal Funding Calculation*. The only SPV programs that are not included in the MTW renewal funding calculation are Emergency Housing Vouchers (EHVs) and the Section 8 Moderate Rehabilitation Program. Mainstream Vouchers were excluded prior to 2026, but starting in CY 2026 Mainstream Vouchers will be renewed as part of the calculation of renewal funding for the HCV program overall. Congress instituted this change in the renewal funding provisions for Tenant-Based Rental Assistance in the Consolidated Appropriations Act, 2026. SPVs are discussed in more detail in section VI.9 of this MTW Operations Notice. MTW funding flexibility is not permitted in the Section 8 Moderate

Rehabilitation Program, and these funds may not be used for MTW activities.

c. Financial Reporting and Auditing

MTW agencies must submit year-end unaudited financial information to the Department no later than two months after their fiscal year end using the Financial Data Schedule (FDS) contained in the Real Estate Assessment Center's (REAC) Financial Assessment Subsystem (FASS-PH), or its successor system. Current financial reporting requirements for MTW agencies are posted on the REAC website. These requirements may be updated in the future.

MTW agencies are also required to electronically submit their audited financial information, if applicable, to HUD no later than nine months after their fiscal year end. MTW agencies must include public housing project level financial information in the FDS and must follow the Asset Management guidelines established in PIH Notice 2007-9 Supplement to Financial Management Handbook PIH Revised April 2007, and any subsequent updates to this Handbook or PIH Notice. MTW agencies will conform to the cost requirements of 2 CFR part 200 and any HUD implementation thereof.

MTW agencies must procure an Independent Public Accountant (IPA) to perform an annual audit pursuant to federal requirements at 2 CFR part 200 and 24 CFR 990.190, or successor, as well as any audit compliance supplements developed specifically for use with the MTW demonstration.

Completed IPA audits must be submitted to HUD in accordance with current HUD regulations. HUD will review the IPA audits of MTW agencies to determine appropriate action relative to any findings, prepare recommendations for audit finding resolution, and follow up with MTW agencies to ensure finding closure. If there are audit findings related to the MTW program itself, HUD will monitor the resolution of all audit findings.

6. Evaluation

As a condition of participating in the MTW demonstration, MTW agencies agree to cooperate fully with HUD and its contractors in the monitoring and evaluation of the MTW

demonstration. MTW agencies shall keep records and submit reports and other information as required by HUD. This includes any data collection required for the use of waivers and associated activities, for the uses of MTW funds within and across funding streams, and any evaluation efforts that HUD undertakes. Any additional information requests will follow the Paperwork Reduction Act requirements. HUD envisions three types of evaluation: program-wide evaluation, cohort-specific evaluation, and ad hoc evaluation.

a. Program-wide Evaluation

An MTW demonstration-wide evaluation would seek to assess whether or not, and to what extent, MTW agencies achieve the statutory objectives of the MTW demonstration by using federal dollars more efficiently, helping residents find employment and become self-sufficient, and/or increasing housing choices for low-income families. Program-wide evaluation would also seek to determine any effects, positive or negative, of MTW waivers and funding flexibilities on residents. HUD intends to develop a method for program-wide evaluation that is based, to the extent possible, on information already being collected through existing HUD administrative data systems, although additional reporting may be necessary to effectively evaluate MTW.

b. Cohort-specific Evaluation

The specific evaluation methods and requirements for participating MTW agencies will vary in each cohort based on the policy changes to be tested in that cohort.[25] The cohort-specific policy change and evaluation methods will be described in the applicable Selection Notice such that the MTW agency is aware, in advance of application to the MTW demonstration program, of the policy it will be required to implement and the evaluation requirements. The MTW agency is required to participate in the evaluation for the full timeframe designated by HUD. HUD's Office of Policy Development and Research will take the lead on evaluating cohort-specific policy changes, and separate funds are appropriated by Congress for these evaluations. In all

[25] For example, some cohorts of MTW agencies may be required to participate in randomized control trials, while others may be required to participate in detailed process studies or ethnographic research.

cases, the purpose of the evaluation will be to measure the outcomes associated with the specific policy change(s) in order to offer policy recommendations for implementing the policy change(s) across all PHAs.

c. Ad Hoc Evaluation

HUD reserves the right to request, and the MTW agency shall provide upon request, any additional information required by law or required for the sound administration or evaluation of the MTW agency.

7. Program Administration and Oversight

In general, MTW agencies will be subject to the same planning and reporting protocols as non-MTW agencies, including the PHA Plan (5-Year Plan and Annual PHA Plan) and Capital Fund planning. MTW agencies must also report data into HUD data systems, as required.

New protocols and instruments will be developed for assessing an MTW agency's performance and will be incorporated into PHAS and SEMAP, or successor assessment systems, or an alternative assessment system developed by HUD, explained further in section VI.7.b of this MTW Operations Notice. In addition, HUD will employ standard program compliance and monitoring approaches including assessment of relative risk and on-site monitoring conducted by HUD or by entities contracted by HUD.

a. Planning and Reporting

i. The Annual PHA Plan

MTW agencies must adhere to Annual PHA Plan regulations at 24 CFR part 903, any implementing HUD Notices and guidance, as well as any succeeding regulations. The Annual PHA Plan consists of the 5-Year Plan that a PHA must submit to HUD once every five PHA fiscal years and the Annual PHA Plan that the PHA must submit to HUD for each PHA fiscal year. Annual and 5-Year Plans must be submitted in a format prescribed by HUD. Currently, submission format requirements are outlined in Notice PIH 2015-18, issued October 23, 2015, which is effective until amended, superseded or rescinded.

Any HUD assistance that the MTW agency is authorized to use under the MTW demonstration must be used in accordance with the Annual PHA Plan, as applicable.

ii. MTW Plan-Expansion (under development)

All MTW agencies will submit an MTW Plan-Expansion on an annual basis.[26] The MTW Plan-Expansion form has not been finalized at the time of the publication of this MTW Operations Notice; it will be made available for public review and comment, per Paperwork Reduction Act requirements.[27]

MTW agencies must submit to HUD the MTW Plan-Expansion no later than 75 days prior to the start of the agency's fiscal year. HUD will notify the MTW agency in writing if any edits to provisions or additional information is required in the MTW Plan-Expansion. Absent unforeseen circumstances, when the MTW agency submits its MTW Plan-Expansion 75 days in advance of its fiscal year, HUD will respond to the MTW agency within 75 days or the MTW Plan-Expansion, with the exception of any Agency-Specific Waivers or Safe Harbor Waivers, is automatically approved.

Prior to submitting to HUD, the MTW Plan-Expansion must go through a public process. The MTW agency may elect to put the MTW Plan-Expansion through public process along with the Annual PHA Plan. This will allow the MTW agency to inform the community of any programmatic changes and give the public an opportunity to comment. The MTW agency must have at least a 45-day public review period of its MTW Plan-Expansion, after publishing a notice informing the public of its availability and conducting reasonable outreach to encourage participation in the process, followed by a public hearing. MTW agencies must consider, in consultation with the RABs and tenant associations, as applicable, all of the comments received at the public hearing. The comments received by the public and RABs and tenant associations

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[26] MTW agencies designated pursuant to the 2016 Expansion Statute are not required to submit the Annual MTW Plan or Annual MTW Report They instead submit only the MTW Plan-Expansion (OMB Control No.: 2577-0216).

[27] 83 Fed. Reg. 50676 (October 9, 2018).

must be submitted by the agency as a required attachment to the MTW Plan-Expansion. MTW agencies must also include a narrative describing their analysis of the recommendations and any decisions made based on these recommendations.

iii. Admissions and Continued Occupancy Policy and Administrative Plan

The MTW agency must update its ACOP and/or Administrative Plan, as applicable, to be consistent with the MTW activities and related waivers that it implements. The MTW agency may not implement an MTW activity or waiver until the relevant sections of the ACOP and/or Administrative Plan are updated. MTW agencies must provide HUD with electronic versions of the ACOP and/or Administrative Plan upon request. If the MTW agency implements an activity using the local, non-traditional uses of funds waiver, the MTW agency must create and update an implementing document specifically for such activity. Additionally, the MTW agency must update its ACOP and/or Administrative Plan upon terminating an MTW activity.

iv. Capital Planning and Reporting

MTW agencies must adhere to CFP regulations at 24 CFR part 905, any implementing HUD Notices and guidance, as well as any successor regulations. As noted previously, MTW agencies are funded in accordance with CFP regulations and formula funds are calculated and distributed in the same manner as non-MTW agencies.

MTW agencies have the authority and flexibility to utilize their CFP funds for expanded uses as part of their MTW funding flexibility. HUD will award Capital Fund grants to MTW agencies in keeping with the standard process for all PHAs. The Department will spread budget line items in eLOCCS in accordance with Annual Statements/Budgets submitted in EPIC for Capital Fund grants awarded. As with all PHAs, an MTW agency may draw down Capital Funds from HUD only when such funds are due and payable, unless HUD approves another payment schedule.[28] To the extent that the MTW agency plans to use CFP funding for other MTW-

[28] HUD will publish a rule that will govern the establishment and maintenance of a Capital Reserve pursuant to Section 109 of HOTMA that may give PHAs authorization to draw down funds in advance of need in certain limited circumstances.

eligible (non-CFP) activities, the agency must create a separate work activity (or activities) in the EPIC system that select the "MTW (1492)" work category. CFP funds entered on BLI 1492 would not need to be broken out and itemized in the part II supporting pages of the HUD-50075.1. However, regardless of the BLI utilized, funds may not be drawn down until the PHA has an immediate need for the funds. An MTW agency may not accelerate drawdowns of funds in order to fund reserves or to otherwise increase locally held amounts, as discussed in section 5.a. of this notice.

An MTW agency is not required to use all or any portion of its CFP grant for non-CFP activities. To the extent that the MTW agency wishes to dedicate all or a portion of its CFP grant to specific capital improvements, the agency shall record CFP funding in work activities in EPIC as in the standard program.

v. Inventory Management System/PIH Information Center Reporting

Data from HUD's Inventory Management System/PIH Information Center (IMS/PIC), or successor systems, is critical to all aspects of program administration, including HUD monitoring and tracking of MTW agency progress in meeting the MTW statutory objectives. IMS/PIC data is used to establish funding eligibility levels for both Operating Subsidy Fund and Capital Fund grants. Further, HUD relies on IMS/PIC data to provide a thorough and comprehensive view of PHA program performance and compliance.

MTW agencies are required to submit the following information to HUD via IMS/PIC (or its successor system):

- Family data to IMS/PIC using Form HUD-50058 MTW Expansion (or successor forms) or Form HUD-50058 for SPV purposes, and in compliance with HUD's standard 50058 submission requirements for MTW agencies. MTW agencies must report information on all families receiving some form of tenant-based or project-based housing assistance, either directly or indirectly, as well as all public housing families, to be current to at least a 95 percent level.

- Current building and unit information in the development module of IMS/PIC (or successor system).
- Basic data about the PHA (address, phone number, e-mail address, etc.).

HUD will monitor MTW agency reporting to IMS/PIC (or successor system) to ensure compliance and provide technical assistance to MTW agencies as needed. In order to participate in the MTW expansion, PHAs must have the information technology capability to upgrade their IMS/PIC software to accommodate MTW flexibilities. PHAs that currently use HUD Family Reporting Software (FRS) must upgrade their software to an approved system that supports the submission of MTW IMS/PIC data. HUD does not anticipate modifying the FRS to accommodate the submission of MTW data.

vi. Voucher Management System Reporting

MTW agencies are required to report voucher utilization in VMS, or its successor system. There are several areas in which VMS reporting is different for MTW agencies. These areas are highlighted in the VMS User's Manual, which details the VMS reporting requirements.[29]

HUD will monitor each MTW agency's VMS reporting to ensure compliance and provide technical assistance to MTW agencies as needed.

vii. General Reporting Requirement

In addition to the reporting requirements outlined in this MTW Operations Notice, MTW agencies are required to comply with any and all HUD reporting requirements not specifically waived by HUD for participation in the MTW demonstration program.

b. Performance Assessment

Assessing the performance of PHAs (both MTW and non-MTW) helps with the delivery of services in the public housing and voucher programs and enhances trust among PHAs, assisted households, HUD, and the general public. To facilitate this effort, HUD will provide management tools for effectively and fairly assessing the performance of a PHA in essential

[29] https://portal.hud.gov/hudportal/documents/huddoc?id=instructions.pdf

housing operations and program administration.

Currently, HUD uses PHAS and SEMAP to assess risk and identify underperforming PHAs in the traditional public housing and voucher programs. However, since some of the MTW flexibilities make it difficult to accurately assess the performance of MTW agencies under the existing systems, HUD will develop an alternative, MTW-specific assessment system, which may be incorporated into PHAS and SEMAP (or successor assessment system(s)). MTW agencies may not opt out of the MTW-specific successor system(s). Until the successor system is implemented, HUD will monitor MTW agency performance through PHAS sub-scores. Additionally, HUD may consider data provided through other HUD systems in its assessment of an MTW agency's activities.

i. Public Housing Assessment System

MTW agencies will not be scored in PHAS unless and until such time as HUD develops an MTW-specific system that is incorporated into PHAS, or successor system, but they can elect to be scored if they choose to opt in. MTW agencies continue to receive PHAS sub-scores even if they do not receive the overall score. An MTW agency will maintain its PHAS performance designation (i.e., high performer, standard performer, substandard performer, troubled, Capital Fund-troubled) at the time of MTW designation, up until a successor system is established. If an MTW agency elects to receive its overall PHAS score, the agency must continue to be scored for the duration of the demonstration, or until the agency is assessed under the alternative, MTW-specific assessment system(s), whichever comes first. Once developed, all MTW agencies, including MTW agencies that elect not to receive an overall PHAS score, must be assessed under the MTW-specific assessment system(s).

Pursuant to the 1996 MTW Statute, when providing public housing, the MTW agency must ensure that the housing is safe, decent, sanitary, and in good repair, according to the physical inspection protocols established and approved by HUD. Thus, MTW agencies continue to be subject to HUD physical inspections. To the extent that HUD physical inspections reveal

deficiencies, the MTW agency must continue to address these deficiencies in accordance with existing physical inspection requirements. If an MTW agency does not maintain public housing adequately, as evidenced by the physical inspection performed by HUD, and is determined to be troubled in this area, HUD will determine appropriate remedial actions.

ii. Section 8 Management Assessment Program

MTW agencies will not be scored in SEMAP unless and until such time as HUD develops an MTW-specific system that is consistent with SEMAP, or successor system, but they can elect to be scored if they choose to opt in. An MTW agency will maintain its SEMAP performance designation (i.e., high performer, standard performer, troubled) at the time of MTW designation, up until a successor system is established. If an MTW agency elects to receive its overall SEMAP score, the agency must continue to be scored for the duration of the demonstration, or until the agency is assessed under the MTW-specific assessment system, whichever comes first. Once developed, all MTW agencies, including MTW agencies that opt out of SEMAP, must be assessed under the MTW-specific assessment system(s).

c. Monitoring and Oversight

MTW agencies remain subject to the full range of HUD monitoring and oversight efforts including, but not limited to, annual risk assessments, on-site monitoring reviews, monitoring reviews relating to VMS reporting and rent reasonableness, review of the accuracy of data reported into HUD data systems, and use of HUD data systems to assess agency program performance, among other activities.

i. Five Statutory MTW Requirements

Throughout participation in the MTW demonstration program, all MTW agencies must continue to meet five statutory MTW requirements established under the 1996 MTW Statute. Specific enforcement processes of the five statutory MTW requirements will be included in the MTW ACC Amendment (see also, section VI.12 of this notice). HUD will monitor and determine MTW agencies' compliance with these five statutory MTW requirements as follows:

(a) *Very Low-Income Requirement*. MTW agencies must ensure that at least 75 percent of the families assisted are very low-income families, in each fiscal year, as defined in Section 3(b)(2) of the 1937 Act. *HUD Verification Approach:* Initial household certification data recorded in IMS/PIC will be used for both the public housing and HCV programs for compliance monitoring purposes. The initial certification is comprised only of new admissions in the MTW agency's given fiscal year. Initial household certification data for families housed through local, non-traditional activities will be provided in a manner specified by the Department. An MTW agency's portfolio will then be weighted with respect to the number of households being served by each housing program type (i.e., public housing, HCV, and local, non-traditional). While the verification approach for this statutory requirement will be conducted based on initial certification in the MTW agency's given fiscal year, MTW agencies must continue to assist low-income families, which MTW agencies must monitor through the reexamination process, as may be amended per Appendix I.

(b) *Reasonable Rent Policy*. MTW agencies must establish a reasonable rent policy which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent. *HUD Verification Approach:* HUD defines rent reform as any change in the regulations on how rent is calculated for a household. Upon designation into the MTW demonstration, MTW agencies are to submit their planned policy to implement a reasonable rent policy in the MTW Plan-Expansion. All activities falling under any of the activities in the Tenant Rent Policies waiver or the Alternate Reexamination Schedule waiver, as detailed in Appendix I, meet the definition of a reasonable rent policy because these activities constitute a change from regulations on how rent is calculated for a household. In addition, implementation of any voluntary alternative

rent calculation that is available for all PHAs would count towards meeting this statutory requirement. Finally, an MTW agency may propose, for HUD's approval, an Agency-Specific Waiver to establish a rent policy that is different from those listed in Appendix I. If approved, this alternative rent policy approved through an Agency-Specific Waiver would also meet this statutory requirement. An MTW agency must implement one or multiple reasonable rent policies during the term of its MTW designation.[30]

(c) *Substantially the Same Requirement*. MTW agencies must continue to assist substantially the same total number of eligible low-income families as would have been served absent the MTW demonstration. *HUD Verification Approach:* Appendix III details the requirements for the Substantially the Same (STS) methodology which: ensures substantially the same number of families are housed; allows for local flexibility; is responsive to changing budgetary climates; is feasible for HUD to administer; is easy for MTW agencies to predict compliance; is straightforward to understand; is calculated each year; and has publicly available results. Please refer to Appendix III for the specific requirements.

(d) *Comparable Mix Requirement*. MTW agencies must maintain a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration. *HUD Verification Approach:* In order to establish a comparable mix baseline, HUD will pull data, by family size, for occupied public housing units and leased vouchers at the time of entry into the demonstration. HUD will rely upon MTW agency-reported data into HUD systems (i.e., IMS/PIC, VMS). This information will be used to establish baseline percentages, by family size, to which the agency is measured by for the remainder of participation. Following entry

[30] MTW agencies in the rent reform cohort may have prescribed deadlines to implement their reasonable rent policies.

into the demonstration, agencies will provide comparable mix data and, if applicable, associated justifications in the MTW Plan-Expansion. HUD deems an acceptable level of variation to be no more than 10 percent from the baseline. Justifications or explanations for fluctuations greater than 10 percent are required and subject to HUD's review.

(e) *Housing Quality Standards (HQS)*. MTW agencies must ensure that housing assisted under the demonstration meets HQS established or approved by the Secretary.

HUD Verification Approach: In order to demonstrate that the MTW agency meets housing quality standards, HUD will verify compliance for each housing program type as follows: (1) HCV – Program regulations at 24 CFR part 982 set forth basic HQS for housing assisted under the HCV program. These housing quality standards, or successor regulations, are the standards used to determine if the MTW agency is fulfilling its responsibilities to ensure owners are maintaining the units in accordance with HQS in the evaluation of an agency. MTW agencies with an HCV program must certify in the MTW Plan-Expansion that they have fulfilled their responsibilities to comply with and ensure enforcement of HQS under this requirement in accordance with the HQS regulations in 24 CFR part 982, as modified where applicable through the implementation of the discrete MTW Waivers approved by HUD provided in Appendix 1 or through an Agency-Specific Waiver. (2) Public Housing – HUD will verify this requirement through its review of public housing physical inspection scores. Overall scores falling below 60 percent will be identified as non-compliant with the statutory requirement.

(3) Local, Non-Traditional – In the MTW Plan-Expansion, MTW agencies must certify that local, non-traditional units meet HQS performance

requirements (as provided in 24 CFR 982.401) as required in PIH Notice 2011-45, or successor notice.

ii. Income Integrity and Enterprise Income Verification System (EIV) Reviews

MTW agencies are required to comply with the final rule regarding EIV issued December 29, 2009, or successor, and utilize EIV for all income and employment verifications. EIV has been modified for MTW agencies so that family information submitted in IMS/PIC will not expire for 40 months in order to accommodate agencies choosing to extend recertification periods for up to three years.

MTW agencies are subject to HUD review to ensure compliance with EIV requirements as well as monitor the accuracy and integrity of the MTW agencies' income and rent determination policies, procedures, and outcomes.

iii. MTW Site Visit

HUD will periodically conduct site visits to monitor the implementation of MTW flexibilities provided under the MTW Operations Notice, provide guidance, discuss the MTW agency's activities, and offer any needed technical assistance regarding its program. The purpose of a site visit will be to monitor agency-reported MTW activities, to review the status and effectiveness of the MTW agency's strategies, to provide technical assistance, to problem-solve regarding any local barriers the agency is facing, and to identify and resolve outstanding MTW related issues.

The MTW agency shall give HUD access, at reasonable times and places, to all requested sources of information including access to files, access to units, and an opportunity to interview agency staff and assisted participants.

Where travel funding or staff resources are not available to facilitate in-person site visits, HUD may exercise the option to conduct remote site visits via telephone, videoconference, or webinar. To the extent possible, HUD will coordinate the MTW site visit with other site visits to be conducted by HUD.

iv. Housing Choice Voucher Utilization

HUD will monitor HCV utilization at MTW agencies and will ensure that HCV funds are utilized in accordance with section VI.5.b.iii and Appendix III of this notice. At its discretion, HUD may take any appropriate actions to direct an MTW agency to increase HCV leasing and utilization.

v. Public Housing Occupancy

HUD will monitor public housing occupancy rates for MTW agencies. In instances where the MTW agency's public housing occupancy rate falls below 96 percent, HUD may require, at its discretion, that the MTW agency enter into an Occupancy Action Plan to address the occupancy issues. The Occupancy Action Plan will include the cause of the occupancy issue, the intended solution, and reasonable timeframes to address the cause of the occupancy issue.

vi. Additional Monitoring and Oversight

HUD may, based on the MTW agency's risks and at HUD's discretion, conduct management, programmatic, financial, or other reviews of the MTW agency. The MTW agency shall respond to any findings with appropriate corrective action(s).

In addition, HUD will make use of all HUD data systems and available information to conduct ongoing remote monitoring and oversight actions for MTW agencies, consistent with the results of the PIH risk assessment.

8. Rental Assistance Demonstration Program

MTW agencies converting public housing program units to Section 8 assistance under the RAD program are able to retain MTW regulatory and statutory flexibilities in the management of those units, subject to RAD requirements, if the conversion is to Section 8 PBV assistance. MTW agencies converting projects under RAD to PBV may continue to undertake flexibilities except to the extent limited by RAD, as described in the RAD Notice, Notice PIH 2012-32, REV-4 or its successor notice.[31]

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[31] Notices and laws related to RAD can be found at https://www.hud.gov/RAD/library/notices

9. Applying MTW Flexibilities to SPVs

SPVs are specifically provided for by Congress in line item appropriations. Except for enhanced vouchers and tenant-protection vouchers (described below), SPVs are not part of the MTW demonstration and are not part of the MTW agency's total available flexible MTW Funding. Funding (both the initial increment and renewal funding) for SPVs may only be used for eligible SPV purposes.[32]

MTW agencies may use non-HAP sources to cover shortfalls, following the procedures outlined in Notice PIH 2013-28, or successor.[33] MTW agencies are also permitted to use HAP reserve funds, including HAP originated reserves subject to fungibility provisions, to address SPV funding shortfalls. This flexibility extends to addressing shortfalls in PHAs' Mainstream Vouchers, which starting in 2026 are being renewed under HCV program contract renewal appropriations.[34] Approved MTW flexibilities may be applied towards SPVs according to HUD's current guidance.[35] However, MTW agencies may use SPV funding (including HUD VASH, FUP, and Mainstream Vouchers) only for the intended SPV purposes and SPV is not subject to MTW agencies funding flexibilities.

a. HUD-Veterans Affairs Supportive Housing (VASH) Vouchers

HUD-VASH vouchers have separate operating requirements and must be administered in accordance with the requirements found in the HUD-VASH Operating Requirements. The operating requirements waive and alter many of the standard HCV statutes and regulations at 24 CFR part 982. Unless stated in the HUD-VASH operating requirements, however, the regulatory requirements at 24 CFR part 982 and all other HUD directives for the HCV program are applicable to HUD-VASH vouchers. MTW agencies may submit a request to HUD to operate HUD-VASH vouchers in accordance with MTW administrative flexibilities.

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[32] Expansion MTW PHAs' Renewal Enclosures do not separate out renewal SPV funding. Expansion MTW PHAs should maintain internal accounting records regarding SPV fund balances.

[33] A shortfall is defined as a situation where PHAs would terminate participating families from the HCV program due to insufficient funds despite taking reasonable cost reduction measures.

[34] This information will be available on the MTW website.

[35] This process is explained further in the SPV FAQ on the MTW website.

b. Family Unification Program (FUP) Vouchers

The FUP NOFO language allows vouchers to be administered in accordance with MTW flexibilities unless MTW provisions are inconsistent with the appropriations act or requirements of the FUP NOFA. In the event of a conflict between the MTW Operations Notice and the appropriations act or FUP NOFA language, the act and NOFA govern.

c. Melania Trump Foster Youth to Independence Initiative (Melania Trump FYI) Vouchers

The Melania Trump FYI NOFA language allows vouchers to be administered in accordance with MTW flexibilities unless MTW provisions are inconsistent with the appropriations act or requirements of the Melania Trump FYI NOFA. In the event of a conflict between the MTW Operations Notice and the appropriations act or Melania Trump FYI NOFA language, the act and NOFA govern.

d. Non-elderly Persons with Disabilities (NED) Vouchers

The NED NOFA language allows vouchers to be administered in accordance with MTW operations unless MTW provisions are inconsistent with the appropriations act or requirements of the NED NOFA. In the event of a conflict between the MTW Operations Notice and the appropriations act or NED NOFA language, the act and NOFA govern.

e. Mainstream Vouchers

The Mainstream NOFA language allows vouchers to be administered in accordance with MTW flexibilities unless MTW provisions are inconsistent with the appropriations act or requirements of the Mainstream NOFA. In the event of a conflict between the MTW Operations Notice and the appropriations act or Mainstream NOFA language, the act and NOFA govern.

f. Enhanced Vouchers and Tenant Protection Vouchers

MTW agencies may apply any MTW flexibilities as authorized by this notice to replacement TPVs to the extent that the MTW flexibilities used do not infringe upon the

protections applied to those families.[36] However, funding fungibility may only be applied to replacement TPV funds once the initial funding increment is renewed. No MTW flexibilities may be applied to relocation TPVs. MTW agencies should review PIH Notice 2020-04 and any future successor notices for more information on re-issuance of TPVs.

The statutory enhanced voucher requirements under Section 8(t) of the 1937 Act (e.g., the HAP calculation) apply to an enhanced voucher family until the family either moves from the project or leaves the HCV tenant-based program for any reason. MTW agencies must follow the procedures described in Notice PIH 2013-27, or its successor notice, for a recipient of an enhanced voucher to voluntarily agree to relinquish their tenant-based assistance in exchange for PBV assistance. When an enhanced voucher family moves from the project, either after initially receiving the voucher or anytime thereafter, the Section 8(t) enhanced voucher requirements no longer apply. The voucher is then administered in accordance with the regular HCV program requirements, as modified by the agency's individual MTW waivers and MTW policies for its tenant-based HCV program.

10. Applicability of Other Federal, State, and Local Requirements

Notwithstanding the waivers and associated activities provided in this MTW Operations Notice, the following provisions of the 1937 Act continue to apply to MTW agencies and the assistance received pursuant to the 1937 Act:

- The terms "low-income families" and "very low-income families" shall continue to be defined by reference to Section 3(b)(2) of the 1937 Act (42 U.S.C. §1437a(b)(2));
- Section 12 of the 1937 Act (42 U.S.C. § 1437j), as amended, shall apply to housing assisted under the demonstration, governing labor standards and community service requirements, other than housing assisted solely due to occupancy by families receiving tenant-based assistance;

[36] For examples of restrictions in applying MTW flexibilities to tenant protection vouchers, please visit the MTW website.

- Section 18 of the 1937 Act (42 U.S.C. § l437p, as amended by Section 1002(d) of Public Law 104-19, Section 201(b)(1) of Public Law 104-134, and Section 201(b) of Public Law 104-202), governing demolition and disposition, shall continue to apply to public housing notwithstanding any use of the housing under MTW; and
- Section 8(r)(1) of the 1937 Act on HCV portability shall continue to apply unless provided as a cohort-specific waiver and associated activity(s) in an evaluative cohort as necessary to implement comprehensive rent reform and occupancy policies. Such a cohort-specific waiver and associated activity(s) would contain, at a minimum, exceptions for requests to port due to employment, education, health and safety and reasonable accommodation.

Notwithstanding anything contained in this notice, federal, state and local requirements applicable to public housing or HCV assistance other than those provisions of the 1937 Act or its implementing requirements that are specifically waived pursuant to the MTW Operations Notice will apply. MTW authority may also be limited by any laws promulgated in future years, which include without limitation: statutes, appropriations acts, notices implementing appropriations acts, regulations, and executive orders.

The MTW ACC Amendment will place in HUD the authority and discretion to determine whether any future law conflicts with any MTW-related agreement or notice. If a future law conflicts, the future law shall be implemented. Additionally, no money damages are contemplated for action by HUD with respect to the MTW demonstration program.

If any requirement applicable to PHAs, public housing, or HCV assistance other than those provisions of the 1937 Act or its implementing requirements that may be waived pursuant to MTW authority and that are specifically waived pursuant to the MTW Operations Notice, contains a provision that conflicts or is inconsistent with any MTW Waiver, Safe Harbor Waiver, and/or Agency-Specific Waiver granted by HUD, the MTW agency remains subject to the terms of that requirement. Such requirements include, but are not limited to:

- *Requirements for Federal Funds*: Notwithstanding the flexibilities described in this notice, the public housing and voucher funding provided to MTW agencies remain federal funds and are subject to any and all other federal requirements outside of the 1937 Act (e.g., including but not limited to competitive HUD NOFAs under which the MTW agency has received an award, state and local laws, federal statutes other than the 1937 Act (including appropriations acts), and OMB Circulars and requirements), as modified from time to time. The MTW agency's expenditures must comply with 2 CFR part 200 and other applicable federal requirements, which provide basic guidelines for the use of federal funds, including the requirements of this notice.
- *National Environmental Policy Act (NEPA)*: MTW agencies must comply with NEPA, 24 CFR part 50 or part 58, as applicable, and other related federal laws and authorities identified in 24 CFR part 50 or part 58, as applicable. Information and guidance on the environmental review process and requirements is provided in PIH Notice 2016-22, or successor notice.
- *Fair Housing and Equal Opportunity*: As with the administration of all HUD programs and all HUD-assisted activities, fair housing, and civil rights issues apply to the administration of MTW demonstration programs. This includes actions that discriminate on the basis of race, color, sex, national origin, religion, disability, or familial status (see 24 CFR part 1 and part 100, subpart G) or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing. Annual PHA Plans must include a civil rights certification required by Section 5A of the 1937 Act and implemented by regulation at 24 CFR 903.7(o) and 903.15.

  All PHAs, including MTW agencies, are obligated to comply with non-discrimination and equal opportunity laws and implementing regulation, including those in 24 CFR 5.105. Specific laws and regulations must be viewed in their

entirety for full compliance, as this MTW Operations Notice does not incorporate a complete discussion of all legal authorities. For example, PHAs, including MTW agencies, are required to comply with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Architectural Barriers Act of 1968, Executive Order 11063: Equal Opportunity in Housing, Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, HUD's Equal Access Rule (24 CFR 5.105(a)(2)), Age Discrimination Act of 1975, and Title IX of the Education Amendments Act of 1972, as well as HUD and government-wide regulations implementing these authorities. MTW agencies should review PIH Notice 2011-31, or its successor, for more details.

- *Court Orders and Voluntary Compliance Agreements*: MTW agencies must comply with the terms of any applicable court orders or Voluntary Compliance Agreements that are in existence or may come into existence during the term of the MTW ACC Amendment. The MTW agency must cooperate fully with any investigation by the HUD Office of Inspector General or any other investigative and law enforcement agencies of the U.S. Government.

11. MTW Agencies Admitted Prior to 2016 MTW Expansion Statute

The 39 MTW agencies that entered the MTW demonstration prior to the 2016 MTW Expansion Statute adhere to an administrative structure outlined in the Standard MTW Agreement, an agreement between each current agency and HUD. The 2016 MTW Expansion Statute extended the term of the Standard MTW Agreement for these existing MTW agencies through each agency's 2028 fiscal year.

Some agencies that entered the MTW demonstration prior to the 2016 MTW Expansion Statute may wish to opt out of their Standard MTW Agreement and administer their MTW program pursuant to the MTW Expansion and the requirements in this MTW Operations Notice.

HUD will support an existing MTW agency's request to join the MTW Expansion provided that the agency:

- makes the change at the end of its fiscal year, so that it does not have part of a fiscal year under the Standard Agreement and part under the MTW Operations Notice;
- follows the same public comment and Board resolution process as would be required for amending the Standard MTW Agreement;
- executes its MTW ACC Amendment to authorize participation in the MTW demonstration consistent with the MTW Operations Notice; and
- executes the MTW ACC Amendment and terminates its Standard MTW Agreement, thereby becoming subject to all the terms and conditions that apply to MTW agencies admitted pursuant to the 2016 MTW Expansion Statute, including all of the provisions of this Operations Notice and the accompanying MTW ACC Amendment.

Should an existing MTW agency elect to administer its MTW program pursuant to the framework described in this MTW Operations Notice, it will not be required to implement the cohort-specific policy change associated with any of the MTW cohorts and it will not be required to participate in the evaluation of that specific policy change. All other requirements in this MTW Operations Notice will apply.

12. Sanctions, Terminations, and Default

If the MTW agency violates any of the requirements outlined in this notice, HUD is authorized to take any corrective or remedial action permitted by law. Sanctions, terminations, and default are covered in the agency's MTW ACC Amendment.

13. Administrative and Contact Information

a. Paperwork Reduction Act

The information collection requirements contained in this document are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB control number is 2577-0216. In accordance with the Paperwork

Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

b. Contact Information

For further information, contact: Pravin Krishnan, Director, Moving to Work Demonstration Program; e-mail: mtw-info@hud.gov; telephone number 202-402-3965, (this is not a toll-free number), or visit the MTW demonstration program website at https://www.hud.gov/mtw. 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.

Benjamin Hobbs
Assistant Secretary for Public and Indian Housing

APPENDIX I

Appendix I, MTW Waivers, is a simplified guide for MTW agencies seeking to develop MTW initiatives that have already been executed by existing MTW agencies. MTW agencies may implement any activity contained in Appendix I without further HUD approval as long as it is included in the MTW Plan-Expansion (described in section VI.7 of this Notice) and implemented within the associated safe harbor(s). MTW activities are listed by specific waiver name in Appendix I; however, MTW agencies may use the MTW Plan-Expansion to combine activities together in order to create more comprehensive initiatives.

This appendix contains the MTW Waivers and their associated activities. The appendix includes the waiver name, waiver description, statutes and regulations waived, permissible activities, and safe harbors. The waiver description defines the authorization provided to the MTW agency, subject to the terms of this notice. The statutory and regulatory citations that may be waived by an MTW agency in order to implement an activity are included below the activity. The list of waivers and list of activities are organized by program type. The safe harbors contain the additional requirements (beyond those specified in the activity description) the agency must follow in order to implement the activity without additional HUD approval once it is included in an approved MTW Plan-Expansion. Consistent with applicable federal, state, and local lease requirements, MTW agencies should update their leases as necessary to adopt MTW flexibilities authorized by these MTW Waivers.

Appendix I is an exclusive list of activities an MTW agency can implement without further HUD approval once it is included in an approved MTW Plan-Expansion; however, is not intended to be the complete listing of what an MTW agency can and cannot do. If an MTW agency wishes to

request the ability to implement an activity in a manner inconsistent with the safe harbor(s) of an MTW activity in this appendix, the MTW agency must go through the Safe Harbor Waiver request process explained in section VI.4 of the MTW Operations Notice. If an MTW agency wishes to implement activities or request waivers not included in this appendix, it must go through the Agency-Specific Waiver process explained in section VI.4 of the MTW Operations Notice. As described in Appendix II, the MTW agency shall submit an impact analysis for all Safe Harbor Waiver requests, and the MTW agency shall describe any hardship policy, as applicable.

Safe harbors marked with an asterisk (*) cannot be waived through either the Safe Harbor Waiver process or the Agency-Specific Waiver process.

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<table>
<tr><th colspan="3">1. Tenant Rent Policies</th></tr>
<tr><td colspan="3">The agency is authorized to adopt and implement the activities listed below for setting tenant rents in public housing, including but not limited to establishing definitions of income and adjusted income that differ from those in the current 1937 Act and its implementing regulations. The agency is authorized to adopt and implement the activities listed below to establish total tenant payments (TTP)[1] in the HCV program, and/or tenant rents for tenant-based and project-based voucher (PBV) assistance that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. The agency is authorized to adopt and implement the activities listed below to calculate the tenant portion of the rent in a way that differs from the currently mandated program requirements in the 1937 Act and its implementing regulations. The agency must determine initial eligibility in accordance with 24 CFR 5.609 and must comply with section 3(b)(2) of the United States Housing Act of 1937 Act (1937 Act) (42 U.S.C. §1437). For voucher activities, the Department has developed a standard rider to the HAP contract that reflects any MTW authorizations that amend the current requirements of the HAP contract.</td></tr>
<tr><td colspan="3">1.a.,1.b. Tiered Rent</td></tr>
<tr><td>Activity</td><td>1.a. Tiered Rent (PH) - The agency may implement changes to the tenant rent calculation to create a system based upon income bands.</td><td>1.b. Tiered Rent (HCV) - The agency may implement changes to the TTP calculation to create a system based upon income bands.</td></tr>
<tr><td>Statutes and Regulations Waived</td><td>Tiered Rent (PH) - Certain provisions of sections 3(a)(1)-(2) of the 1937 Act and 24 CFR 5.628, 5.634(b) and 960.253.</td><td>Tiered Rent (HCV) - Certain provisions of sections 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.628.</td></tr>
<tr><td>Safe Harbors</td><td colspan="2">1.a. and 1.b.
i. Rents and/or TTP (as applicable) established under this system must be set using the lowest income in each band. For example, if an income band is $2,500-$5,000 then the rent for that band must be set using $2,500.
ii. The agency must adopt a flat rent and/or TTP (as applicable) policy within each income band instead of calculating rent based on adjusted or gross income.</td></tr>
<tr><td colspan="3">1.c.,1.d. Stepped Rent</td></tr>
<tr><td>Activity</td><td>1.c. Stepped Rent (PH) – The agency may create a stepped rent model that</td><td>1.d. Stepped Rent (HCV) – The agency may create a stepped rent model that</td></tr>
</table>

[1] In the HCV tenant-based program, the housing assistance payment (HAP) is the lower of: (1) the payment standard minus the family's TTP, or (2) the gross rent minus the TTP. The TTP is the minimum amount the family will pay das the family share. If the gross rent exceeds the payment standard, the family will pay TTP and the difference between the gross rent and the payment standard as the family share. In the HCV project-based program, the family always pays TTP minus any utility allowance (UA) as the tenant rent.

	increases the family's rent payment on a fixed schedule in both frequency and amount. The fixed schedule/stepped rent model may be disaggregated from family income.	increases the family's TTP on a fixed schedule in both frequency and amount. The fixed schedule/stepped rent model may be disaggregated from family income.
Statutes and Regulations Waived	**Stepped Rent (PH)** - Certain provisions of section 3(a)(1)-(2) of the 1937 Act and 24 CFR 5.628, 5.634(b) and 960.253.	**Stepped Rent (HCV)** - Certain provisions of sections 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.628.
Safe Harbor(s)	**1.c. and 1.d.** **i.** Rent increases may not occur more than once per year. **ii.** Agency must conduct an annual impact analysis.* **iii.** Agency must exclude elderly and disabled families from rent policy.* **iv.** Agency must implement a hardship policy.* **v.** Services, or referrals to services, must be made available by the agency or a partner organization to support preparing families for the termination of assistance, if applicable. **vi.** At the Department's request, the agency shall make available the method used to determine that rents charged to families are reasonable when compared to similar unassisted units in the market area.* **vii.** Initial rents will be set at no more than 32% of a household's gross income, or 35% of a household's adjusted income. **viii.** The increase may be no more than 4% of the Fair Market Rent for the applicable area.	
1.e.,1.f. Minimum Rent		
Activity	**1.e. Minimum Rent (PH)** - The agency may set a minimum rent that is higher than allowed under current statute and regulation.	**1.f. Minimum Rent (HCV)** - The agency may set a minimum rent that is higher than allowed under current statute and regulation.
Statutes and Regulations Waived	**Minimum Rent (PH)** - Certain provisions of sections 3(a)(1)-(2) and 3(a)(3)(A) of the Act and 24 CFR 5.628 and 5.630.	**Minimum Rent (HCV)** - Certain provisions of sections 3(a)(3)(A) and 8(o)(2)(A)-(C) of the Act and 24 CFR 5.628 and 5.630.
Safe Harbor(s)	**1.e. and 1.f.** **i.** Minimum rent must not exceed $130 per month. **ii.** Agency must exclude elderly and disabled families from rent policy. **iii.** Agency must conduct an impact analysis.* **iv.** Agency must implement a hardship policy.*	
1.g.,1.h. Tenant Payment as a Modified Percentage of Income		
Activity	**1.g. Tenant Payment as a Modified Percentage of Income (PH)** - The agency may modify the percentage of income used in the TTP calculation.	**1.h. Tenant Payment as a Modified Percentage of Income (HCV)** - The agency may modify the percentage of income used in the TTP calculation.
Statutes and Regulations Waived	**Tenant Payment as a Modified Percentage of Income (PH)** - Certain provisions of sections 3(a)(1)-(2) and 3(b)(4)-(5) of the 1937 of the Act and 24 CFR 5.609, 5.611, 5.628, 960.253 and 960.255.	**Tenant Payment as a Modified Percentage of Income (HCV)** - Certain provisions of sections 3(b)(4)-(5) and 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.609, 5.611, and 982.516.
Safe	**1.g. and 1.h.**	

Harbor(s)	**i.** The Tenant Payment in public housing and the Tenant Payment in HCV must not exceed 32% of income for non-elderly/non-disabled families if the agency is utilizing flexibility under activities 1.r., 1.t. and/or 1.v. (for 1.g.) or 1.s., 1.u. and/or 1.w. (for 1.h.). **ii.** The Tenant Payment in public housing and the Tenant Payment in HCV must not exceed 35% of income for non-elderly/non-disabled families if the agency is not utilizing flexibility under activities 1.r., 1.t. and/or 1.v. (for 1.g.) or 1.s., 1.u. and/or 1.w. (for 1.h.). **iii.** Agency must exempt elderly and disabled families from rent policy. **iv.** Agency must conduct an impact analysis.* **v.** Agency must implement a hardship policy.*	
1i.,1.j. Alternative Utility Allowance		
Activity	**1i. Alternative Utility Allowance (PH)** - The agency may create a utility schedule(s) for all units.	**1j. Alternative Utility Allowance (HCV)** - The agency may create a utility schedule(s) for all HCV units based upon bedroom size, the unit location and/or the types of utilities paid by participant. The agency may establish a site-based utility allowance in PBV.
Statutes and Regulations Waived	**Alternative Utility Allowance (PH)** - Certain provisions of 24 CFR. 965.503-506.	**Alternative Utility Allowance (HCV)** - Certain provisions of section 8(o)(2)(D)(i) of the 1937 Act and 24 CFR 982.517 and 983.301(f)(2)(ii).
Safe Harbor(s)	**1.i. and 1.j.** **i.** The utility schedule must be based upon number of bedrooms, the property location, and/or the types of utilities paid by participant. **ii.** The agency must review its schedule of utility allowances each year and revise its allowance for a utility category if there has been a change of 10 percent or more of the cost from the prior year. The agency must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule. **iii.** The agency must not include items in the utility schedule that are excluded under HUD regulations.*	
1.k.,1.l. Fixed Rents/Subsidies		
Activity	**1.k**. **Fixed Rents (PH)** - The agency may establish fixed rents based on bedroom size.	**1.l. Fixed Subsidy (HCV)** - The agency may establish a fixed subsidy based on bedroom size. Under this model, the family pays the difference between the gross rent for the unit and the fixed subsidy as the family share/tenant rent.
Statutes and Regulations Waived	**Fixed Rents (PH)** - Certain provisions of sections 3(a)(1)- (2) and 3(a)(3)(A) of the 1937 Act and 24 CFR 5.628, 5.634(b), and 960.253.	**Fixed Subsidy (HCV)** - Certain provisions of sections 8(o)(2)(A)-(C) and 8(o)(3) of the 1937 Act and 24 CFR 5.628, 5.630, 982.505, 982.508, 983.351(c), 983.353(b)(1), and 983.353(d)(1).
Safe Harbor(s)	**1.k. and 1.l.** **i.** Tenant rent under the public housing portion of this activity must not exceed 30% of income under the HUD rent calculation as defined by the 1937 Act. **ii.** For the HCV portion of this activity, the fixed subsidy must not result in a	

	family paying more than 30% of income under the HUD rent calculation as defined by the 1937 Act.	
1.m.,1.n. Utility Reimbursements		
Activity	**1.m. Utility Reimbursements (PH)** - The agency may eliminate utility reimbursement payments in the public housing program when the utility allowance is greater than the total tenant payment.	**1.n. Utility Reimbursements (HCV)** - The agency may eliminate utility reimbursement payments in the HCV program when the utility allowance is greater than the total tenant payment.
Statutes and Regulations Waived	**Utility Reimbursements (PH)** - Certain provisions of section 3(a)(1) of the 1937 Act and 24 CFR 5.632.	**Utility Reimbursements (HCV)** - Certain provisions of sections 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 982.514 and 983.353(d).
1.o. Initial Rent Burden (HCV only)		
Activity	N/A	**1o. Initial Rent Burden (HCV)** - The agency may waive the maximum family share at initial occupancy of 40% of the family's monthly income.
Statutes and Regulations Waived	N/A	**Initial Rent Burden (HCV)** - Certain provisions of section 8(o)(3) of the 1937 Act and 24 CFR 982.508.
Safe Harbor(s)	N/A	**1.o.** **i.** Agency must implement an impact analysis.* **ii.** Agency must not allow the family share at initial occupancy to exceed 60% of the family's monthly income.
1.p.,1.q. Imputed Income		
Activity	**1.p. Imputed Income (PH)** - Agency may base rent on an assumed number of hours worked per week.	**1.q. Imputed Income (HCV)** - Agency may base TTP on an assumed number of hours worked per week.
Statutes and Regulations Waived	**Imputed Income (PH)** - Certain provisions of sections 3(a)(1) and 3(b)(4)-(5) of the 1937 Act and 24 CFR 5.609, 5.611, 5.628, 960.255, 960.253, and 960.257.	**Imputed Income (HCV)** - Certain provisions of sections 3(b)(4)-(5) and 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.609, 5.611, 5.628, and 982.516.
Safe Harbor(s)	**1.p. and 1.q.** **i.** The rent calculation must be based on no more than 40 hours worked per adult, non-elderly, non-disabled person, per week at the Federal Minimum Wage. **ii.** Agency must conduct an impact analysis.* **iii.** Agency must exempt elderly and disabled families from rent policy.* **iv.** Agency must implement a hardship policy.*	
1.r.,1.s. Elimination of Deduction(s)		
Activity	**1.r. Elimination of Deduction(s) (PH)** - The agency may eliminate one, some, or all deductions.	**1.s. Elimination of Deduction(s) (HCV)** - The agency may eliminate one, some, or all deductions.
Statutes and Regulations Waived	**Elimination of Deduction(s) (PH)** - Certain provisions of sections 3(a)(1), 3(b)(4)-(5) of the 1937 Act and 24	**Elimination of Deduction(s) (HCV)** - Certain provisions of sections 3(a)(1), 3(b)(4)-(5) and 8(o)(2)(A)-(C) of the

	CFR 5.611, 960.253, 960.255, and 960.257.	1937 Act and 24 CFR 5.611, and 982.516.
Safe Harbor(s)	**1.r. and 1.s.** **i.** Agency must conduct an impact analysis.* **ii.** Agency must exempt elderly and disabled families from rent policy.* **iii.** Agency must implement a hardship policy.*	
1.t.,1.u. Standard Deductions		
Activity	**1.t. Standard Deductions (PH)** - The agency may replace existing deduction(s) with a standard deduction(s).	**1.u. Standard Deductions (HCV)** - The agency may replace existing deduction(s) with a standard deduction(s).
Statutes and Regulations Waived	**Standard Deductions (PH)** - Certain provisions of sections 3(a)(1) and 3(b)(4)-(5) of the 1937 Act and 24 CFR 5.611, 960.253, 960.255, and 960.257.	**Standard Deductions (HCV)** - Certain provisions of sections 3(a)(1), 3(b)(4)-(5), and 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.611, and 982.516.
Safe Harbor(s)	**1.t. and 1.u.** **i.** Agency must conduct an impact analysis.* **ii.** Agency must implement a hardship policy.*	
1.v.,1.w. Alternative Income Inclusions/Exclusions		
Activity	**1.v. Alternative Income Inclusions/Exclusions (PH) -** The agency may establish alternative policies to include or exclude certain forms of participant income during the income review and rent calculation process.	**1.w. Alternative Income Inclusions/Exclusions (HCV)** - The agency may establish alternative policies to include or exclude certain forms of participant income during the income review and rent calculation process.
Statutes and Regulations Waived	**Alternative Income Inclusions/Exclusions (PH)** - Certain provisions of sections 3(a)(1) and 3(b)(4)-(5) of the 1937 Act and 24 CFR 5.609, 5.611, 960.253, 960.255, and 960.257.	**Alternative Income Inclusions/Exclusions (HCV)** - Certain provisions of sections 3(a)(1), 3(b)(4)-(5), and 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.609, 5.611, and 982.516.
Safe Harbor(s)	**1.v. and 1.w.** **i.** Agency must exempt elderly and disabled individuals from this rent determination policy if it would have a detrimental effect on the household.	

2. Payment Standards and Rent Reasonableness	
The agency is authorized to adopt and implement any reasonable policy to establish payment standards or rent reasonableness that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. For voucher activities, the Department has developed a standard rider to the HAP contract that reflects any MTW authorizations that amend the current requirements of the HAP contract.	
2.a. Payment Standards – Small Area Fair Market Rents	
Activity	**2.a. Payment Standards – Small Area Fair Market Rents (HCV) -** The agency is authorized to adopt and implement any reasonable policy to establish payment standards based upon Small Area Fair Market Rents (SAFMR). In lieu of establishing a unique payment standard for each ZIP code area within its jurisdiction, a PHA may use this flexibility to establish payment standards for "grouped" ZIP code areas.

Statutes and Regulations Waived	**Payment Standards – Small Area Fair Market Rents (HCV)** - Certain provisions of sections 8(o)(1)(B) and 8(o)(13)(H) of the 1937 Act and 24 CFR 982.503-505 and 983.301.
Safe Harbor(s)	**2.a.** **i.** Payment standard must be between 80% and 150% of the SAFMR. **ii.** The payment standard in effect for each grouped ZIP code area must be within the basic range of the SAFMR for each ZIP code area in the group.* **iii.** Agency must implement an impact analysis.* **iv.** Agency must implement a hardship policy.*
2.b. Payment Standards – Fair Market Rents	
Activity	**2.b. Payment Standards** – **Fair Market Rents (HCV) -** The agency is authorized to adopt and implement any reasonable policy to establish payment standards based upon Fair Market Rents (FMR).
Statutes and Regulations Waived	**Payment Standards – Fair Market Rents (HCV- Tenant-Based Assistance)** - Certain provisions of section 8(o)(1)(B) and 8(o)(13)(H) of the 1937 Act and 24 CFR 982.503-505 and 983.301.
Safe Harbor(s)	**2.b.** **i.** Payment standard must be between 80% and 120% of the FMR. **ii.** Agency must implement an impact analysis.* **iii.** Agency must implement a hardship policy.*
2.c. Rent Reasonableness	
Activity	**2.c. Rent Reasonableness – Process (HCV) -** The agency is authorized to develop a local process to determine rent reasonableness that differs from the currently mandated program requirements in the 1937 Act and its implementing regulations.
Statutes and Regulations Waived	**Rent Reasonableness – Process (HCV)** - Certain provisions of section 8(o)(10)(A) of the 1937 Act, 24 CFR 982.507 and 983.303.
Safe Harbor(s)	**2.c.** **i.** Through the Administrative Plan, the agency shall make available the method used to determine that rents charged by owners to voucher participants are reasonable when compared to similar unassisted units in the market area. * **ii.** At the Department's request, the agency must obtain the services of a third-party entity to determine rent reasonableness for PHA-owned units.*
2.d. Rent Reasonableness – Third-Party Requirement	
Activity	**2.d. Rent Reasonableness – Third-Party Requirement (HCV) -** The agency is authorized to perform rent reasonable determinations and to assist the family on negotiating the rent to owner on units that it owns, manages, and/or controls.
Statutes and Regulations Waived	**Rent Reasonableness – Third-Party Requirement (HCV)** - Certain provisions of section 8(o)(11) of the 1937 Act, 24 CFR 982.352(b), 982.506 and 983.303.
Safe Harbor(s)	**2.d.** **i.** The agency shall establish and make available a quality assurance method to ensure impartiality.* **ii.** The agency shall make available the method used to determine that rents charged by owners to voucher participants are reasonable when compared to similar unassisted units in the market area.* **iii.** At the Department's request, the agency must obtain the services of a third-party entity to determine rent reasonableness for PHA-owned units.*

3. Reexaminations		
The agency is authorized to implement a reexamination program that differs from the reexamination program currently mandated in the 1937 Act and its implementing regulations. The terms "low-income families" and "very low-income families" shall continue to be defined by reference to section 3(b)(2) of the 1937 Act. MTW agencies must continue to determine the initial eligibility of the family in accordance with provisions of 24 CFR 5.609.		
3.a.,3.b. Alternative Reexamination Schedule for Households		
Activity	**3.a. Alternative Reexamination Schedule for Households (PH) -** The agency may establish an alternative reexamination schedule for households.	**3.b. Alternative Reexamination Schedule for Households (HCV) -** The agency may establish an alternative reexamination schedule for households.
Statutes and Regulations Waived	**Alternative Reexamination Schedule for Households (PH)** - Certain provisions of sections 3(a)(1) and 3(a)(2)(E) of the 1937 Act and 24 CFR 960.257(a)-(b).	**Alternative Reexamination Schedule for Households (HCV)** - Certain provisions of section 8(o)(5) of the 1937 Act and 24 CFR 982.516 (a)(1) and 982.516(c)(2).
Safe Harbor(s)	**3.a. and 3.b**. **i.** Reexaminations must occur at least every three years. **ii.** The agency must allow at least one interim adjustment per year at the request of the household if the household gross income has decreased 10% or more. **iii.** Agency must implement an impact analysis.* **iv.** Agency must include a hardship policy.*	
3.c.,3.d. Self-Certification of Assets		
Activity	**3.c. Self-Certification of Assets (PH) -** At reexamination, the agency may allow the self-certification of assets.	**3.d. Self-Certification of Assets (HCV) -** At reexamination, the agency may allow the self-certification of assets.
Statutes and Regulations Waived	**Self-Certification of Assets (PH)** - Certain provisions of sections 3(a)(1) and 3(a)(2)(E) of the 1937 Act and 24 CFR. 960.259(c)(2).	**Self-Certification of Assets (HCV)** - Certain provisions of section 8(o)(5) of the 1937 Act and 24 CFR. 982.516 (a)(3).
Safe Harbor(s)	**3.c. and 3.d.** **i.** At reexamination, the agency may allow the self-certification of assets only up to $50,000.	

4. Landlord Leasing Incentives	
The agency is authorized to determine a damage claim and/or vacancy loss policy and payment policy for units that differ from the policy requirements currently mandated in the 1937 Act and its implementing regulations. All policies are subject to state and local laws. The agency may combine activities 4a and 4b into one voucher leasing incentive. For voucher activities related to this waiver, the Department has developed a standard rider to the HAP contract that reflects MTW authorizations that amend the current provisions of the HAP contract.	
4.a.,4.b.,4.c. Vacancy Loss, Damage Claims, and Other Landlord Incentives	
Activity	**4.a. Vacancy Loss (HCV - Tenant-Based Assistance) -** To incentivize a landlord's continued participation in the HCV program, the agency is authorized to make additional payments to the landlord.
Statutes and	**Landlord Voucher Leasing Incentives (HCV - Tenant-Based Assistance)** -

Regulations Waived	Certain provisions of section 8(o)(9) of the 1937 Act, and 24 CFR 982.311 and 982.352(c).
Safe Harbor(s)	**4.a.** **i.** Payments made to the landlord must be equal to no more than one month of the contract rent. **ii.** The payment must be made to the landlord when the next HAP contract is executed between the owner and the PHA.* **iii.** The agency must update its Administrative Plan to reflect the vacancy loss policy.*
Activity	**4.b. Damage Claims (HCV - Tenant-Based Assistance) -** To incentive a landlord's continued participation in the HCV program, the agency may provide landlords with compensation.
Statutes and Regulations Waived	**Landlord Voucher Leasing Incentives (HCV - Tenant-Based Assistance)** - Certain provisions of section 8(o)(9) of the 1937 Act, and 24 CFR 982.311 and 982.352(c).
Safe Harbor(s)	**4.b.** **i.** If the tenant leaves the unit damaged, the amount of damage claims must not exceed the lesser of the cost of repairs or two months of contract rent. **ii.** In implementing this activity, the participant's security deposit must first be used to cover damages and the agency may provide up to two months of contract rent minus the security deposit to cover remaining repairs. **iii.** The payment must be made to a landlord when the next HAP contract is executed between the owner and PHA.* **iv.** The agency must update its Administrative Plan to reflect the damage claim policy.*
Activity	**4.c. Other Landlord Incentives (HCV - Tenant-Based Assistance)** - In order to incentivize new landlords to join the HCV program, the agency may provide incentive payments. Agencies may target incentive payments to landlords leasing properties in high opportunity neighborhoods or in areas located where vouchers are difficult to use as defined in an agency's Administrative Plan.
Statutes and Regulations Waived	**Landlord Voucher Leasing Incentives (HCV - Tenant-Based Assistance)** - Certain provisions of section 8(o)(9) of the 1937 Act, and 24 CFR 982.311 and 982.352(c).
Safe Harbor(s)	**4.c.** **i.** Payments made to the landlord must be equal to no more than one month of the contract rent. **ii.** The payment must be made to the landlord when the HAP contract is executed between the owner and the PHA.*

5. Housing Quality Standards (HQS)	
Subject to state and local laws, the agency is authorized by the Secretary to develop flexibilities around an HQS inspection's timing and frequency, the independent-entity requirement, and penalties for failing an HQS inspection, as detailed below. Implementation of any of the below discrete HQS activities meets the requirements of the 1996 MTW Statute, which requires housing to meet HQS established or approved by the Secretary.	
5.a. Pre-Qualifying Unit Inspections	
Activity	**5.a. Pre-Qualifying Unit Inspections (HCV) -** The agency may allow pre-qualifying unit inspections (also known as a pre-inspection).
Statutes and	**Pre-Qualifying Unit Inspections (HCV)** - Certain provisions of section 8(o)(8)

Regulations Waived	of 1937 Housing Act and 24 CFR 983.103, 24 CFR 982.405.
Safe Harbor(s)	**5.a.** **i.** The pre-inspection must have been conducted within 90 days of the participant occupying the unit. **ii.** The participant must be able to request an interim inspection.* **iii.** HQS inspection standards must not be altered as found at 24 CFR 982.401.*
5.b. Reasonable Penalty Payments for Landlords	
Activity	**5.b. Reasonable Penalty Payments for Landlords (HCV) -** The agency is authorized to establish a reasonable penalty fee for landlords who failed HQS inspections to encourage positive HQS inspection outcomes and to reduce costs associated with re-inspections. Examples may include a fee imposed at the agency's discretion on a landlord for failed initial, annual, or re-inspections, or for a submission of a Request for Tenancy Approval on a unit that has failed its most recent inspection within a specified timeframe.
Statutes and Regulations Waived	**Reasonable Penalty Payments for Landlords (HCV)** - Certain provisions of section 8(o)(8) of 1937 Housing Act and 24 CFR 983.101, 24 CFR 983.103, and 24 CFR 982.405.
Safe Harbor(s)	**5.b.** **i.** The agency must establish its penalty process in its Administrative Plan.* **ii.** HQS inspection standards must not be altered as found at 24 CFR 982.401.* **iii.** All fees collected must be used for eligible MTW activities.*
5.c. Third-Party Requirement	
Activity	**5.c. Third-Party Requirement (HCV) -** The agency is authorized to perform HQS inspections on units that it owns, manages, and/or controls.
Statutes and Regulations Waived	**Third-Party Requirement (HCV)** - Certain provisions of section 8(o)(11) of the 1937 Act, 24 CFR 982.352(b)(iv) and 24 CFR 983.103(f).
Safe Harbor(s)	**5.c.** **i.** The agency shall establish and make available a quality assurance method to ensure an objective analysis.* **ii.** The participant must be able to request an interim inspection.* **iii.** HQS inspection standards must not be altered as found at 24 CFR 982.401.* **iv.** At the Department's request, the agency must obtain the services of a third-party entity to determine if PHA-owned units pass HQS.*
5.d. Alternative Inspection Schedule	
Activity	**5.d. Alternative Inspection Schedule (HCV) -** The agency is authorized to establish a local inspection schedule for all or a portion of its HCV units.
Statutes and Regulations Waived	**Alternative Inspection Schedule (HCV)** - Certain provisions of 24 CFR 983.103.
Safe Harbor(s)	**5.d.** **i.** Units must be inspected at least once every three years. **ii.** The participant must be able to request an interim inspection.* **iii.** HQS inspection standards as found at 24 CFR 982.401 must not be altered.*

	iv. The Department must be able to conduct or direct the agency to perform an inspection at any time for health and safety, as well as accessibility, purposes.*

6. Short-Term Assistance

The agency may develop and adopt a Short-Term Assistance Program in HCV or PH for specific populations (i.e., hard to house, at-risk, homeless, etc.).[37] The agency will ensure that these programs do not adversely affect participation in, benefits of, or otherwise discriminate against persons on the basis of race, color, national origin, sex, religion, familial status, or disability or other protected bases. The agency's programs shall be operated in a manner that is consistent with the requirements of nondiscrimination and equal opportunity authorities, and will be accessible to persons with disabilities in accordance with the Fair Housing Act, section 504 of the Rehabilitation Act, Titles II and III of the Americans with Disabilities Act, as applicable, and the Architectural Barriers Act. More specifically, under no circumstances will participants of such programs be required to participate in supportive services that are targeted to persons with disabilities in general, or persons with any specific disability. In addition, admission to any of the programs or priority for supportive services developed under this section will not be conditioned on a diagnosis or specific disability of a member of an applicant or participant family. This section is not intended to govern the designation of housing that is subject to section 7 of the 1937 Act. The agency must determine initial eligibility in accordance with 24 CFR 5.609 and must comply with section 3(b)(2) of the Act.

6.a.,6.b. Short-Term Assistance

Activity	**6.a. Short-Term Assistance (PH) -** The agency may create a short-term housing assistance program with supportive services in one or more buildings in its public housing program.	**6.b. Short-Term Assistance (HCV) -** The agency may create a short-term housing assistance program with supportive services in its HCV program.
Statutes and Regulations Waived	**Short-Term Assistance (PH)** - Certain provisions of sections 6(l)(1) and 6(l)(5) of the 1937 Act and 24 CFR 966.4(a)(2)(i).	**Short-Term Assistance (HCV)** - Certain provisions of sections 8(o)(7)(A)-(C) of the 1937 Act and 24 CFR 982.303, 982.309(a)(1), 983.256(f), and 983.257.
Safe Harbor(s)	**6.a. and 6.b.** **i.** The term of assistance must not be shorter than 3 months. **ii.** The term of assistance must not be longer than 36 months. **iii.** The short-term housing assistance program must include supportive services in one or more buildings (which may be in collaboration with local community-based organization and government agencies). **iv.** Subject to availability, successful participants of the short-term housing assistance program must be given the option of transferring into whichever program (section 8 or 9) the short-term housing assistance program falls under. **v.** Under no circumstances will participants be required to participate in supportive services that are targeted to persons with disabilities in general, or persons with any specific disability.* **vi.** The agency must not require participation in supportive services as a condition for housing subsidy for elderly and disabled families.*	

[37] Agencies seeking to create a short-term program that goes beyond section 8 or section 9 as modified by MTW may propose an activity under the Local Non-Traditional Activities Rental Subsidy Program Waiver.

	vii. If the agency requires participation in supportive services as a condition for housing subsidy, an impact analysis must be developed and adopted in accordance with MTW guidance prior to the implementation of the activity.* **viii.** If the agency requires participation in supportive services as a condition for housing subsidy, a hardship policy must be developed and adopted in accordance with MTW guidance prior to the implementation of the activity.* **ix.** The activity cannot be extended to an entire public housing or HCV program and must only serve specific populations.*

7. Term-Limited Assistance		
The agency is authorized to implement term limits for families residing in public housing or receiving voucher assistance.		
7.a.,7.b. Term-Limited Assistance		
Activity	**7.a. Term-Limited Assistance (PH)** - The agency may limit the duration for which a family receives housing assistance.	**7.b. Term-Limited Assistance (HCV)** - The agency may limit the duration for which a family receives housing assistance.
Statutes and Regulations Waived	**Term-Limited Assistance (PH)** - Certain provisions of sections 6(l)(1) and 6(l)(5) of the 1937 Act and 24 CFR and 966.4(a)(2).	**Term-Limited Assistance (HCV)** - Certain provisions of sections 8(o)(7)(A)-(C) of the 1937 Act and 24 CFR 982.303, 982.309(a), 982.552(a), 983.256(f), and 983.257.
Safe Harbor(s)	**7.a. and 7.b.** **i.** The term of assistance may not be shorter than 2 years.* **ii.** Services, or referrals to services, must be provided by the agency or a partner organization to support preparing families for the termination of assistance. **iii.** Agency must conduct an annual impact analysis.* **iv.** Agency must exclude elderly and disabled families from term limit.* **v.** Agency must implement a hardship policy.*	

8. Increase Elderly Age	
The agency is authorized to amend the definition of an elderly person to be an individual who is at most 65 years of age. The agency remains subject to HUD's regulations implementing the Age Discrimination Act of 1975 at 24 CFR part 146 in its entirety.	
8. Increase Elderly Age	
Activity	**8. Increase Elderly Age (PH & HCV)** - The agency may change HUD's definition of an elderly person to be at most 65 years of age.
Statutes and Regulations Waived	**Increase Elderly Age (PH & HCV)** - Certain provisions of section 3(b)(3)(D) of the 1937 Act to read "[63, 64, or 65] years of age" in relevant part, 24 CFR 5.100 to read "[63, 64, or 65] years of age" in relevant part of the definition of Elderly Person, and 24 CFR 5.403 to read "[63, 64, or 65] years of age" in relevant part of the definition of *Elderly family*.
Safe Harbor(s)	**8.** **i.** The definition of an elderly person must not set a threshold (minimum) age above 65 years old.* **ii.** The agency must still exclude persons 62 and older from activities for which the activity description or safe harbor exempts those exempted from

	the Community Service Requirement under section 12(c)(2)(A), (B), (D) and (E) of the 1937 Act (e.g. work requirements or mandatory FSS).* **iii.** The agency must conduct an initial activity analysis consistent with 24 CFR part 146 and make the activity analysis available during the applicable public review period prior to the implementation of the MTW activity. The activity analysis must be updated at least annually during implementation of the activity and at the time the activity is closed out.* **iv.** The agency must retain records available for HUD inspection that cover the waiver, tenant consultation and public comment, results of the activity analysis, and specific policies and procedures to implement the waiver.* **v.** The implementation of this activity must apply only to new admissions after the effective date of the MTW Plan-Expansion in which the activity is authorized.*

9. Project-Based Voucher Program Flexibilities	
The agency is authorized to adopt and implement the activities listed below in the project-based voucher program. For voucher activities, the Department has developed a standard rider to the HAP contract that reflects any MTW authorizations that amend the current requirements of the HAP contract.	
9.a. Increase PBV Program Cap	
Activity	**9.a. Increase PBV Program Cap (HCV)** - The agency may increase the number of authorized units that it project-bases.
Statutes and Regulations Waived	**Increase PBV Program Cap (HCV)** - Certain provisions of section 8(o)(13)(B) of the 1937 Act and 24 CFR 983.6(a)-(b), as superseded by the Housing Opportunity through Modernization Act of 2016 (HOTMA) Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.a.** **i.** The agency must not project-base more than 50% of the lower of either the total authorized units or annual budget authority.
9.b. Increase PBV Project Cap	
Activity	**9.b. Increase PBV Project Cap (HCV)** - The agency may raise the PBV cap within a project up to 100%.
Statutes and Regulations Waived	**Increase PBV Project Cap (HCV)** - Certain provisions of section 8(o)(13)(D) of the 1937 Act and 24 CFR 983.56(a)-(b), as superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.b.** **i.** The agency is subject to Notice PIH 2013-27 where applicable, or successor.*
9.c. Elimination of PBV Selection Process for PHA-owned projects without improvement, development, or replacement	
Activity	**9.c. Elimination of PBV Selection Process (HCV)** - The agency may eliminate the selection process in the award of PBVs to properties owned by the agency that are not public housing without engaging in an initiative to improve, develop, or replace a public housing property or site.
Statutes and/or Regulations Waived	**Elimination of PBV Selection Process (HCV)** - Certain provisions of 24 CFR. 983.51 as it was superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe	**9.c.**

Harbor(s)	**i.** A subsidy layering review must be conducted.* **ii.** The agency must complete site selection requirements.* **iii.** 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 a related Agency-Specific Waiver is implemented.* **iv.** The agency is subject to Notice PIH 2013-27 where applicable, or successor.* **v.** Property must be owned by a single-asset entity of the agency, see Notice PIH 2017-21.*
9.d. Alternative PBV Selection Process	
Activity	**9.d. Alternative PBV Selection Process (HCV)** - The agency may establish an alternative competitive process in the award of PBVs that are owned by non-profit, for-profit housing entities, or by the agency that are not public housing.
Statutes and/or Regulations Waived	**Alternative PBV Selection Process (HCV)** - Certain provisions of 24 CFR 983.51 as superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.d.** **i.** 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 a related Agency-Specific Waiver is implemented.* **ii.** The agency is subject to Notice PIH 2013-27 where applicable, or successor.*
9.e. Alternative PBV Unit Types (Shared Housing and Manufactured Housing)	
Activity	**9.e. Alternative PBV Unit Types (Shared Housing and Manufactured Housing) (HCV)** - The agency may attach and pay PBV assistance for shared housing units and/or manufactured housing.
Statutes and/or Regulations Waived	**Alternative PBV Unit Types (Shared Housing and Manufactured Housing) (HCV)** - Certain provisions of 24 CFR 983.53(a)(1) as it was superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.e.** **i.** PBV units must comply with HQS.* **ii.** PBV units must comply deconcentration and desegregation requirements under 24 CFR part 903.* **iii.** A subsidy layering review must be conducted.* **iv.** Shared housing units may not be owner occupied.*
9.f. Increase PBV HAP Contract Length (HCV)	
Activity	**9.f. Increase PBV HAP Contract Length (HCV)** - The agency may increase the term length of a PBV HAP Contract.
Statutes and/or Regulations Waived	**Increase PBV HAP Contract Length (HCV)** - Certain provisions of section 8(o)(13)(F) of the 1937 Act and 24 CFR 983.205 as it was superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.f.** **i.** PBV HAP Contract length must not be shortened. **ii.** PBV HAP Contract length must not be greater than 50 years, including any extensions. **iii.** PBV HAP Contract is subject to appropriations and the ending of an agency's MTW authorization.*

9.g. Increase PBV Rent to Owner	
Activity	**9.g. Increase Rent to Owner (HCV)**: The agency is authorized to develop a local process to determine the initial and re-determined rent to owner.
Statutes and Regulations Waived	**Increase Rent to Owner (HCV)** - See MTW Waiver #2.a. and 2.b. "Payment Standards" and associated activities, statutes and regulations waived, and safe harbors.
Safe Harbor(s)	**9.g.** **i.** Any policy must comply with rent reasonableness, unless modified by waiver(s) 2.c. and/or 2.d.*
9.h. Limit Choice Mobility for PBV Units	
Activity	**9.h. Limit Choice Mobility for PBV Units (HCV)** - The agency is authorized to waive the requirement to provide a tenant-based voucher at 12 months when requested by a PBV household.
Statutes and Regulations Waived	**Limit Choice Mobility for PBV Units (HCV)** - Certain provisions of section 8(o)(13)(E) of 1937 Act and 24 CFR 983.261 as it was superseded by HOTMA Implementation Notices at 82 FR 5458 and 82 FR 32461 (see implementation guidance in Notice PIH 2017-21).
Safe Harbor(s)	**9.h.** **i.** Portability under this activity must not be restricted for more than 24 months. **ii.** The agency must have a clear and uniform policy in place to address how move requests are received and how they are approved/denied for PBV households.* **iii.** Participants must still retain the ability to request a tenant-based voucher for reasonable accommodation according to existing rules.*

10. Family Self-Sufficiency Program with MTW Flexibility	
The agency is authorized to operate its Family Self-Sufficiency (FSS) Program, and any successor programs, exempt from certain HUD program requirements. If the agency receives dedicated funding for an FSS coordinator, such funds must be used to employ a self-sufficiency coordinator and in accordance with any requirements of any NOFA under which funds were received. Recruitment, eligibility, and selection policies and procedures must be consistent with the Department's nondiscrimination and equal opportunity requirements. An agency may make its Self-Sufficiency Program participation mandatory for any household member that is non-elderly/non-disabled by waiving the statutory and regulatory definition of FSS family or participating family which is "a family that resides in public housing or receives assistance under the rental certificate or rental voucher programs, and that elects to participate in the FSS program" (24 CFR 984.103(b)). To the extent that Family Self-Sufficiency activities include supportive services, such services must be offered to elderly and disabled persons who are participants in the covered program and eligible for such services. Notwithstanding the above, any funds granted pursuant to a competition must be used in accordance with the NOFA.	
10.a.-10.e. FSS Program With MTW Flexibility Activities	
Activity	**10.a. Waive Operating a Required FSS Program (PH & HCV)** – If the agency is statutorily required to operate an FSS program, the agency is authorized to waive this requirement.
Activity	**10.b. Alternative Structure for Establishing Program Coordinating Committee (PH & HCV)** - The agency is authorized to create an alternative structure for securing local resources to support an MTW Self-Sufficiency Program.
Activity	**10.c. Alternative Family Selection Procedures (PH & HCV)** - The agency is authorized to develop its own recruitment and selection procedures for its MTW

	FSS Program. Alternatively, the agency may make participation in the MTW FSS Program mandatory for any household member that is non-elderly or non-disabled.
Activity	**10.d. Modify or Eliminate the Contract of Participation (PH & HCV) -** The agency is authorized to modify the terms of or eliminate the FSS Contract of Participation (HUD-52650), in lieu of a local form. The agency may modify the terms of the Contract of Participation to align with adjustments made to its MTW FSS Program using MTW flexibility. Further, the agency may discontinue use of the Contract of Participation and instead employ a locally-developed agreement that codifies the terms of participation.
Activity	**10.e. Policies for Addressing Increases in Family Income (PH & HCV) -** The agency is authorized to set its own policies for addressing increases in family income during participation in the MTW FSS Program. Consistent with the goals and structure of its MTW FSS Program, the agency may set policies for whether income increases are recognized for purposes of increasing rent (consistent with the agency's existing rent policy) or changing the amount of funds moved to escrow/savings through the program.
Statutes and Regulations Waived	**FSS Program with MTW Flexibility (PH & HCV)** - Certain provisions of sections 23(b)-(d), (f), and (n)(1) of the 1937 Act and 24 CFR 984.105, 984.202(b)-(c), 984.203(a)-(c)(2), 984.303(b)-(d), (f)-(h).
Safe Harbor(s)	**10.a.-10.e.** **i.** Agency must review FSS Guidance.[38]* **ii.** The agency must execute a Contract of Participation, or other locally developed agreement, that is at least five years but not more than ten years, with each participant participating in their FSS program. **iii.** The agency, if implementing an FSS program, even with MTW modifications, must have an up to date, approved FSS Action Plan in accordance with 24 CFR 984.201 that incorporates all modifications to the FSS program approved under the MTW Contract.* **iv.** The agency must not require MTW FSS Program participation as a condition for housing subsidy for elderly and disabled families.* **v.** If the agency requires MTW FSS Program participation as a condition for housing subsidy, an impact analysis must be developed and adopted in accordance with MTW guidance prior to the implementation of the activity.* **vi.** If the agency requires MTW FSS Program participation as a condition for housing subsidy, a hardship policy must be developed and adopted in accordance with MTW guidance prior to the implementation of the activity.* **vii.** The agency must not make MTW FSS Program participation mandatory for individuals that do not meet the definition of an eligible family at section 23(n)(3) of the 1937 Act, and those exempted from the Community Service Requirement under section 12(c)(2)(A), (B), (D) and (E) of the 1937 Act.* **viii.** If an agency terminates the housing subsidy or tenancy of a family for alleged violation of mandatory MTW FSS Program participation, the family will be entitled to a hearing under the agency's Grievance

[38] As agencies are considering potential waivers to the FSS program, they are encouraged to consult the Promising Practices Guidebook and Online Training that can be found at https://www.hudexchange.info/programs/fss/#1-introduction. In addition, the HUD FSS team is available to review and provide feedback on proposed waivers. Please contact fss@hud.gov.

	Procedure (24 CFR part 966, subpart B) or the HCV informal hearing process (24 CFR 982.555).* **ix.** The agency must not use income increases during participation in the MTW FSS Program to change a family's eligibility status for purposes of participation in the MTW FSS Program or for the receipt public housing or HCV assistance.*

11. MTW Self-Sufficiency Program		
The agency is authorized to operate any of its existing self-sufficiency and training programs, and any successor programs, exempt from certain HUD program requirements. The agency will ensure that these programs will be operated in a manner that is consistent with the requirements of nondiscrimination and equal opportunity authorities, including but not limited to section 504 of the Rehabilitation Act. More specifically, under no circumstances will participants of such programs be required to participate in Self-Sufficiency Programs that are targeted to persons with disabilities in general, or persons with any specific disability. In addition, admission to any of the programs or priority for supportive services developed under this section will not be conditioned on a diagnosis or specific disability of a member of an applicant or participant family. This section is not intended to govern the designation of housing that is subject to section 7 of the 1937 Act. The agency must determine initial eligibility in accordance with 24 CFR 5.609 and must comply with section 3(b)(2) of the Act.		
11.a.-11.b. MTW Self-Sufficiency Program Activities		
Activity	**11.a. Alternative Family Selection Procedures (PH & HCV)** - The agency is authorized to develop its own recruitment and selection procedures for its MTW Self-Sufficiency Program(s). Alternatively, the agency may make participation in the MTW Self-Sufficiency Program mandatory for any household member that is non-elderly or non-disabled. Any supportive services provided in the Program must be offered to elderly and disabled household members that qualify for such services.	
Activity	**11.b. Policies for Addressing Increases in Family Income (PH & HCV) -** The agency is authorized to set its own policies for addressing increases in family income during participation in the MTW Self-Sufficiency Program. Consistent with the goals and structure of its MTW Self-Sufficiency Program, the agency may set policies for whether income increases are recognized for purposes of increasing rent (consistent with the agency's existing rent policy) or changing the amount of funds moved to escrow/savings through the program.	
Statutes and Regulations Waived	**MTW Self-Sufficiency Program (PH)** - Certain provisions of section 3(a)(1), 6(l)(1), and 6(l)(5) of the 1937 Act 24 CFR 5.609, 5.611, 5.628, 960.255, 960.253, 960.257, and 966.4(a)(2).	**MTW Self-Sufficiency Program (HCV)** - Certain provisions of sections 8(o)(2)(A)-(C) of the 1937 Act and 24 CFR 5.609, 5.611, 5.628, 982.516, and 982.551.
Safe Harbor(s)	**11.a.-11.b.** **i.** The agency must not require MTW Self-Sufficiency Program participation as a condition for housing subsidy for elderly and disabled families.* **ii.** If the agency requires MTW Self-Sufficiency Program participation as a condition for housing subsidy, an impact analysis must be developed and adopted in accordance with MTW guidance prior to the implementation of the activity.* **iii.** If the agency requires MTW Self-Sufficiency Program participation as a condition for housing subsidy, a hardship policy must be developed and	

	adopted in accordance with MTW guidance prior to the implementation of the activity.* **iv.** The agency must not make MTW Self-Sufficiency Program participation mandatory for individuals that do not meet the definition of an eligible family at section 23(n)(3) of the U.S. Housing Act of 1937 (1937 Act) and those exempted from the Community Service Requirement under section 12(c)(2)(A), (B), (D) and (E) of the 1937 Act.* **v.** If an agency terminates the housing subsidy or tenancy of a family for alleged violation of mandatory MTW Self-Sufficiency Program participation, the family will be entitled to a hearing under the agency's Grievance Procedure (24 CFR part 966, subpart B) or the HCV informal hearing process (24 CFR 982.555).* **vi.** The agency must not use income increases during participation in the MTW Self-Sufficiency Program to change a family's eligibility status for purposes of participation in the MTW Self-Sufficiency Program or for the receipt public housing or HCV assistance.

12. Work Requirement

The agency is authorized to implement a requirement that a specified segment of its PH and/or HCV residents work or engage in an acceptable substitute for work as a condition of tenancy, subject to all applicable fair housing and civil rights requirements and the mandatory admission and prohibition requirements imposed by sections 576-578 of the Quality Housing and Work Responsibility Act of 1998 and Section 428 of P.L. 105-276. Work requirements shall not apply to persons with disabilities or the elderly. However, persons with disabilities or the elderly, and families that include persons with disabilities or the elderly, must have equal access to the full range of program services and other incentives. The agency must update its Administrative Plan and/or Admissions and Continued Occupancy Plan (ACOP) to include a description of the circumstances in which families shall be exempt from the requirement. The Administrative Plan and/or ACOP should include a description of what is considered work as well as acceptable substitutes for work. The PHA Executive Director or Board may suspend the sanctions policy due to negative local economic conditions.

12.a.,12.b. Work Requirement

Activity	**12.a. Work Requirement (PH) -** The agency may implement a work requirement for public housing residents who are at least 18 years old. Additionally, residents must be non-elderly and non-disabled.	**12.b. Work Requirement (HCV) -** The agency may implement a work requirement for HCV residents who are at least 18 years old. Additionally, residents must be non-elderly and non-disabled.
Statutes and Regulations Waived	**Work Requirement (PH)** - Certain provisions of sections 6(l)(1) and 6(l)(5) of the 1937 Act and 24 CFR. 966.4(a)(2).	**Work Requirement (HCV)** - Certain provisions of 24 CFR982.551.
Safe Harbor	**12.a. and 12.b.** **i.** If the work requirement policy applies to all eligible individuals—the maximum requirement would be 40 hours of work per week per individual. **ii.** Prior to implementation, all residents shall be given notice three months in advance of the sanction policy for non-compliance. **iii.** The work requirement may apply to non-elderly, non-disabled households or non-elderly, non-disabled adult household members.*	

	iv. Those individuals exempt from the Community Service Requirement in accordance with Section 12(c)(2)(A), (B), (D) and (E) of the 1937 Act must be exempt from the agency's work requirement in both the public housing and HCV programs.* **v.** Individuals who are the primary caretaker for a child under 6 years of age or who are pregnant must also be exempt from the agency's work requirement. **vi.** Supportive services shall be provided, either through the agency or a partner organization, to assist families in obtaining employment or an acceptable substitute, as defined by the MTW agency's policy. **vii.** Work requirements shall not be applied to exclude, or have the effect of excluding, the admission into housing or participation in supportive services by persons with disabilities or elderly individuals, or families that include persons with disabilities or elderly individuals.* **viii.** Agency must conduct an annual impact analysis.* **ix.** Agency must implement a hardship policy, including a policy to address tenants seeking a determination of disability status.* **xii.** The hardship policy in the ACOP and/or Administrative Plan must address families who are actively trying to comply with the agency's work requirement, but are having difficulties obtaining work or an acceptable substitute.* **x.** The ACOP and/or Administrative Plan must also describe the consequences of failure to comply with the work requirement.*

13. Public Housing as an Incentive for Economic Progress (PH)	
The agency is authorized to extend the period for which a household can be over-income while remaining in public housing, with its subsidy, as an incentive for the economic progress and the eventual self-sufficiency of the household.	
13. Public Housing as an Incentive for Economic Progress	
Activity	**13. Public Housing as an Incentive for Economic Progress (PH) -** The agency is authorized to extend the period for which a household can be over-income while remaining in a subsidized public housing unit with their subsidy as an incentive for the economic progress and the eventual self-sufficiency of the household.
Statutes and Regulations Waived	**Public Housing as an Incentive for Economic Progress (PH)** - Section 16(a)(5) of the 1937 Act and 24 CFR 960.261.
Safe Harbor(s)	**13.** **i.** The over-income limit is set at 120% of AMI. **ii.** The agency must set the grace period for a household to remain in a unit while over-income at no less than 2 and no more than 3 years. **iii.** The agency must inform of the household of its over-income status no less than one year prior to the end of the grace period.* **iv.** The agency must terminate the household's tenancy within one year of the end of the grace period or charge the household a monthly rent equal to the greater of: (1) the applicable Fair Market Rent (FMR); or (2) the amount of monthly subsidy for the unit, including amounts from the operating and capital fund, as determined by regulations.*

14. Moving On Policy

Moving On enables individuals and families who are able and want to move on from permanent supportive housing (PSH) by providing mainstream housing options (i.e., PH, HCV, LNT) and resources necessary to maintain housing stability.	
Moving On Activities	
Activity	**14.a. Waive Initial HQS Inspection Requirement (HCV)** - For participants who will continue leasing the same unit, the agency is authorized to accept the most recent HQS inspection from the partner agency in place of an initial HQS inspection.
Activity	**14.b. Allow Income Calculations from Partner Agencies (PH & HCV)** - The agency is authorized to accept income calculations from the partner agencies. The agency is still required to complete all required fields in Form HUD-50058 MTW Expansion, or successor form.
Activity	**14.c. Aligning Tenant Rents and Utility Payments between Partner Agencies (PH & HCV)** The agency is authorized to set tenant rents and/or make adjustments to the total tenant payment to ensure that clients referred from the partner agency are not subject to an increase in rental payments or increase in utility payments due to transferring from a permanent supportive housing program to a public housing or HCV program.
Statutes and Regulations Waived	**Moving On Activities (PH & HCV)** - Certain provisions of sections 3(a)(1)-(3), 8(o)(2)(A), 8(o)(8)(A) of the Act, the definition of "responsible entity" in 24 CFR 5.100, 24 CFR 5.603, 24 CFR 5.628, 24 CFR 5.630, 24 CFR 5.634, 24 CFR 960.253, 24 CFR 982.405(a).
Safe Harbor(s)	**14.a.-14.c.** **i.** Initial income eligibility must be determined in accordance with 24 CFR 5.609 of the 1937 Act.* **ii.** Agencies must continue to allow participants to request an interim HQS inspection. **iii.** Any income calculations that are accepted from partner agencies must have been calculated within the past year. **iv.** Screenings for lifetime sex offender status and convictions of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing must continue and are not waivable.*

15. Acquisition without Prior HUD Approval (PH)	
The agency is authorized to acquire public housing sites without prior HUD approval.	
15. Acquisition without Prior HUD Approval	
Activity	**15. Acquisition without Prior HUD Approval (PH) -** The agency is authorized to acquire public housing sites without prior HUD approval. This activity allows MTW agencies flexibility around the timing of HUD's approval, but not the content of the approval. When acquiring the sites, the agency must have all submission materials in place as if HUD were approving the acquisition proposal prior to acquisition. The agency must provide the materials to the Field Office for approval within 30 days of acquisition. If the Department is unable to approve the acquisition based on the materials submitted, then the agency must repay the cost of acquisition with non-federal funds.
Statutes and Regulations Waived	**Acquisition without Prior HUD Approval (PH)** - Certain provisions of 24 CFR 905.608(a).
Safe	**15.**

Harbor(s)	**i.** The agency must comply with and have documentation that the project is in compliance with local zoning as described in 24 CFR 905.608(e).* **ii.** The agency must commission an independent appraisal of the site as described in 24 CFR 905.608(f).* **iii.** Prior to acquisition, the agency must provide an environmental assessment as described in 24 CFR 905.608(h).* **iv.** The agency must provide all required documents to HUD within 30 days of the acquisition.*

16. Deconcentration of Poverty in Public Housing Policy (PH)	
The agency is authorized to create an alternative policy in how it addresses deconcentration of poverty.	
16. Deconcentration of Poverty in Public Housing Policy (PH)	
Activity	**16. Deconcentration of Poverty in Public Housing Policy (PH)** – The agency is authorized to create an alternative policy in how it addresses deconcentration of poverty.
Statutes and Regulations Waived	**Deconcentration of Poverty in Public Housing Policy (PH)** - Certain provisions of 24 CFR 903.2.
Safe Harbor(s)	**16.** **i.** All Fair Housing requirements continue to apply.* **ii.** The agency must provide all justifications as to the local Deconcentration of Poverty in Public Housing Policy to HUD upon request.*

17. Local, Non-Traditional Activities	
MTW Funding can be utilized per statute and regulation on the eligible activities listed at sections 9(d)(1), 9(e)(1), and 8(o) of the 1937 Act. Any authorized use of these funds outside of the allowable uses listed in the 1937 Act constitutes a local, non-traditional activity. The agency is authorized to implement the local, non-traditional activities listed below to provide a rental subsidy to a third-party entity to provide housing and supportive services to eligible low-income participants, and to contribute MTW Funding to the development of affordable housing. Families served through the activities described below must be at or below 80% of Area Median Income. Implemented activities must meet one of the three MTW statutory objectives of increasing the efficiency of federal expenditures, incentivizing self-sufficiency of participating families, and increasing housing choice for low-income families. The use of MTW Funding must be consistent with the requirements of 2 CFR 200 and other basic requirements for the use of federal assistance. The agency must determine the eligibility of families in accordance with 24 CFR 5.609 and with section 3(b)(2) of the Act. Local, non-traditional activities must fall within one of the three categories below and comply with PIH Notice 2011-45 or any successor notice/and or guidance.	
17.a. Rental Subsidy Programs	
Activity	**17.a. Rental Subsidy Programs -** Programs that use MTW Funding to provide a rental subsidy to a third-party entity (other than a landlord or tenant) who manages intake and administration of the subsidy program to implement activities, which may include: supportive housing programs and services to help homeless individuals and families reach independence; supportive living; shallow subsidies; homeless/transitional housing programs; or programs that address special needs populations.
Statutes and Regulations Waived	**Local, Non-Traditional Activities** - MTW Funding can be utilized per statute and regulation on the eligible activities listed at sections 9(d)(1), 9(e)(1), and 8(o) of the 1937 Act. Any authorized use of these funds outside of the allowable uses listed in the 1937 Act constitutes a local, non-traditional activity.

Safe Harbor(s)	**17.a.** **i.** Families receiving housing or services through local, non-traditional activities must meet the HUD definition of low-income.* **ii.** The agency is subject to Notice PIH 2011-45 or any successor notice and/or guidance.* **iii.** Any MTW Funding awarded to a third-party provider must be competitively bid.*
17.b. Service Provision	
Activity	**17.b. Service Provision -** The provision of HUD-approved self-sufficiency or supportive services using MTW Funding that are not otherwise permitted under the public housing and HCV programs, or that are provided to eligible low-income individuals who do not receive either public housing or HCV assistance from the PHA. Eligible activities may include: services for participants of other PHA-owned or managed affordable housing that is not public housing or HCV assistance; services for low-income non-participants; services and/or incentives to attract applicants to developments, or portions thereof, which can be difficult to market; or supportive services.
Statutes and Regulations Waived	**Local, Non-Traditional Activities** - MTW Funding can be utilized per statute and regulation on the eligible activities listed at sections 9(d)(1), 9(e)(1), and 8(o) of the 1937 Act. Any authorized use of these funds outside of the allowable uses listed in the 1937 Act constitutes a local, non-traditional activity.
Safe Harbor(s)	**17.b.** **i.** The incentive must not be in the form of a deduction to the household's rent contribution.* **ii.** The amount of the incentive must not equal more than one month of the applicable unit's rent.* **iii.** Families receiving housing or services through local, non-traditional activities must meet the HUD definition of low-income.* **iv.** The agency is subject to Notice PIH 2011-45 or any successor notice and/or guidance.* **v.** Any MTW Funding awarded to a third-party provider must be competitively bid.*
17.c. Housing Development Programs	
Activity	**17.c. Housing Development Programs -** 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.
Statutes and Regulations Waived	**Local, Non-Traditional Activities** - MTW Funding can be utilized per statute and regulation for the eligible activities listed at sections 8(o), 9(d)(1), and 9(e)(1) of the 1937 Act. Any authorized use of these funds outside of the allowable uses listed in the 1937 Act constitutes a local, non-traditional activity.
Safe Harbor(s)	**17.c.** **i.** Families receiving housing or services through local, non-traditional activities must meet the HUD definition of low-income.* **ii.** The agency is subject to Notice PIH 2011-45 or any successor notice and/or guidance.* **iii.** Agency must comply with section 30 of the 1937 Housing Act.* **iv.** Any MTW Funding awarded to a third-party provider must be competitively bid.*

APPENDIX II

Specific requirements on safe harbors related to impact analyses and hardship policies are provided in this Appendix.

IMPACT ANALYSIS

The MTW agency must complete a written analysis of the various impacts of the MTW activity. The MTW agency must prepare this analysis: 1) prior to implementation of the MTW activity, if required as a safe harbor; 2) for certain activities (Work Requirements, Term-Limited Assistance, and Stepped Rent) on an annual basis during the implementation of the MTW activity; 3) prior to any Safe Harbor Waiver or Agency-Specific Waiver requests; and 4) at the time the MTW activity is closed out, if an impact analysis was previously required.

This analysis must consider the following factors, as applicable:

1. Impact on the agency's finances (e.g., how much will the activity cost, any change in the agency's per family contribution);
2. Impact on affordability of housing costs for affected families (e.g., any change in how much affected families will pay towards their housing costs);
3. Impact on the agency's waitlist(s) (e.g., any change in the amount of time families are on the waitlist);
4. Impact on the agency's termination rate of families (e.g., any change in the rate at which families non-voluntarily lose assistance from the agency);
5. Impact on the agency's current occupancy level in public housing and utilization rate in the HCV program;
6. Impact on meeting the MTW statutory objectives of cost effectiveness, self-sufficiency, and/or housing choice;
7. Impact on the agency's ability to meet the MTW statutory requirements; and
8. Impact on the rate of hardship requests and the number granted and denied as a result of this activity.

The MTW agency must have the initial impact analysis, which analyzes potential impacts of the MTW activity, attached to the MTW Plan-Expansion during the applicable public review period prior to implementation of the MTW activity. For certain activities (Work Requirements, Term-Limited Assistance, and Stepped Rent), an updated impact analysis must be provided in each subsequent year. While MTW activities are listed by waiver and specific activity name in Appendix I, MTW agencies may combine activities together at the PHA level in order to create more comprehensive initiatives. For such comprehensive initiatives an MTW agency may submit a single impact analysis. Should a larger initiative undergo a substantial change, such as adding an activity, the MTW agency must reevaluate its impact with a new impact analysis. This information must be retained by the agency for the duration of the agency's participation in the MTW demonstration program and available for public review and inspection at the agency's principal office during normal business hours.

HARDSHIP POLICY

The MTW agency must adopt a written policy for determining when a requirement or provision of an MTW activity constitutes a financial or other hardship for the family. The agency must include this policy as an attachment to its MTW Plan-Expansion. The agency may use a single hardship policy, as applicable, for multiple MTW waivers or develop different hardship policies for different MTW waivers as it finds appropriate. The agency must review its hardship policy(s)

with residents during its intake and recertification processes. The agency must consider if a resident qualifies for a hardship exemption at the time of a potential termination of assistance that is due to an MTW activity.

When a resident requests a hardship exemption from a required MTW activity, the agency must suspend the activity for the household, beginning the next month after the request, until the MTW agency has determined if the request is warranted. The agency shall make the determination of whether a financial or other hardship exists within a reasonable time after the family's request. If the agency determines that a financial or other hardship exists, the MTW agency must continue to provide an exemption from the MTW activity at a reasonable level and duration, according to the agency's written policy. If an agency determines that the request did not meet its hardship standards, they must resume the MTW activity and collect any retroactive rent, if applicable, through a reasonable repayment agreement.

The agency's written policy(s) for determining what constitutes financial hardship must include the following situations:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items; and
- Such other situations and factors determined by the agency to be appropriate.

The agency's written policies shall include a grievance procedure that a family may request for second level review of denied hardship requests.

The agency shall keep records of all hardship requests received and the results of these requests and supply them at HUD's request. This information must be retained by the agency for the duration of the agency's participation in the MTW demonstration program and available for public review and inspection at the agency's principal office during normal business hours.

APPENDIX III

The statutory requirement that MTW agencies continue to "serve substantially the same number of families" throughout participation in the MTW demonstration program (STS Requirement) will be monitored for MTW agencies in the MTW Expansion through the following methodology, which adheres to the main themes and principles described in the MTW Operations Notice. Since the funding calculation for public housing (including Operating and Capital Funds) is significantly different than the funding calculation in the Housing Choice

Voucher (HCV) program, the methodology for calculating the STS Requirement for the public housing and HCV programs will differ.

Public Housing

As described in Section 7.c.i of the MTW Operations Notice, HUD will monitor public housing occupancy rates for MTW agencies. The public housing occupancy rate will be determined by dividing the total number of "occupied" units by the total number of "standing" units:

TOTAL OCCUPIED UNITS ÷ TOTAL STANDING = **MTW AGENCY OCCUPANCY RATE**

The table below shows what public housing unit categories[39] are currently included in the numerator and what public housing unit categories are currently included in the denominator[40]:

Public Housing Unit Category/Sub-Category	Total Occupied Units (Numerator)	Total Standing Units (Denominator)
Occupied – Assisted Tenant	X	X
Occupied – Employee	X	X
Occupied – Non-Assisted Tenant Over Income	X	X
Occupied – Police Officer	X	X
Occupied – Unauthorized		X
Vacant – Undergoing Modernization		X
Vacant – Court Litigation		X
Vacant – Natural Disaster		X
Vacant – Casualty Loss		X
Vacant – Market Conditions		X
Non-Dwelling – Anti-Drug Crime	X	X
Non-Dwelling – Self-Sufficiency Activities	X	X
Non-Dwelling – Other Resident Activities	X	X
Non-Dwelling – Moving to Work	X	X
Non-Dwelling – Administrative		X
Non-Dwelling – Resident Amenities		X
Non-Dwelling – Authorized		X
Demo-Dispo (Approved and Vacant)		X
Vacant – Vacant		X

Annual Public Housing STS Compliance

To be compliant with the public housing portion of the STS Requirement, the MTW agency's public housing occupancy rate must be at or above 96%, unless otherwise approved by HUD. HUD may consider the MTW agency's efforts to reposition its public housing as an allowable reason to temporarily dip below 96% occupancy. Any allowable dips must be time-limited and described and approved by HUD.

Each year, HUD will advise the MTW agency of its compliance under the STS Requirement in the public housing program for the prior calendar year. This information will also be made

[39] Public housing unit categories and unit reporting in IMS/PIC is provided in PIH Notice 2011-07, or successor notice.

[40] Current monitoring of public housing occupancy rates for all agencies is conducted according to the current HUD Agency Priority Goal (APG) reporting categories. Should this change, MTW agencies would be subject to the same monitoring of public housing occupancy rates as all non-MTW agencies.

available on HUD's website. In instances where the MTW agency's public housing occupancy rate falls below 96%, HUD may require, at its discretion, that the MTW agency enter into an Occupancy Action Plan to address the occupancy issues. The Occupancy Action Plan will include at a minimum: the cause of the occupancy issue, the intended solution, and reasonable timeframes to address the cause of the occupancy issue.

The exception to the above is for MTW agencies that are below 96% public housing occupancy when they receive MTW designation. MTW agencies that are below 96% occupied when they are designated have two years, or more as determined by HUD, to come into compliance before they are required to enter into and adhere to an Occupancy Action Plan as described above.

Failure to adhere to the Occupancy Action Plan may result in enforcement processes detailed in the MTW amendment to the MTW agency's Annual Contributions Contract (ACC Amendment).

Housing Choice Voucher Program

To be compliant with the STS Requirement in the HCV program, the MTW agency will be required to house at least 90% of the families it would be able to house based on the HCV Housing Assistance Payment (HAP) dollars it receives each year.

Establishing the Annual HCV STS Target
In the first full calendar year that the agency is an MTW agency, the Annual HCV Capacity of the MTW agency will be calculated based on the total Budget Authority of HCV HAP funds (including Special Purpose Vouchers) in that year and the per unit cost (PUC) from the calendar year prior to the agency's entry into the MTW Demonstration Program, adjusted for inflation.

First Full Calendar Year in MTW - Step 1:

HCV PUC FROM CALENDAR YEAR PRIOR TO MTW X ANNUAL INFLATION FACTOR(S) = "**ADJUSTED BASELINE YEAR PUC**"

First Full Calendar Year in MTW - Step 2:

TOTAL BUDGET AUTHORITY OF HCV HAP FUNDS ÷ ADJUSTED BASELINE YEAR PUC = "**ANNUAL HCV CAPACITY**"

For all subsequent MTW years, the PUC established from the calendar year prior to MTW designation will continue to be inflated annually to determine each MTW year's Annual Adjusted PUC. The Annual HCV Capacity of the MTW agency will be calculated based on the total Budget Authority of HCV HAP funds in that year and the Annual Adjusted PUC from the prior calendar year, adjusted for inflation.

Subsequent Calendar Year in MTW - Step 1:

"ADJUSTED BASELINE YEAR PUC" (from prior year) X ANNUAL INFLATION FACTOR = "**ANNUAL ADJUSTED BASELINE YEAR PUC**" (new for current year)

Subsequent Calendar Year in MTW - Step 2:

TOTAL BUDGET AUTHORITY OF HCV HAP FUNDS IN CALENDAR YEAR ÷ ANNUAL ADJUSTED BASELINE YEAR PUC" (new for current year) = "**ANNUAL HCV CAPACITY**" (new for current year)

Because MTW agencies must serve at least 90% of the current year Annual HCV Capacity to be compliant with the HCV portion of the STS Requirement, the Annual HCV STS Target will then be established.

"ANNUAL HCV CAPACITY" X 90% = "**ANNUAL HCV STS TARGET**"

Establishing the Number of Families Housed in the HCV Program

To determine the number of families that count towards the STS Requirement in the HCV program each year, HUD will consider families housed through both the HCV program and any local, non-traditional program.

The calculation for determining total families housed in the HCV program is the total unit months leased divided by twelve.

The calculation for determining total families housed in the local, non-traditional housing program includes two types of housing as provided in the waivers appendix of the MTW Operations Notice. These are also discussed in detail in PIH Notice 2011-45 (or its successor) titled "Parameters for Local, Non-Traditional Activities under the Moving to Work Demonstration Program."

- The first type of housing is a local, non-traditional rental subsidy program. Here, the total unit months of housing provided over the calendar year will be utilized and divided by twelve. Families that receive services only will not be included.
- The second type of housing is a local, non-traditional housing development program. Here, HUD will first take the total investment of MTW funds in developing these types of units. This total dollar amount will be divided by the applicable HUD-published Total Development Cost (TDC). The resulting number of units will then count as families housed each year from when a certificate of occupancy is issued through the term of the affordability restrictions. Families that receive services only will not be included.

Annual HCV STS Compliance

Consistent with the statutory language of serving "substantially" the same number of families, the MTW agency will be considered compliant with the STS Requirement in the HCV program if it houses families through the HCV and local, non-traditional program at or above the Annual HCV STS Target. Again, the Annual HCV STS Target is 90% of the Annual HCV Capacity.

The MTW agency may dip below the Annual HCV STS Target for certain circumstances, as approved by HUD. Any allowable dips must be time-limited and described and approved by HUD.

Each year, HUD will advise the MTW agency of its compliance under the STS Requirement in the HCV program for the prior calendar year. This information will also be made available on HUD's website.

In the event an MTW agency does not meet the Annual HCV STS Target, the MTW agency will have two years from the date it is notified to come into compliance. If, two years after notification of the deficiency the MTW agency still does not meet the Annual HCV STS Target, then the MTW agency will be required to expend all HAP dollars only on HAP. Once the MTW agency achieves 93% expenditures of Budget Authority on HAP, the MTW agency will be able to again use its HCV HAP funds flexibly. Failure to adhere to this may result in enforcement

processes detailed in the MTW amendment to the MTW agency's Annual Contributions Contract (ACC Amendment).

Adjustments to the HCV Annual Capacity

If the MTW agency believes that its Annual Adjusted Baseline Year PUC is no longer accurate, it may request an adjustment to this figure. Such a request may not be made more than once every three calendar years. The MTW agency must submit such a request to HUD along with a justification for the adjustment (for example, rising costs, special market conditions, public housing repositioning). HUD will then review the request and either approve or deny it. If approved, HUD will change the PUC appropriate to the circumstances of the MTW agency (as determined by HUD). This new PUC will then be adjusted by the inflation factor every year and used to determine compliance with the HCV portion of the STS Requirement going forward.

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