

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5994-N-01]

Operations Notice for the Expansion of the Moving To Work Demonstration Program Solicitation of Comment

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice; solicitation of comment.

SUMMARY: The Public Housing/Section 8 Moving to Work (MTW) demonstration program was first established under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 to provide statutory and regulatory flexibility to participating public housing agencies (PHAs) under three statutory objectives. Those three statutory objectives are: To reduce cost and achieve greater cost effectiveness in federal expenditures; to give incentives to families with children where the head of household is working, is 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 to increase housing choices for eligible low-income families.

Section 239 of the Fiscal Year 2016 Appropriations Act, Public Law 114-113 (2016 MTW Expansion Statute), signed by the President in December of 2015, authorizes HUD to expand the MTW demonstration program from the current level of 39 PHAs to an additional 100 PHAs over a period of seven years. In this notice, HUD seeks public comment on the draft Operations Notice for the Expansion of the MTW demonstration program (Operations Notice). The Operations Notice establishes requirements for the implementation and continued operations of the MTW demonstration program pursuant to the 2016 MTW Expansion Statute. HUD seeks public comment on all aspects of the Operations Notice and on specific areas for comment identified throughout this notice. HUD also seeks comment on the topic of regionalization in the MTW demonstration, which is discussed in Section 9 of the Operations Notice. Appendix C of this notice contains a listing of all of the questions in which HUD seeks public comment.

DATES: *Comment Due Date:* March 24, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development,

451 7th Street SW., Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at 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 www.regulations.gov Web site 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.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 1-800-877-8339 (this is a toll-free number). Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Marianne Nazzaro, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4130, Washington, DC 20410; email address mtw-info@hud.gov.

SUPPLEMENTARY INFORMATION:

I. Background

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, Public Law

104-134, 110 Stat. 1321-281; 42 U.S.C. 1437f note (1996 MTW Statute) ¹ to provide statutory and regulatory flexibility ² to participating PHAs under three statutory objectives. Those three statutory objectives are to:

- Reduce cost and achieve greater cost effectiveness in federal expenditures;
- give incentives to families with children where the head of household is working; is 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 many existing public housing and voucher rules and offered more flexibility with how they use their Federal funds. MTW agencies use the opportunities presented by MTW to better address local housing needs. Learning from the experience of MTW agencies, HUD develops new housing policy recommendations that can positively impact assisted housing delivery for all PHAs nationwide.

In addition to statutory and regulatory relief,³ MTW agencies have the flexibility to apply fungibility between public housing operating, public housing capital, and Housing Choice Voucher (HCV) assistance into an agency-wide funding source referred to as the "MTW Block Grant."⁴ Use of the MTW Block Grant as a source of providing funding for eligible MTW activities across the three programs does not negate the need to track the funding to its original source.

Throughout participation in the MTW demonstration program, all MTW agencies must continue to meet five statutory requirements established under the 1996 MTW Statute. These five statutory requirements are:

¹ PHAs currently operating an MTW demonstration program include PHAs with an active MTW agreement as of December 15, 2015. PHAs currently operating an MTW program do not include PHAs that previously participated in the MTW demonstration and later left the demonstration.

² The MTW demonstration program may only provide certain flexibilities under the 1937 Act. For more information on the history of the MTW demonstration program, please go to: www.hud.gov/mtw.

³ For more information about the MTW demonstration program and the specific programs of current MTW agencies, please refer to the MTW Web site at: <http://www.hud.gov/mtw>.

⁴ Funds awarded under Sections 8(o), 9(d), and 9(e) of the 1937 Act are eligible for inclusion in the MTW Block Grant, with the exception of funds provided for specific non-MTW HCV sub-programs.

(1) To ensure at least 75 percent of families assisted are very low-income as defined in Section 3(b)(2) of the U.S. Housing Act of 1937 (the 1937 Act);

(2) to establish a reasonable rent policy that is designed to encourage employment and self-sufficiency;

(3) to continue to assist substantially the same total number of eligible low-income families as would have been served had funds not been combined;⁵

(4) to maintain a comparable mix of families (by family size) as would have been provided had the funds not been used under the MTW demonstration program; and

(5) to ensure housing assisted under the MTW demonstration program meets housing quality standards established or approved by the Secretary.

There are currently 39 PHAs⁶ participating in the MTW demonstration program. The administrative structure for these 39 PHAs is outlined in the Standard MTW Agreement, a contract between each current MTW PHA and HUD. The 2016 MTW Expansion Statute extended the term of the Standard MTW Agreement through each of the current MTW PHA's 2028 fiscal year.

2016 Expansion to the MTW Demonstration Program

As directed by the 2016 MTW Expansion Statute, HUD is authorized to expand the MTW demonstration program from the current level of 39 PHAs to an additional 100 PHAs over a period of seven years. In expanding the MTW demonstration, HUD intends to build on the successes and lessons from the demonstration thus far. The vision for the MTW expansion is to learn from MTW interventions in order to improve

⁵ HUD's verification method detailed in Section 6(c)(i) of this notice.

⁶ The 39 PHAs are: Alaska Housing Finance Corporation; Atlanta Housing Authority; Housing Authority of the City of Baltimore; Boulder Housing Partners; Cambridge Housing Authority; Housing Authority of Champaign County; Charlotte Housing Authority; 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; Massachusetts Department of Housing and Community Development; Minneapolis Public Housing Authority; 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); Housing Authority of the City of Reno; 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; Tulare County Housing Authority; and Vancouver Housing Authority.

the delivery of federally assisted housing and promote self-sufficiency for low-income families across the nation. Through the expansion, HUD will extend flexibility to a broader range of PHAs both in terms of size and geographic diversity and will balance the flexibility inherent in MTW with the need for measurement and evaluation at the outset.

HUD will select the additional 100 PHAs in cohorts, with applications for each cohort to be sought via PIH Notice.⁷ For each cohort of agencies selected, the 2016 MTW Expansion Statute requires HUD to direct all the agencies in the cohort to implement one specific policy change, which HUD will rigorously evaluate. PHAs may implement additional policy changes. The MTW Research Advisory 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.

Eligibility and Selection for the Expansion of the MTW Demonstration

The 2016 MTW Expansion Statute provides that the 100 MTW agencies selected must be high performers, at the time of application to the demonstration, and represent geographic diversity across the country. Further, the statute provides that of these 100 PHAs:

- No less than 50 PHAs shall administer 1,000 or fewer aggregate housing voucher and public housing units;
- no less than 47 PHAs shall administer 1,001–6,000 aggregate housing voucher and public housing units;
- no more than 3 PHAs shall administer 6,001–27,000 aggregate housing voucher and public housing units;
- no PHA shall be granted MTW designation if it administers more than 27,000 aggregate housing voucher and public housing units; and
- five of the PHAs selected shall be agencies with a Rental Assistance Demonstration (RAD) portfolio award.

HUD will issue separate notices, by cohort, soliciting applications from eligible PHAs for participation in the MTW demonstration. These notices, when issued, will outline the specific application submission requirements, evaluation criteria, and process HUD will use when selecting PHAs for MTW participation.

⁷ PIH Notice 2017–01 provides the Request for Applications for the first cohort of PHAs to be selected pursuant to the 2016 MTW Expansion Statute.

MTW Research Advisory Committee

The 2016 MTW Expansion Statute established the MTW Research Advisory Committee (the Committee). 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. The purpose of the Committee is to provide independent advice with respect to the policies to be studied through the MTW expansion and the methods of research and evaluation related. The Advisory Committee is 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;
- policy changes adopted by MTW agencies that have proven successful and can be applied more broadly to all PHAs; and
- statutory and/or regulatory changes (specific waivers 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.

The Committee members were appointed in June 2016 by the HUD Secretary and chosen to ensure balance, diversity, and a broad representation of ideas.⁸ The Committee includes program and research experts from HUD; a representation of MTW agencies, including current and former residents; and independent subject matter experts in housing policy research.

PHAs are reminded that the MTW demonstration program does not permit waivers related to fair housing, nondiscrimination, labor standards, or environmental requirements. Other subject matter prohibited from waivers or restricted with respect to waivers is discussed elsewhere in this notice.

Operations Notice for the Expansion of the MTW Demonstration

HUD's guiding principles for the expansion of the MTW demonstration are: (1) Simplify; (2) learn; and (3) apply. HUD seeks to design and test new approaches to providing and administering housing assistance and then to apply the lessons learned

⁸ For more information on the establishment, purpose, members and meeting content of the MTW Research Advisory Committee, please go to: <http://go.usa.gov/xZnj9>.

nationwide, all within a framework of simplifying program administration. The Operations Notice is a first step toward implementing this vision. The Operations Notice describes a new framework for the MTW demonstration that streamlines and simplifies HUD's oversight of participating PHAs while providing for rigorous evaluation of specific policy changes. The new framework would apply to all PHAs designated as an MTW PHA pursuant to the 2016 MTW Expansion Statute and to any previously-designated MTW agencies that agree to operate under the new framework. These PHAs are referred to in the Operations Notice as "MTW agencies." Participation in the new framework will be formalized by an amendment to the PHA's Annual Contributions Contract (ACC), or other agreement as determined by HUD.

A key feature of the new framework is that PHAs will not be required to seek HUD's approval for some of the waivers identified in the Operations Notice, as determined by HUD. Instead, via the Operations Notice, HUD will grant a set of general waivers to all MTW agencies when they are so designated. In addition, HUD seeks to reduce the data collection and reporting requirements for PHAs under the new framework, focusing on financial data, basic program monitoring and performance assessment, and evaluation of the specific policy changes to be tested through each cohort. HUD will rely on existing data and reporting that PHAs will continue to submit through HUD administrative systems.

HUD is seeking comment on the draft Operations Notice because robust public comment is critical to ensuring that the Operations Notice effectively positions MTW agencies to be able to meet the demonstration's goals of increasing cost effectiveness, self-sufficiency, and housing choice.

The Operations Notice is organized into 12 sections as follows:

1. *Purpose and Applicability*
2. *Waivers*
 - a. General Waivers
 - b. Conditional Waivers
 - c. Cohort-specific Waivers
3. *Term of Participation*
4. *Funding, MTW Block Grant, and Financial Reporting*
 - a. Level of Funding
 - b. Calculation of Funding
 - c. MTW Block Grant and Flexibility in Use of Funds
 - d. Financial Reporting and Auditing
5. *Evaluation*
 - a. Program-wide Evaluation
 - b. Cohort-specific Evaluation
6. *Program Administration and Oversight*
 - a. Planning and Reporting
 - b. Performance Assessment

- c. Monitoring and Oversight
7. *Rental Assistance Demonstration Program*
8. *Applying MTW Flexibilities to Special Purpose Vouchers*
 - a. Veterans Affairs Supportive Housing (HUD-VASH)
 - b. Family Unification Program (FUP)
 - c. Non-Elderly Persons with Disabilities (NED) Vouchers
 - d. Enhanced Vouchers and Tenant Protection Vouchers
9. *Regionalization*
10. *Applicability of Other Federal, State, and Local Requirements*
11. *MTW Agencies Admitted Prior to 2016 MTW Expansion Statute*
12. *Sanctions, Terminations, and Default*

HUD seeks comment on all 12 sections of the Operations Notice, as well as Appendix A General Waivers, and Appendix B Conditional Waivers, which outline available waivers and MTW activities that may be implemented by MTW agencies. In addition, for some sections of the Operations Notice, HUD identifies specific topics for comment and poses questions on those topics.

The majority of the Operations Notice applies only to MTW agencies, defined above as PHAs designated MTW pursuant to the 2016 MTW Expansion Statute and any previously-designated MTW agencies that agree to operate under the new framework. However, Section 9 of the Notice (Regionalization) also applies to existing MTW agencies, that is, those with an active MTW agreement as of December 15, 2015.

II. Draft Operations Notice

1. Purpose and Applicability

The Operations Notice establishes requirements for the implementation and continued operation of the expansion of the MTW demonstration program pursuant to the 2016 MTW Expansion Statute. The Operations Notice applies to all PHAs designated as MTW pursuant to the 2016 MTW Expansion Statute and to any previously-designated MTW PHA that elects to operate under the terms of this Notice.

Through an amended ACC, or other agreement as determined by HUD, an MTW agency agrees to abide by the program structure, flexibilities, and terms and conditions detailed in the Operations Notice for the term of the agency's participation in MTW demonstration. HUD may supplement the Operations Notice with PIH Notices providing more detailed guidance and reserves the right to revise the Operations Notice to address unforeseen circumstances and programmatic clarifications. Any significant updates to the Operations Notice by HUD will be preceded by a public comment period.

Additionally, HUD will develop informational materials to address various program elements that HUD will post on the MTW Web site.

Unless otherwise provided in the Operations Notice, a PHA's MTW program applies to all of the agency's public housing assisted units (including agency-owned properties and units comprising a part of mixed-income, mixed finance communities), tenant-based Section 8 HCV assistance, project-based Section 8 voucher assistance under Section 8(o), and Homeownership units developed using Section 8(y) HCV assistance. This Operating Notice *does not* apply to Section 8 HCV assistance that is required: (i) For payments to other public housing agencies under Section 8 HCV portability billing procedures; (ii) to meet particular purposes for which HUD has expressly committed the assistance to the agency;⁹ or (iii) to meet existing contractual obligations of the agency to a third party (such as HAP contracts with owners under the agency's Section 8 HCV program), unless a third party agrees to PBV activities implemented under the MTW program with the agency.

2. Waivers

Pursuant to this section of the Operations Notice, HUD delegates to the MTW agency the authority to pursue locally-driven policies, procedures, and programs with the aim of developing more efficient ways to provide and administer housing assistance that increases housing choice, gives incentives to low, very-low, and extremely low-income families to achieve economic self-sufficiency, and reduce costs and achieve greater cost-effectiveness in federal expenditures. Many of these policies, procedures and programs require waivers of existing statutory and regulatory requirements. HUD therefore waives certain provisions of the 1937 Act as well as HUD's implementing requirements and regulations to implement the PHA's MTW demonstration activities as described in this Notice. Certain provisions of the 1937 Act will continue to apply to the PHA and the assistance received pursuant to the Act. These ongoing provisions, as well as other applicable federal, state, and local requirements, are described in Section 10 of this Operations Notice.

⁹ Five Year Mainstream Vouchers, Moderate Rehabilitation Renewals, HUD-Veterans Affairs Supportive Housing (HUD-VASH) Vouchers, Non-Elderly Disabled (NED) Vouchers, and Family Unification Program (FUP) Vouchers are not part of the MTW demonstration program.

This Notice discusses three categories of waivers, and the associated activities, that MTW agencies may pursue—general waivers; conditional waivers; and cohort-specific waivers. This Notice specifies the process for implementing MTW activities using the waivers under each category. Appendix A—General Waivers and Appendix B—Conditional Waivers provide the complete list of waivers and associated activities available for all MTW agencies. General Waivers are available to MTW agencies without HUD review—beyond the MTW application review. Conditional Waivers are available following additional HUD review and approval, as described generally in Appendix B. Cohort-Specific Waivers will be defined in a series of notices soliciting applications for participation in MTW.

Appendices A and B provide an overview of the General and Conditional Waivers. The actual statutory and regulatory provisions that will be waived will be more clearly identified in the final Operations Notice, in response to this notice and further refinement. The specific statutory and regulatory provisions that will be covered by the waivers will be included in the final MTW Operations Notice, which is anticipated to be published later this summer. Please note that in adopting an MTW program, HUD and PHA may not waive or otherwise deviate from compliance with Fair Housing and Civil Rights laws and regulations.

While MTW activities are listed by specific waiver, MTW agencies may group activities together to create more comprehensive initiatives at the local level.

MTW agencies are subject to all remaining regulatory and statutory requirements, unless an activity is specifically and explicitly authorized in the Notice via the attached waivers, in which case the agency is exempt from the applicable regulatory and statutory requirements under the 1937 Act. The five statutory requirements established under the 1996 MTW Statute cannot be waived. Additionally, in implementing activities, MTW agencies remain subject to all other terms, conditions, and obligations under this Notice, and all other federal requirements applicable to public housing, HCV, PBV, and PHAs. To the extent any MTW activity conflicts with any of the five statutory requirements or other applicable requirements, HUD reserves the right to require the MTW agency to discontinue the activity or to revise it so that the requirements are complied with. HUD also reserves the right to require an MTW agency to discontinue any activity

derived from a waiver should it have unforeseen, significant negative impacts on families, as determined by HUD.

HUD understands that MTW agencies may wish to undertake activities that are not listed in Appendix A and Appendix B. If an MTW agency wishes to implement activities or request waivers that are not included in Appendix A or Appendix B, the MTW agency may seek approval from HUD for doing so via the MTW Supplement to the Annual Plan. (The MTW Supplement is discussed in Section 6 of this Notice.) The MTW agency must obtain explicit prior written approval from HUD for each additional activity and waiver.

If HUD determines that an activity(s) derived from either a general waiver or a conditional waiver would impact or conflict with the specific policy(s) to be studied in the MTW agency's cohort group, the MTW agency will not be able to conduct that activity(s) until the evaluation of the specific policy change has concluded. (Once the evaluation of the policy change is completed, the MTW agency may implement the conflicting activities for the remainder of the agency's term of MTW participation.) 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.

a. General Waivers

The MTW activities derived from the general waivers, within the specified program parameters listed in Appendix A, are available to all MTW agencies when the MTW ACC amendment, or other agreement to be determined by HUD, is executed. The MTW PHA must indicate via the MTW Supplement to its Annual Plan the MTW activities that it will undertake from the general waivers category. Prior HUD approval is not required to implement activities from the general waivers category.

Appendix A contains the full list of general waivers currently available, the MTW activities associated with these general waivers, and the specific parameters around the implementation of those activities.

b. Conditional Waivers

Conditional waivers listed in Appendix B are available to all MTW agencies within certain program parameters, but implementation of these MTW activities may not begin until additional information is received, vetted, and approved by HUD. The additional information required for each

activity associated with a conditional waiver will be specified in the MTW Supplement to the Annual Plan (see Section 6 of this Notice). Conditional waivers are expected to have a greater and more direct impact on assisted households. Consequently, HUD seeks to ensure that adequate protections are in place for participants and MTW agencies prior to implementation. The additional information required must be submitted by the MTW agency via the MTW Supplement and reviewed and approved by HUD before the MTW PHA may implement the activity. Additional information may also be required throughout the time the MTW agency is conducting an activity associated with a conditional waiver. Upon request from the Department for the continued oversight of the conditional waivers, MTW agencies must provide hardship policies, impact analyses and/or other information required by HUD.

Appendix B provides the full list of conditional waivers, the activities associated with these conditional waivers, and any specific parameters around the implementation of those activities.

Waivers and MTW activities that are not provided as a general waiver or conditional waiver may be proposed by MTW agencies to HUD. Such waivers may be needed to implement an initiative being pursued by an MTW agency or may be the result of a local condition. Additional waivers will be reviewed on a case-by-case basis as part of the MTW Supplement review process. MTW agencies may not seek or obtain waivers from nondiscrimination or equal opportunity requirements.

c. Cohort-Specific Waivers

A cohort-specific waiver is one that is not included in the general waivers or conditional waivers categories and that is available exclusively to an MTW agency that is implementing a cohort-specific policy change that requires the waivers. At the time of selection to MTW, each agency will be selected into an evaluative cohort that seeks to test a specific policy change, as specified in that cohort's Selection Notice. To the extent that one or more additional waivers, beyond the general waivers or conditional waivers, are needed to implement a specific policy change, HUD will grant that waiver(s) to the MTW agencies in the cohort as cohort-specific waivers.

The cohort-specific waiver and the associated activity(s) will be described in detail in the applicable Selection Notice so that the MTW agency is aware of this in advance of entry to the MTW demonstration program. One or more

cohort-specific waivers may be associated with a particular cohort of MTW agencies. It is possible that the specific policy changes to be tested through a given cohort would not need any cohort-specific waivers. 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.

More detail on the specific statutory and regulatory citations will be included in the final Operations Notice, which will be published later this summer. Please note that certain regulations will be interpreted to protect Fair Housing and Civil Rights laws and regulations.

Specific Areas for Comment on Waivers

HUD is seeking comment on the general waivers and conditional waivers presented in Appendix A and Appendix B. HUD is specifically seeking comment on the following questions regarding waivers:

- Does the list of general waivers, MTW activities, and parameters in Appendix A and Appendix B contain the needed flexibility to achieve the three MTW statutory objectives? If not, what waivers, activities, and/or parameters are missing?
- Are there any MTW activities and/or waivers that should not be included as general waivers, available to all MTW agencies without prior HUD approval?
- Are there any MTW activities and/or waivers that should not be included as conditional waivers but rather should be included as general waivers, or not included at all?
- Does the list of conditional waivers, MTW activities, and parameters in Appendix B contain the needed flexibility to implement any alternative income-based rent model? If not, what waivers, activities, and/or parameters are missing?

3. Term of Participation

The term of each agency's MTW designation expires at the end of the MTW agency's Fiscal Year 2028. All general and conditional waivers provided through the Operations Notice expire at the end of the agency's term of participation. However, cohort-specific waivers provided to enable a cohort-specific policy change will be extended beyond the agency's term of participation with HUD's specific approval if HUD determines that additional time is needed to evaluate the policy change.

The MTW agency must end all activities requiring MTW-specific waivers upon expiration of MTW

participation, as HUD cannot guarantee that it will be able to extend any waivers beyond that point. For this reason, when entering into contracts with third-parties that draw upon MTW flexibility, the agency should disclose that such flexibility is only available during the term of the 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), if HUD determines that additional time beyond the end of the PHA's MTW term is needed to evaluate the policy change and specifically approves an extension of the cohort-specific waiver(s).

It is the MTW agency's responsibility to plan for the expiration of its MTW agreement and associated waivers. HUD recommends that MTW agencies begin transition planning¹⁰ at least one year in advance of the expiration of its MTW designation. Not later than nine months prior to the agency's expiration date, the agency must submit a transition plan to HUD that describes the agency's plans for phasing out the MTW-specific waivers that it is using, and describes the agency's plans for re-establishing regular reporting to HUD on a standard schedule. After submitting the transition plan to HUD, MTW agencies will begin drafting changes to their policies and procedures documents, notifying participants of any changes to the terms of their residency or rent calculation, planning for the submission of standard data to HUD, and re-training PHA staff as needed.

Specific Areas for Comment on MTW Term of Participation

With respect to the term of MTW participation, HUD is specifically seeking comment on the following questions:

- Assuming all cohorts are selected between 2017 and 2020, is the end of each MTW agency's Fiscal Year 2028 an appropriate timeframe for MTW participation, and understanding that HUD may extend cohort-specific waivers to accommodate evaluation of MTW activities that require additional time?
- Is there a preferable length or structure for the term of MTW participation?

HUD will develop additional guidance on the required elements of the transition plan and a recommended transition process via PIH Notice. HUD is specifically seeking comment on:

- What elements of the MTW agency's transition plan should be mandatory?
- What elements of the transition process should HUD require in order to protect participants from potential harm and minimize disruptions to agency operations?

4. Funding, MTW Block Grant, and Financial Reporting

During the term of the demonstration, HUD will provide the MTW agencies designated pursuant to the 2016 MTW Expansion Statute with public housing Operating Fund subsidies, public housing Capital Fund program (CFP) grants, and Section 8 HCV assistance, as provided in this notice. CFP grants may include Formula grants, Demolition or Disposition Transitional Funding (DDTF, included in regular Formula grants) as well as Replacement Housing Factor (RHF) grants (superseded by DDTF). The funding amount for MTW agencies may be increased by additional allocations of vouchers or by replacement public housing units to which the agency is awarded over the term of its participation in the MTW demonstration.

MTW agencies will have the flexibility to apply fungibility between public housing operating, public housing capital, and HCV assistance into an agency-wide funding source referred to as the "MTW Block Grant." The agency must complete an annual audit pursuant to the Single Audit Act requirements set forth in 2 CFR 200 Subpart F, including any applicable Compliance Supplement(s), as determined by the auditor, to be relevant to MTW and other programs. The Single Audit Act-compliant audit must be submitted to HUD in accordance with HUD regulations.

a. Level of Funding

The 1996 MTW Statute and the 2016 MTW Expansion Statute prohibit MTW agencies from receiving any more or any less funding than they would receive if they were not participating in the MTW demonstration.

The 1996 MTW Statute states, in part, that, "The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation." In addition, the 2016 MTW Expansion Statute states, in part, that, "No PHA granted this designation through this section shall receive more funding under sections 8 or 9 of the 1937 Act than they otherwise would have received absent this designation."

¹⁰ https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_10542.pdf.

b. Calculation of Funding

i. Public Housing Operating Fund Subsidy

(a) The calculation of an MTW PHA's Operating Fund subsidy eligibility will continue in accordance with operating subsidy formula law, regulations, and appropriations act requirements.

(b) The 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 as part of the MTW Block Grant, it may use these funds for any eligible activity permissible under Section 8(o), 9(d)(1) and 9(e)(1) and as specified in this Notice.

(c) For operating subsidy funding provided in years prior to the designation of the agency as an MTW agency, the agency may use any accumulated operating reserves for eligible MTW purposes, subject to applicable provisions of this Notice, subsequent legislation, including appropriations acts, and HUD and other federal requirements.

ii. Public Housing Capital Fund Formula and Grants

(a) The 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. Capital Funds will be disbursed in accordance with standard HUD procedures for disbursement of public housing Capital Fund grants, provided however that the agency may not accelerate drawdown of funds in order to fund reserves.

(b) In requisitioning Capital Fund grant funds, the MTW agency will not be required to provide line item detail in HUD's Line of Credit Control System (LOCCS), but will request the funds using a single MTW line item with the exception of grant funds required for payment of debt service pursuant to the Capital Fund Financing Program (CFFP). The agency will provide to HUD information on all capital activities funded by the MTW Block Grant 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.

(c) The agency may use these funds for any eligible activity permissible under Section 9(d)(1) of the 1937 Act or, if the agency proposes to use the funding as part of the MTW Block Grant, it may use these funds for any eligible activity permissible under

Section 8(o), 9(d)(1) and 9(e)(1) and as specified in this Notice. CFP funds not included in the MTW Block Grant are subject to all requirements relevant to non-MTW agency CFP funding, including eligible activities and cost limits.

(d) For Capital Funds provided in years prior to the designation of the agency as an MTW agency, the agency may use such funds for eligible MTW purposes, subject to applicable provisions of this Notice, subsequent legislation, including appropriations acts, and HUD and other federal requirements.

(e) The 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 are combined in a single block grant fund. 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 PHAs, an MTW PHA may requisition CFP funds from HUD only when such funds are due and payable, unless HUD approves another payment schedule.

iii. Housing Choice Voucher (HCV) Funding

(a) For the calendar year after the MTW agency joins the MTW demonstration (the "Initial Year"), an agency's HCV HAP renewal funding will be calculated based on the previous CY's HAP expenses reported in VMS that originated from HAP funds adjusted by any applicable inflation factor and national proration, in accordance with the funding formula in the appropriations act used for all HCV agencies. This adjusted amount will be the agency's Annual Voucher Budget Authority (AVBA) for the initial year of MTW participation.

(b) For subsequent years, the HCV HAP renewal funding will be calculated as follows:

(i) HCV HAP Renewal funding will be calculated based on (i) the previous CY's HAP expenses reported in VMS that originated from HAP funds plus (ii) the previous CY's eligible non-HAP MTW expenses (subject to the conditions and percentage limitations described below) and (iii) the eligible non-HAP MTW commitments and obligations (subject to the conditions, percentage limitations and utilization requirements described below), the sum of which will be adjusted by any applicable inflation factor appropriate

for the HAP and non-HAP expenses and national proration for the current CY. The resulting adjusted amount is the agency's AVBA for the current CY. The amount of non-HAP expenses and the amount of commitments and obligations that may be included in the above calculation are subject to percentage limitations and utilization requirements described below.

(ii) An MTW agency is required to spend at least 90% of its CY AVBA on eligible HAP expenses each year. If the MTW agency meets this requirement but the actual HAP expenses did not exceed 100% of its CY AVBA, then the agency's eligible non-HAP MTW expenses and the agency's commitments and obligations will be included in its renewal funding eligibility for the next CY as described herein. The amount of eligible non-HAP MTW expenses, commitments, and obligations that will be included in the renewal calculation is limited to the lower of: (a) The amount of AVBA expended, committed, or obligated for eligible non-HAP MTW expenses as reported and validated in VMS, or (b) the amount of AVBA that was not used for HAP expenses, or (c) 10% of AVBA.

(iii) Only HAP expenses that originated from HAP Funds (including HAP reserves) are included in the HAP renewal funding formula. Public Housing Operating funds and Capital funds, and Section 8 Administrative Fee funds that may have been used for HAP expenses as part of MTW flexibility will not be included in the following calendar year's renewal funding formula.

(iv) If an MTW agency expends 100% or more of its AVBA in HAP expenses in a given year, the total HAP expenses will be used for the next CY's Renewal funding formula to the extent that the HAP expenses originated from HAP or HAP reserves. However, none of the funds provided in the renewal formula may be used to fund a total number or unit months under lease which exceeds the MTW agency's authorized level of unit months available under the MTW agency's ACC, in accordance with the funding formula used for non-MTW agencies.

(c) Additional details about the HCV Renewal funding formula are provided below:

(i) Budget Utilization Requirement. Starting in the Initial Year of MTW funding, and for the duration of its participation in the MTW demonstration, the MTW agency must spend at least 90 percent of each CY's MTW AVBA on HCVP eligible HAP expenses in the funded year. Eligible HAP expenses are defined in HUD's

Voucher Management System (VMS) guidebook (or the guidebook of any successor system). HUD's VMS (or its successor system) will be the data source to verify compliance with the HCVP budget utilization requirement throughout the duration of participation in the MTW demonstration. If performance below the 90% utilization requirement persists, HUD may take appropriate corrective actions including, but not limited to, the restriction of uses of funds, other administrative actions, including the termination of the MTW agency's participation in the MTW demonstration.

(ii) HAP-Originated Reserves. Any reserves the MTW agency has accumulated prior to the start of the Initial Year may be used for any eligible MTW activity. If pre-existing reserves before the start of the Initial Year are used for HAP expenses, those expenses will be included in the subsequent year's funding formula to the extent those funds originated from HAP. Any sum generated by the MTW agency in the Restricted Net Position (RNP) account or HUD-held reserves after the effective date that the MTW agency receives MTW designation shall remain available and may be used for all eligible MTW activities, subject to applicable provisions of this Notice, subsequent legislation, including appropriations acts, and other HUD requirements. HAP-Originated reserves accumulated after the effective date that the MTW agency receives MTW designation will be included in the subsequent year's funding formula if spent on HAP expenses.

(iii) Limitation of Amount of HUD-Held Reserves. The maximum HAP-Originated funds in HUD-held reserves cannot exceed 100% of AVBA. If the total amount of HAP-Originated reserves at CY end exceeds 100% of AVBA, any reserves originated from HAP in excess of this amount will be reduced from the subsequent year's funding formula.

(iv) Cash Management Requirements Apply. All undisbursed HAP funds including HAP-Originated reserve funds will be held as HUD-held reserves per OMB cash management requirements and can be requested by the MTW agency when HAP (or non-HAP) immediate need exceeds the scheduled HAP and Fee monthly disbursements, but only after consideration of available MTW agency-held RNP or unrestricted net position (UNA), respectively. Any sum held by the MTW agency as excess administrative fee funds (Unrestricted Net Position) shall remain available to the MTW agency. All excess

administrative fee funds may be used for any eligible MTW activities.

(v) Commitments/Obligations of Funds. Commitments and obligations of funds that will be used for eligible MTW activities in the future will receive consideration in the HCV Renewal funding formula as described above. Committed and obligated funds remain part of HUD-held reserves until drawn down and all cash management requirements and other rules applicable to reserve amounts apply. In addition, committed and obligated funds may be subject to HUD reserve offsets as part of future Congressional Appropriations Bills.

• **Commitments.** A commitment is the setting aside or earmarking of undisbursed and unobligated funds to be used for eligible MTW activities in the future. An MTW agency may commit funds to planned future MTW eligible uses, as evidenced in the MTW Supplement to the Annual Plan which must be adopted by the board. For commitments to qualify for consideration in the Renewal funding formula, an MTW agency must describe its future plans to use the funds for a certain type of MTW eligible use with sufficient supporting detail in the MTW Supplement to the Annual PHA Plan. Such detail may include the program type (*i.e.*, public housing, housing voucher, both, or local, non-traditional), development number/name, description of work or activity, quantity, estimated cost, anticipated timeline, and other information as applicable. Committed unspent MTW funds must be reported in VMS in the Unspent MTW Funds section (see VMS User's Manual for more details). An MTW agency may update and revise commitments as necessary, in response to changing local conditions.

• **Obligations.** An obligation is a legally binding agreement that will require an outlay or expenditure of funds, immediately or in the future. An example of an obligation is an executed construction contract between the MTW agency and a construction company. Obligated unspent MTW funds must be reported in VMS in the Unspent MTW Funds section (see VMS User's Manual for more details). HUD intends to exclude obligated funds in HUD-held reserves from Congressional offset to the extent that future statutory language would allow such exclusion.

(vi) 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 other public housing agencies.

Administrative fees will be paid 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 appropriations act requirements to the total eligibility amount.

(vii) Incremental Vouchers. If the MTW agency receives incremental HCVP vouchers and funding (including tenant protection vouchers), other than special purpose vouchers (described in (x) below), renewal funding for those vouchers will be included in the MTW HCV renewal funding eligibility calculation for the following year. (See Section 8 of this Operations Notice for further discussion of tenant protection and other special purpose vouchers.) The MTW agency's renewal funding eligibility (which includes renewal funding associated with these vouchers) remains subject to the budget utilization requirement detailed above. The renewal amount is based on the MTW per unit cost (PUC), any months not covered by initial increment, and adjusted by the inflation factor. Incremental vouchers included in the MTW agency's renewal funding eligibility will be funded pursuant to the current year's per unit funding amount.

(viii) Adjustments for the first-time renewal of certain vouchers. HUD will also make adjustments to the renewal funding for the first-time renewal of certain vouchers that are included in the MTW HAP renewal calculation when the funding increment will expire during the CY.

(ix) Applicable inflation factor and proration. The same applicable inflation factor that applies for 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, based on the total eligibility of all MTW agencies compared to the actual amount appropriated for HAP renewal funding for the CY.

(x) 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, based on a weighted MTW per unit cost (PUC), plus inflation factor and the applicable proration factor. RAD component II conversions are funded in accordance with the incremental voucher section above. Administrative fees for RAD vouchers will be established based on the same methodology used to establish administrative fees in (vi) of this section. Fees for RAD vouchers will be prorated at the same level that applies to all non-MTW agencies.

(xi) Voucher Programs Not Included in MTW Program. Vouchers and funding provided for the following special purpose vouchers, whether for new allocations or renewal of existing increments, shall not be included in the HCV MTW Program renewal calculation: Five Year Mainstream, Moderate Rehabilitation renewals, Veterans Affairs Supportive Housing (VASH), Non-Elderly Disabled (NED), and Family Unification Program (FUP). These vouchers will be renewed under the regular voucher renewal requirements as provided under the appropriations acts. Special purpose vouchers are discussed in more detail in Section 8 of this Operations Notice.

c. MTW Block Grant and Flexibility

An agency participating in the MTW demonstration program may combine public housing Operating and Capital Funds provided under Sections 9(d) and 9(e) of the 1937 Act and voucher program funds provided under Section 8 of the 1937 Act as the MTW Block Grant. Certain provisions of Sections 8 and 9 of the 1937 Act and 24 CFR 982 are waived as necessary, to implement the MTW Block Grant. MTW Block Grant flexibility is optional and does not require prior HUD approval.

The agency may use MTW Block Grant funds 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 this Notice, including Appendix A and B. Within the scope of the permissible eligible activities, the agency can carry out the purposes of the MTW demonstration program to provide flexibility in the design and administration of housing assistance to eligible families; (1) To reduce cost and achieve greater cost effectiveness in federal expenditures, (2) to 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 (3) to increase housing choices for low-income families.

The agency may use MTW Block Grant funds to support the evaluation of MTW activities subject to reasonable cost requirements set forth in 2 CFR part 200.

d. Financial Reporting and Auditing

MTW agencies must submit year-end unaudited and audited financial information to the Department using the Financial Data Schedule (FDS) contained in the Real Estate Assessment Center's (REAC) Financial Assessment Subsystem (FASS-PH), or its successor system. Financial reporting requirements for MTW agencies are currently posted on the REAC Web site at http://www.hud.gov/offices/react/products/fass/fass_pdf/mtw-reporting.pdf.

An MTW agency must submit unaudited financial information into REAC's FASS-PH, or its successor system, within 60 days of the end of its fiscal year, and audited financial information with nine months of the end of its fiscal year. REAC reviews financial submissions for basic financial soundness (e.g., cash balances, accounts receivable and accounts payable, quick ratio, current ratio, etc.). The MTW agency will keep project level budgeting and accounting and report financial information in the FDS. The MTW agency will abide by project level management reviews in accordance with Asset Management guidance contained in PIH Notice 2007-9, or any successor guidance. The MTW agency will conform to the cost requirements of 2 CFR 200 and any HUD implementation thereof.

The MTW agency 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. An MTW agency that may be otherwise exempt from a single audit will be required to perform an annual financial statement audit as a condition of becoming an MTW agency under the MTW Expansion.

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 assure finding closure. If there are audit findings related to the

MTW program itself, HUD will monitor the resolution of all audit findings.

Specific Areas for Comment on Funding, MTW Block Grant, and Financial Reporting

With respect to funding, MTW Block Grant, and financial reporting, HUD is specifically seeking comment on the following questions:

- Is a 90 percent HAP budget utilization requirement the appropriate amount?
- What sanctions or restrictions should HUD consider using should an MTW agency continue to fail to meet the budget utilization requirement?
- Are there other methods for calculating HCV funding that HUD should consider?
- Are there other factors HUD should consider in the calculation of funding?
- Are there any comments or clarifications needed in relation to funding, the MTW Block Grant, or financial reporting?

5. 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, to keep records, and to submit reports and other information as required by HUD. This includes any data collection required for the use of waivers (e.g., conditional waivers) and any evaluation efforts that HUD undertakes for the cohort-specific policy changes.

MTW is a demonstration that provides PHAs flexibilities to innovate and try different approaches to housing assistance in order to achieve at least one of the three statutory objectives laid out in the 1996 MTW Statute. At its core, the demonstration is an opportunity for PHAs, participants, HUD, stakeholders and the general public to learn from different approaches to providing federal housing assistance to low-income families. This includes learning from approaches that are effective and produce desired outcomes, and from approaches that are less effective than anticipated and where results may have unintended consequences.

Because PHAs have the ability to use different flexibilities calling on multiple MTW waivers that serve local populations in various parts of the country, interpreting PHA-reported performance metrics data on the effects of an individual MTW activity is not always clear-cut. Consequently, and while adhering to the guiding principles for the expansion (simplify, learn, and apply), HUD will create and develop an

evaluation system that will tell the story of the MTW demonstration through the lens of the three statutory objectives relating to cost effectiveness, self-sufficiency, and housing choice.

HUD envisions two types of evaluation—program-wide evaluation and cohort-specific evaluation. Through this notice, HUD is seeking feedback on each of these evaluation types.

a. Program-Wide Evaluation

Program-wide evaluation would seek to assess whether or not, and to what extent, MTW agencies use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. HUD intends to develop performance metrics for program-wide evaluation that are based, to the extent possible, on information already being collected from MTW

agencies through existing HUD administrative data systems. HUD may determine and require that some additional reporting is necessary to effectively evaluate MTW.

The following are examples of potential performance metrics that could be used for each statutory objective; the list is not exhaustive and will be revised further with feedback from this notice and additional internal evaluation:

MTW statutory objective:	Potential performance metrics
<ol style="list-style-type: none"> 1. Reduce cost and achieve greater cost effectiveness in federal expenditures. 2. Give incentives to families with children where the head of household is working; is 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. 3. Increase housing choices for eligible low-income families 	<ul style="list-style-type: none"> • Administrative cost savings per unit in direct program administration (HCVP and public housing) and indirect costs. • Changes in rental revenue. • Changes in number of families served. • Changes in employment rates or hours worked. • Changes in earned income levels since entering the program. • Changes in rent burden. • Changes in number of households receiving supportive services aimed to increase self-sufficiency. • Changes in the quality and type of housing stock accessible to extremely low-income, very low-income, and low-income households. • Changes in the percentage of households moving to or living in areas with lower rates of poverty. • Changes in occupancy rates in public housing and utilization rates of housing vouchers. • Changes in average applicant time on waiting list.

b. Cohort-Specific Evaluation

The 2016 MTW Expansion Statute requires HUD to direct all the agencies in a cohort to implement one specific policy change and to conduct a rigorous evaluation of the one specific policy change. The MTW Research Advisory Committee has considered input from the public and advised HUD on the policy changes to be tested through the new cohorts of MTW agencies and on the methods of research and evaluation.

The cohort-specific policy change and evaluation methods will be described in the applicable Selection Notice so 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 specific evaluation methods (and requirements for participating MTW agencies) will vary based on the policy changes to be tested. Some cohorts of MTW agencies may be required to participate in Randomized Control Trials (RCTs), while others may be required to participate in detailed process studies or ethnographic research. HUD’s Office of Policy Development and Research is seeking funding for evaluating cohort-specific policy changes. In all 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.

HUD will determine the length and timeframe for the evaluation based on the recommendations of the MTW Research Advisory Committee. In some cases, the evaluation timeframe may extend beyond the agency’s term of MTW participation. The MTW agency is required to participate in the evaluation for the full timeframe designated by HUD. HUD intends to extend waivers beyond the agency’s term of participation to the extent that those waivers are needed to support the evaluation of the specific policy change and HUD determines that additional time is needed to evaluate the policy change.

Specific Areas for Comment on Evaluation

With respect to the program-wide evaluation, HUD is specifically seeking comment on the following questions:

- Is there any information not captured in HUD administrative data systems that would provide informative data points or performance metrics for evaluating the MTW demonstration?
- What are measures of MTW activities that “reduce cost and achieve greater cost effectiveness in Federal expenditures” that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?

• What are measures of MTW activities that “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” that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?

- Should HUD standardize a definition of “self-sufficient”? If so what elements of self-sufficiency should be included in HUD’s definition?
- What are measures of MTW activities that “increase housing choices for low-income families” that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?
- What is the best way to capture and report exit data on families exiting the Public Housing, HCV, and local non-traditional housing programs? What are the appropriate exit reasons to capture?
- Is there any information not captured in HUD administrative data systems that would be informative data points or performance metrics in terms of evaluating the MTW demonstration?
- In the list of performance metrics provided above, should any be clarified or removed?
- Are there any alternative or additional metrics that would enhance

performance evaluation on the MTW demonstration?

With respect to the cohort-specific evaluation, HUD will consider the advice provided by the MTW Research Advisory Committee.

6. 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 Plan) and Capital Fund planning. MTW agencies must also report data in HUD data systems, as required.

New protocols and instruments will be developed for assessing MTW PHA performance, and incorporated into HUD's Public Housing Assessment System (PHAS) and Section Eight Management Program (SEMAP), or successor assessment systems. 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 PHA Plan

MTW agencies must adhere to Public Housing Agency Plan regulations at 24 CFR part 903, any implementing HUD Notices and guidance, as well as any succeeding regulations. The PHA Plan consists of the 5-Year Plan that a PHA must submit to HUD once every five PHA fiscal years and the Annual Plan that the PHA must submit to HUD for each PHA's fiscal year. Any HUD assistance that the PHA is authorized to use under the MTW demonstration must be used in accordance with the PHA's Annual Plan, as applicable.

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 (HA), issued October 23, 2015, which is effective until amended, superseded or rescinded. The MTW agency must submit:

- HUD-50075-5Y, the 5-Year Plan
- HUD-50075-HP, the Annual Plan for high performing agencies, along with supporting documents
- HUD 50077-ST-HCV-HP
- HUD-50077-SL
- Resident Advisory Board (RAB) comments received
- Any challenged elements of the Plan
- MTW Supplement to the Annual Plan (under development)

As an MTW agency, all PHA Plan information must be provided in the

context of the PHA's participation in the MTW demonstration. This includes taking into account the waivers and flexibilities afforded to the MTW agency. To this end, the MTW agency will provide and HUD will make available to the public, an MTW Supplement to the Annual Plan, in a format to be developed by HUD. HUD anticipates that MTW agencies would use the MTW Supplement to the Annual Plan to:

(a) Indicate the MTW activities and associated waivers that the agency will undertake in the Annual Plan year that require general waivers (Appendix A) using a check-box or other simple format.

(b) Indicate the MTW activities and associated waivers that the agency will undertake in the Annual Plan year that require conditional waivers (Appendix B) using a check-box or other simple format.

(c) Indicate the MTW activities that the agency will undertake in the Annual Plan year that require cohort-specific waivers (as applicable and identified in each cohort's Selection Notice), and the cohort-specific waivers to be used, using a check-box or other simple, non-narrative format.

(d) Submit specific information or data required by HUD for any conditional waiver(s) the agency intends to use for the first time in the Annual Plan year.

(e) Submit data or reporting required for the ongoing use of any MTW waivers from the preceding year.

(f) Submit data required for HUD's verification of the MTW agency's compliance with the five statutory requirements established under the 1996 MTW Statute.

(g) Request HUD approval for any MTW activities and waivers that the MTW agency seeks to implement in the Annual Plan year that are outside of the lists of general, conditional, and cohort-specific waivers.

Non-MTW PHAs with a combined unit total of 550 or less public housing units and vouchers and that are not designated as troubled under PHAS and that do not have a failing score under SEMAP are exempt from the requirement to submit the Annual Plan. Per this Operations Notice, MTW agencies with a combined unit total of 550 or less public housing units and vouchers would be required, at a minimum, to submit the MTW Supplement to the Annual Plan on an annual basis.

MTW agencies must submit to HUD the Annual PHA Plan, including any required attachments and the MTW supplement, no later than seventy-five

(75) days prior to the start of the agency's fiscal year.¹¹ Before submission to HUD, the PHA must have a 45-day public review period and a public hearing. PHAs must consider, in consultation with the RABs, all the comments received at the public hearing. The recommendations received must be submitted by the PHAs as a required attachment to the Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations. PHAs must also obtain the proper signed certifications and board certification.

HUD will notify the MTW agency in writing if HUD objects to any provisions or information in the Annual Plan or the MTW supplement. When the MTW agency submits its Plan seventy-five (75) days in advance of its fiscal year, HUD will respond to the MTW agency within 75 days. If HUD does not respond to the MTW agency within 75 days after an on-time receipt of the Annual Plan, the agency's Annual Plan (and MTW Supplement) is approved. If HUD does not receive the agency's Annual Plan on time, the Plan is not approved until HUD responds.

ii. Admissions and Continued Occupancy Policy (ACOP) and Administrative Plan

The MTW agency must update its ACOP and Administrative Plan to be consistent with the MTW activities and related waivers that it implements. The 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 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.

In addition, the PHA must review its Administrative Plan, ACOP, and other selection and admissions related policies to ensure that they comply with Departmental regulations and other directives concerning the use of criminal records and other criminal activity in admissions and continued occupancy decisions. The PHA's policies and procedures may not permit the automatic exclusion of an applicant

¹¹ It is understood that the requirements in the remainder of this section refer to the Annual Plan and the MTW Supplement if the MTW agency is required to submit the Annual Plan and only to the MTW Supplement if the MTW agency is not required to submit an Annual Plan as discussed in the previous paragraph.

or participant on the basis of the record of a criminal arrest alone. The same applies to policies and procedures concerning prospective tenant screening by landlords and other third parties. HUD may review the PHA's admissions and continued occupancy policies to ensure compliance with HUD requirements concerning criminal records and criminal activity. For more information, see the related letter from HUD's Office of General Counsel at: https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf and PIH's related notice at <https://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

iii. 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 succeeding 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 combine CFP funds with other funds as part of the MTW Block Grant. HUD will award a Capital Fund grant to the MTW agencies, in keeping with the standard process for all PHAs. The Field Office will spread the funds in LOCCs to the MTW agencies in the same manner as for the non-MTW agencies. As with other PHAs, an MTW PHA may requisition Capital Funds from HUD only when such funds are due and payable, unless HUD approves another payment schedule. To the extent that the MTW agency places CFP funding in the MTW Block Grant, the CFP funding would be recorded on Budget Line Item (BLI) 1492 (Moving to Work) on form HUD-50075.1. 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, an MTW PHA may not accelerate drawdowns of funds in order to fund reserves.

An MTW agency is not required to include all or a portion of its CFP grant in the MTW Block Grant. To the extent that the MTW agency wishes to dedicate all or a portion of its CFP grant to specific capital improvements, the agency may record CFP funding on any BLI on form HUD-50075.1 other than BLI 1492.

iv. Inventory Management System (IMS)/PIH Information Center (PIC) Reporting

Data from HUD's Inventory Management System (IMS) and PIH Information Center (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 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 or Form HUD-50058 MTW (or successor forms) and in compliance with HUD's 50058 or 50058 MTW submission requirements for MTW agencies. HUD will identify which form the MTW agencies will submit for families in the publication of the final Operations Notice. 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 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, email 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.

v. Voucher Management System (VMS) Reporting

MTW agencies are required to report voucher utilization in the Voucher Management System (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 (<http://portal.hud.gov/hudportal/documents/huddoc?id=instructions.pdf>) which details the VMS reporting requirements.

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

vi. General Reporting Requirement

In addition to the reporting requirements outlined in this 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, including the requirement (discussed in Section 5) to comply with HUD's evaluation of the specific-policy changes being implemented by cohort.

b. Performance Assessment

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

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 depict the performance of MTW agencies under the existing systems, HUD will develop alternative, MTW-specific performance indicators in consultation with MTW agencies and incorporate them into PHAS and SEMAP (or successor assessment system(s)). MTW agencies may not opt out of the MTW-specific successor system(s).

i. Public Housing Assessment System (PHAS)

MTW agencies are scored in PHAS but they can elect not to receive the overall score (MTW agencies continue to receive PHAS sub-scores even if they elect not to receive the overall score). 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 performance indicators designed specifically for MTW agencies in a successor system(s) to PHAS, whichever comes first. Once developed, MTW agencies that elect not to receive an overall PHAS score must be assessed under the MTW-specific successor system(s).

Per 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. The actions to be taken by HUD and the PHA will include actions statutorily required and such other actions as may be determined appropriate by HUD. These actions may include developing and executing a Memorandum of Agreement (MOA) with the MTW agency, suspension or termination of the MTW ACC amendment, or other agreement to be determined by HUD, in accordance with the provisions therein, or such other actions legally available to the Department.

MTW agencies must continue to submit year-end financial information into the Financial Data Schedule (FDS) or successor system, as discussed earlier.

ii. Section 8 Management Assessment System (SEMAP)

MTW agencies are scored in SEMAP but they can elect not to receive the overall score. 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 an assessment system designed specifically for MTW agencies, whichever comes first. Once developed, MTW agencies that opt out of SEMAP must be assessed under the MTW-specific successor system(s).

iii. MTW-specific Assessment

HUD will develop new performance indicators for evaluating MTW agencies and for measuring the relative progress of assisted families toward self-sufficiency. Such MTW-specific performance indicators will be incorporated into PHAS and SEMAP (or successor system(s)) for purposes of MTW agencies and will address PHA

performance (general public housing and Section 8 HCV management, as well as MTW-specific activities) and PHA risk associated with MTW.

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, use of HUD data systems to assess PHA program performance, among other activities.

i. MTW Statutory Requirements

Throughout participation in the MTW demonstration program, all MTW agencies must continue to meet five statutory requirements established under the 1996 MTW Statute. HUD will monitor and determine MTW agencies' compliance with these five requirements as follows:

MTW statutory requirement:	HUD verification approach:
1. MTW agencies must ensure that at least 75 percent of the families assisted are very low income families, as defined in section 3(b)(2) of the 1937 Act..	HUD will verify this requirement by pulling Public Housing and HCV data from PIC, or its successor system, and the MTW agency will provide income data for its families served through local, non-traditional housing programs, if any, in the MTW Supplement to the Annual Plan.
2. MTW agencies must establish a reasonable rent policy.	HUD will verify this requirement through its review of the MTW Supplement to the Annual Plan.
3. MTW agencies must continue to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined..	HUD will verify this requirement in accordance with the calculation in Notice PIH-2013-02, Baseline Methodology for MTW agencies, or successor notice.
4. 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 will verify this requirement by pulling Public Housing and HCV data from PIC, or successor system.
5. MTW agencies must ensure that housing assisted under the demonstration meets housing quality standards established or approved by the Secretary..	HUD will verify this requirement through its review of PHAS Physical scores, or successor assessment system.

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, and utilize EIV for all income verifications. EIV has been modified for MTW agencies so that family information submitted in 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 a site visit to provide guidance, discuss the MTW agency's MTW activities, and offer needed technical assistance regarding its program. The purpose of the site visit will be to confirm reported agency MTW activities, to review the status and effectiveness of the agency's MTW strategies, 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 it will ensure that HCV funds are fully utilized, subject to Section 6(a)(iii)(c) of this notice. Where leasing levels are inconsistent, HUD may take appropriate actions to work with the MTW agency to increase 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, 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.

Specific areas for comment on Program Administration and Oversight

With respect to planning and reporting requirements for MTW agencies, HUD is specifically seeking comment on the following questions:

- Is the MTW Supplement to the Annual Plan, as described, an appropriate mechanism for HUD to track MTW agencies' activities and use of waivers? Are there specific elements that should be included in the MTW Supplement to the Annual Plan?
- Should MTW agencies with a combined unit total of 550 or less public housing units and Section 8 vouchers be exempt from the requirement to submit the Annual Plan? If so, how should HUD collect information on the activities and waivers implemented over the course of the demonstration?
- Do you have suggestions for how HUD can strengthen the public engagement process to ensure that participants have an opportunity to offer meaningful input in the selection and implementation of MTW activities?

With respect to public housing and voucher program performance assessment for MTW agencies, HUD is specifically seeking comment on the following questions:

- How could HUD measure public housing and voucher program performance for MTW agencies and incorporate those measures into PHAS and SEMAP?
- Are there MTW-specific indicators that should be included in a revised PHAS and SEMAP assessment?
- Should an MTW agency retain its high-performer status in PHAS or SEMAP until MTW specific indicators are developed?

With respect to monitoring and oversight for MTW agencies, HUD is specifically seeking comment on the following questions:

- Are HUD's monitoring and oversight efforts sufficient for MTW agencies?
- What are the specific areas of risk that should be considered for MTW agencies?
- Are there additional areas that should be monitored for MTW agencies?

7. Rental Assistance Demonstration (RAD) Program

MTW agencies converting public housing program units to Section 8 assistance under the Rental Assistance Demonstration (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 Project-Based Voucher (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, PIH-2012-32, REV-2 or its successor notice.¹²

8. Applying MTW Flexibilities to Special Purpose Vouchers

Special Purpose Vouchers (SPVs) are specifically provided for by Congress in line item appropriations which distinguish them from regular vouchers. Generally, SPVs are not part of the MTW demonstration. Following is guidance on how MTW flexibilities may be applied to specific types of SPVs, which can be found on the MTW Web site¹³.

a. Veteran Affairs Supportive Housing (HUD-VASH)

HUD-VASH vouchers have separate operating requirements and must be administered in accordance with the requirements listed at www.hud.gov/offices/pih/programs/hcv/vash. The operating requirements waive and alter many of the standard HCV statutes and regulations at 24 CFR 982. Unless stated in the HUD-VASH operating requirements, however, the regulatory requirements at 24 CFR 982 and all other HUD directives for the HCV program are applicable to HUD-VASH vouchers. PHAs may submit a request to HUD to operate HUD-VASH vouchers in accordance with MTW administrative flexibilities.

¹² Notices and laws related to RAD can be found at <http://portal.hud.gov/hudportal/HUD?src=/RAD/library/notices>.

¹³ https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_10495.pdf.

b. Family Unification Program (FUP)

The FUP 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 FUP NOFA. In the event of a conflict between the Final Operations Notice and the appropriations act or FUP NOFA language, the act and NOFA govern.

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

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

d. Enhanced Vouchers and Tenant Protection Vouchers

Enhanced and tenant protection vouchers funds will be fungible one year after a family receives the voucher. The family must still be provided assistance until the end of the initial protection period which lasts until the family moves out of the residence where the voucher was originally received or is terminated from the program. Once the initial protection period ends, the enhanced or tenant protection voucher becomes a regular voucher. MTW agencies must follow the procedures described in PIH Notice 2013-27, or its successor notice, when the recipient of an enhanced voucher voluntarily agrees to relinquish such assistance in exchange for the provision of PBV assistance.

9. Regionalization

The 2016 MTW Expansion Statute states that:

- The Secretary may, at the request of an MTW agency and one or more adjacent PHAs in the same area, designate that MTW agency as a regional agency.
- An MTW agency may be selected as a regional agency if the Secretary determines that unified administration of assistance under sections 8 and 9 by that agency across multiple jurisdictions will lead to a) efficiencies and to b) greater housing choice for low-income persons in the region.
- A regional MTW agency may administer the assistance under sections 8 and 9 of the 1937 Act for the participating agencies within its region pursuant to the terms of its MTW ACC

amendment, or other agreement to be determined by HUD, with HUD.

- The Secretary may agree to extend the term of the ACC amendment, or other agreement to be determined by HUD, and to make any necessary changes to accommodate regionalization.

HUD will operationalize this regionalization provision through the same terms and conditions as the MTW Operations Notice. HUD will issue a separate PIH Notice addressing the criteria for designation as a regional MTW agency, the mechanisms for administration by the regional MTW agency on behalf of participating agencies, and the procedures for extending or modifying MTW activities to accommodate regionalization.

Specific Areas for Comment on Regionalization

In anticipation of the guidance that HUD plans to issue on regionalization, HUD seeks comment on the following issues:

- How should “adjacent” be defined for the purposes of identifying which PHAs should be allowed to be part of an MTW agency’s regional agency designation? Should regional MTW agencies extend across state borders?
- What flexibilities should the regional MTW agency be able to administer on behalf of its regional partners? Should the partner PHAs have full flexibility in the use of funds?
- How should regional partners be included in the MTW evaluation process? What data should they need to submit in conjunction with the MTW agency?
- What form of governance structure, if any, should be formed between the regional MTW agency and its partner PHAs?
- What form should the agreement (*i.e.*, contract, memorandum of understanding, partnership agreement, etc.) take between the regional MTW agency and its PHA partners?
- Should the criteria for regionalization be the same for current MTW agencies and PHAs that join under the expansion?
- Should HUD issue a revised Public Housing and Voucher Consortia Rule to further the regionalization concept?

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

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

i. 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));

ii. Section 12 of the 1937 Act (42 U.S.C. 1437j), as amended, shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance; and

iii. Section 18 of the 1937 Act (42 U.S.C. 1437p, 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.

iv. 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 any requirement contained in this Notice or any MTW waiver granted herein, other federal, state and local requirements applicable to public housing or HCV assistance will continue to apply. The ACC Amendment, or agreement to be determined by HUD, will place in HUD the authority to determine if any future law or future regulation conflicts with any MTW-related agreement or Notice. If a future law conflicts, the law shall be implemented, and no breach of contract claim, or any claim for monetary damages, may result from the conflict or implementation of the conflicting law or regulation.

If any requirement applicable to public housing, outside of the 1937 Act, contains a provision that conflicts or is inconsistent with any MTW waiver granted by HUD, the PHA remains subject to the terms of that non-1937 Act 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.

- *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 and policies that may have a discriminatory effect 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. 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, as well as a statement of the PHA’s strategies and actions to achieve fair housing goals outlined in an approved Assessment of Fair Housing consistent with 24 CFR 5.154. If the PHA does not have a HUD accepted AFH, it must still provide a civil rights certification and statement of the PHA’s fair housing strategies, which would be informed by the corresponding jurisdiction’s AFH or Analysis of Impediments to Fair Housing Choice and the PHA’s assessment of its own operations.

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 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.. PHAs should review PIH Notice 2011-31 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 ACC Amendment, or other agreement as determined by HUD, The PHA 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, a contract between each current PHA and HUD. The 2016 MTW Expansion Statute extended the term of the Standard MTW Agreement for these existing MTW agencies through each PHA's 2028 fiscal year.

Some PHAs that entered the MTW demonstration prior to the 2016 MTW Expansion Statute may wish to opt out

of their Standard MTW Agreement and join the MTW Expansion. HUD will support an existing MTW PHA's request to join the MTW Expansion provided that:

- The PHA 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 new framework;
- The PHA follows the same public comment and Board resolution process as would be required for amending the Standard MTW Agreement; and
- The PHA agrees 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 ACC amendment, or other agreement as determined by HUD.

The only difference between an MTW agency admitted pursuant to the 2016 MTW Expansion Statute and an existing MTW PHA that elects to join the new framework will be that the existing MTW PHA joining the framework described in this Operations Notice will not be required to implement the specific policy change associated with each cohort of post-2016 MTW agencies and will not be required to participate in the evaluation of that specific policy change.

Specific areas for comment on MTW Agencies Admitted Prior to 2016 MTW Expansion Statute

With respect to MTW agencies admitted prior to the 2016 MTW

Expansion Statute, HUD is specifically seeking comment on the following questions:

- Is it appropriate to permit existing MTW agencies to come under the framework of this Operations Notice and associated ACC amendment, or other agreement as determined by HUD?
- Should these existing PHAs be subject to any different or supplemental requirements?

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. Sanctions, terminations, and default are covered in the PHA's MTW ACC amendment, or other agreement as determined by HUD.

III. **Environmental Impact**

1. *Purpose and Applicability*

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 will be available for public inspection on www.regulations.gov.

Dated: January 13, 2017.

Jemine A. Bryon,

General Deputy Assistant, Secretary for Public and Indian Housing.

APPENDIX A—GENERAL WAIVERS

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
Activities Related to Public Housing and Housing Choice Vouchers				
Limited Lease Terms.	The Agency may develop and adopt a program to limit the term of assistance in Section 8 and 9 programs in order to create a new limited lease term housing program. Successful participants in these programs will be eligible for transfer to the Agency's public housing or HCV programs. The Agency will ensure that these programs do not have a disparate impact on protected classes, and 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 residents of such programs be required to participate in supportive services that are targeted at 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.	Certain provisions of Sections 3, 4, 5, 6, 8, and 9 of the 1937 Act and 24 CFR 966 Subpart A, 960 Subpart B, and 982.303.	<p><i>Limited Lease Term Housing Program (PH):</i> The Agency may create a limited lease term housing program with reasonable conditions in its public housing program.</p> <p><i>Limited Lease Term Housing Program (HCV):</i> The Agency may create a limited lease term housing program with reasonable conditions in its HCV program.</p>	Successful participants must be eligible to transfer into regular public housing/HCV programs; must not have disparate impact on a protected class or other protected characteristic; policies, procedures, and programs must be consistent with applicable nondiscrimination and equal opportunity authorities, including but not limited to Section 504 of the Rehabilitation Act; participants are not required to participate in services targeted to persons with disabilities; admission is not conditioned on a diagnosis or specific disability of an applicant or participant family. The term of assistance may not be shorter than 6 months. Agencies seeking to create a limited lease term program that goes beyond the activities listed in this waiver may propose an activity under the Local Non-Traditional Activities Rental Subsidy Program Waiver located in the Conditional Waivers.
Homeownership Program.	The Agency is authorized to use the Section 8 Homeownership Program as the basis for providing homeownership opportunities to families who are low-income, including public housing residents, HCV or PBV tenants, or other low-income families. Participants in this Homeownership Program will be subject to the Section 8 occupancy and admission requirements. Subject to subsidy layering review, the Agency is authorized to apply the Section 8 Homeownership requirements to families who are low-income, including public housing and other low-income families. The Section 8 Homeownership requirements can be modified to provide soft second mortgages or down payment assistance to participating low-income families or to provide monthly HAP payments to HCV recipients.	Certain provisions of Sections 5, 9, 24, 32, 35, 8(o)(15) and 8(y) of the 1937 Act, 24 CFR 905, 906, 24 CFR 982.625 through 982.643.	<i>Homeownership (Both):</i> The Agency may create a homeownership program that includes soft second mortgages or down payment assistance to low income families including PH residents, PBV and HCV families in lieu of monthly HAP.	Inventory removal of current public housing units must be approved in advance by HUD. The Agency is required to submit a Section 32 homeownership application to HUD via the Inventory Removal Submodule of IMS/PIC. If the Agency is seeking to waive portions of 24 CFR 906, then the Agency must include those regulations as part of the Section 32 Homeownership application. Note that the disposition requirements of Section 18 and 24 CFR Part 970 do not apply to the sale of public housing units in accordance with the Section 32 homeownership plan. Assistance under this waiver is still subject to subsidy layering review. Recruitment, eligibility, and selection policies and procedures must be consistent with the Department's nondiscrimination and equal opportunity requirements.

APPENDIX A—GENERAL WAIVERS—Continued

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
<p>Authorizations Related to Family Self Sufficiency.</p>	<p>The Agency is authorized to operate any of its existing self-sufficiency and training programs, including 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. In developing and operating such programs, the Agency is authorized to establish strategic relationships and partnerships with local private and public agencies and service providers to leverage expertise and funding. In implementing this waiver, the Agency must execute a contract of participation, or other locally developed agreement, that is at least 5 years but no more than 10 years. However, notwithstanding the above, any funds granted pursuant to a competition must be used in accordance with the NOFA and the approved application and work plan.</p>	<p>Certain provisions of Section 23 of the 1937 Act and 24 CFR 984.</p>	<p><i>Waive Operating a Required FSS Program (Both):</i> The Agency is authorized to waive its requirement to operate the traditional FSS program.</p> <p><i>Alternative to Program Coordinating Committee (Both):</i> The Agency is authorized to create an alternative structure for securing local resources to support an FSS program.</p> <p><i>Alternative Family Selection Procedures (Both):</i> The Agency is authorized to develop its own recruitment and selection procedures for its FSS program(s).</p> <p><i>Modify or Eliminate the Contract of Participation (Both):</i> The Agency is authorized to modify the terms of, or eliminate the contract of participation, in lieu of a local form.</p>	<p>Recruitment, eligibility, and selection policies and procedures must be consistent with the Department's nondiscrimination and equal opportunity requirements. Agency may not require families to participate in the program as a condition of receiving housing assistance. Agency may not include current work status, work history and/or source of income as part of the selection criteria. "Family" is not limited to families with a member who is able to work full time, but is defined broadly so as not to exclude families with a member who is disabled but able to work, disabled but unable to work, or working as a caregiver for a family member with a disability.</p> <p>The Agency may modify the terms of the contract of participation to align with adjustments made to its FSS program(s) 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.</p>

APPENDIX A—GENERAL WAIVERS—Continued

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
			<p><i>Policies for Addressing Increases in Family Income (Both):</i> The Agency is authorized to set its own policies for addressing increases in family income during participation in the FSS program.</p>	<p>Consistent with the goals and structure of its MTW FSS program, the Agency can set policies for whether income increases are recognized for purposes of increasing rent or changing the amount of funds moved to escrow/savings through the program. The Agency may not use income increases during participation in the FSS program to change a family's eligibility status for purposes of participation in the FSS program or for the receipt public housing or HCV assistance.</p>
			<p><i>Calculating FSS Credits (Both):</i> The Agency is authorized to create alternative methods for computing the family's FSS credit.</p>	<p>The Agency may set policies to defer income increases to savings OR to allow participants to earn savings deposits based on meeting certain program milestones. Such policies must be made clear to participants in writing prior to starting their participation in the program.</p>
			<p><i>Disbursement of Savings (Both):</i> The Agency may set its own policies for when savings funds can be disbursed to participants.</p>	<p>Consistent with the goals and structure of its MTW FSS program, the Agency can set policies for when savings are disbursed to participants. This could mean all funds are disbursed at once, or at certain key points of participation. Such policies must be made clear to participants in writing prior to starting their participation in the program.</p>

Activities Related to Public Housing

<p>PH—Initial, Annual and Interim Income Review Process.</p>	<p>The Agency is authorized to restructure the initial, annual and interim review process in the public housing program in order to affect the frequency of the reviews and the methods and process used to establish the integrity of the income information provided. In addition, the Agency is expressly authorized to adopt a local system of income verification in lieu of the current HUD system. For example, the Agency may implement alternate time frames for validity of verification or adopt policies for verification of income and assets through sources other than those currently allowed under 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)). HUD has defined "Annual Income" at 24 CFR 5.609 and MTW Agencies must determine the eligibility of the family in accordance with provisions of 24 CFR 5.609.</p>	<p>Certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937 Act and 24 CFR 966.4 and 960.257.</p>	<p><i>Alternate Reexamination Schedule for Workable Households (PH):</i> The Agency may establish an alternate reexamination schedule for workable households.</p> <p><i>Alternate Reexamination Schedule for Elderly/Disabled Households (PH):</i> The Agency may establish an alternate reexamination schedule for elderly and/or disabled households.</p> <p><i>Alternate Verification Policy (PH):</i> The Agency may verify information provided by the participant in alternate ways.</p>	<p>Reexaminations must occur at least every three years. Must allow at least one interim adjustment at the request of the household per year.</p> <p>Reexaminations must occur at least every four years. Must continue to allow interim adjustments at the request of the household.</p> <p>The Agency must determine the eligibility of a families in accordance with 24 CFR 5.609. Prior to the implementation of the activity a hardship policy and impact analysis must be developed and adopted in accordance with MTW guidance.</p>
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APPENDIX A—GENERAL WAIVERS—Continued

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
Activities Related to Housing Choice Vouchers				
<p>HCV—Operational Policies and Procedures.</p>	<p>The Agency is authorized to define, adopt and 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 (42 U.S.C. 1437a(b)(2)).</p>	<p>Certain provisions of Section 8(o)(5), 8(o)(7) and 8(o)(13)(F) of the 1937 Act and 24 CFR 982.516 and 982.162(b).</p>	<p><i>Alternate Reexamination Schedule for Workable Households (HCV):</i> The Agency may establish an alternate reexamination schedule for workable households.</p> <p><i>Alternate Reexamination Schedule for Elderly/Disabled Households (HCV):</i> The Agency may establish an alternate reexamination schedule for elderly and/or disabled households.</p> <p><i>Alternate Verification Policy (HCV):</i> The Agency may verify information provided by the participant in alternate ways.</p>	<p>Reexaminations must occur at least every three years. Must allow at least one interim adjustment at the request of the household per year. The Department will develop a rider to the HAP contract that reflects MTW authorizations that adjust the current elements of the HAP contract.</p> <p>Reexaminations must occur at least every four years. Must continue to allow interim adjustments at the request of the household. The Department will develop a rider to the HAP contract that reflects MTW authorizations that adjust the current elements of the HAP contract.</p> <p>The Agency must determine the eligibility of a families in accordance with 24 CFR 5.609. Prior to the implementation of the activity a hardship policy and impact analysis must be developed and adopted in accordance with MTW guidance. The Department will develop a rider to the HAP contract that reflects MTW authorizations that adjust the current elements of the HAP contract.</p>
<p>HCV—Leasing Incentives.</p>	<p>The Agency is authorized to determine a damage claim and/or vacancy loss policy and payment policy for occupied units that differs from the policy requirements currently mandated in the 1937 Act and its implementing regulations. Damage and vacancy authority are subject to state and local laws.</p>	<p>Certain provisions of Section 8(o)(9), of the 1937 Act and 24 CFR 982.311.</p>	<p><i>Vacancy Loss (HCV):</i> The Agency may provide landlords with vacancy loss payments up to 3 months.</p> <p><i>Damage Claims (HCV):</i> The Agency may provide landlords with compensation in the event that a tenant leaves the unit with significant damage.</p>	<p>The Agency must update its Administrative Plan to reflect vacancy loss claim policy. In order to incentivize landlords to lease to HCV families an Agency may provide vacancy loss payments to landlords whether or not a family is terminated.</p> <p>The Agency must update its Administrative Plan to reflect damage claim policy. In implementing this activity, the tenant’s security deposit should first be used to cover damages before the Agency provides compensation to a landlord.</p>

APPENDIX A—GENERAL WAIVERS—Continued

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
PBV—Unit Cap Percentage Waiver.	The Agency is authorized to use for project-based assistance up to 50% of its total authorized units as long as units are located in census tracts with no more than 20% poverty rate and/or house at-risk populations defined as an individual or family that does not have sufficient resources or support networks immediately available to prevent them from moving to an emergency shelter or lacks a fixed, regular, and adequate nighttime residence.	Section 8(o)(13)(B) of the 1937 Act and 24 CFR 983.6.	<i>Raise PBV Unit Cap (PBV):</i> The Agency may project-base up to 50% of its authorized units.	The Agency is subject to the PBV Section of PIH Notice 2015–05 or any successor notice and/or guidance. If more than 20% of the total authorized units are project based, the additional units must meet one of the following criteria: house people who meet the HUD definition of homeless; house vulnerable populations; house veterans; provide supportive housing for elderly or disabled; or be located in areas of high-opportunity. Agency must comply with Fair Housing and Civil Rights requirements. The Agency is subject to Notice 2013–27.
PBV—Development Percentage Waiver.	The Agency is authorized to determine the percentage of units within a development that can be project-based that differs from the percentage currently mandated in the 1937 Act and its implementing regulations. In using this authorization, the Agency must place units in locally defined areas of opportunity.	Section 8(o)(13)(B) of the 1937 Act and 24 CFR 983.56.	<p><i>Raise PBV Cap Within a Development to 50% PBV (PBV):</i> The Agency may raise the PBV cap within a development to 50%.</p> <p><i>Raise PBV Cap Within a Development to 75% PBV (PBV):</i> The Agency may raise the PBV cap within a development to 75%.</p> <p><i>Raise PBV Cap Within a Development to 100% (PBV):</i> The Agency may raise the PBV cap within a development to 100%.</p>	The Agency is subject to the PBV Section of PIH Notice 2015–05 or any successor notice and/or guidance. If more than 20% of the units in a development are project-based, the additional units must meet one of the following criteria: house people who meet the HUD definition of homeless; house vulnerable populations; house veterans; provide supportive housing for elderly or disabled; is located in an area of high opportunity; or is a market-rate rental property owned by the Agency. The Agency must comply with Fair Housing and Civil Rights requirements. Agency is subject to Notice PIH 2013–27.
PBV—Elimination of Competitive Process.	Subject to subsidy layering review, the Agency is authorized to project-base Section 8 assistance at properties owned by a single asset entity of the Agency that are not public housing properties, subject to HUD's requirements regarding subsidy layering. Project-based assistance for such owned units does not need to be competitively bid, nor are the owned units subject to any required assessments for voluntary conversion. Agency still needs to complete site selection requirements. This waiver does not waive 24 CFR 983.57 despite reference to Part 983, Subpart B. This waiver also does not waive the requirement of 24 CFR 983.59(b) that HQS inspections be performed by an independent entity.	Certain provisions of Sections 8(o)(13)(B and D) of the 1937 Act and 24 CFR 982.1, 982.352 and 24 CFR Part 983 Subpart B.	<i>Eliminate PBV Competitive Process (PBV):</i> The Agency may eliminate the competitive process in the award of PBVs to properties owned by a single asset entity of the Agency that are not public housing.	The Agency is still subject to the PBV Section of Notice PIH 2015–05 or any successor notice and/or guidance. Agency is subject to Notice PIH 2013–27. This waiver does not waive Part 983, Subpart B in its entirety and Agency must still comply with 24 CFR 983.57 and 983.59(b) which requires that HQS inspections be completed by independent entities.

APPENDIX A—GENERAL WAIVERS—Continued

Waiver name	Waiver description	Regulations waived	Available activities	Parameters
PBV—Alternate Competitive Process.	The Agency is authorized to establish a reasonable competitive process or utilize an existing local competitive process for project-basing leased housing assistance at units that meet existing Housing Quality Standards and that are owned by non-profit, for-profit housing entities, or a single asset entity of the Agency.	Certain provisions of 24 CFR 983.51.	<i>Establish Alternate PBV Competitive Process (PBV):</i> The Agency may establish an alternate competitive process in the award PBVs.	Agency is subject to PBV Section of Notice PIH 2015–05 or any successor notice and/or guidance. Agency is subject to Notice PIH 2013–27.
PBV—Operational Policies and Procedures.	The Agency is authorized to determine the time period for amending the PBV HAP contract to add units thereto, the length of the lease period, when vouchers expire, and when vouchers will be issued or re-issued.	Certain provisions of Sections 8(o)(7)(a), 8(o)(13)(F) and 8(o)(13)(G) of the 1937 Act and 24 CFR 983 Subpart F.	<i>Add Units to PBV HAP Contract (PBV):</i> The Agency may add units to a PBV HAP contract at any time.	The anniversary and expiration date for any additional units added to a PBV HAP contract must be the same as that for the original units under the PBV HAP contract.

APPENDIX B—CONDITIONAL WAIVERS

No.	Waiver name	Waiver description	Regulations waived	Available activities	Parameters
Activities Related to Public Housing					
1	PH—Leases	The Agency is authorized to develop and adopt a new form of local lease and establish community rules and reasonable tenant fees based on proven private management models (subject to State and local laws), provided that no-cause evictions are not permitted and the Agency allows for grievance procedures.	Certain provisions of Section 6(l) of the 1937 Act and 24 CFR 966.4.	<i>Establish Community Rules through Local Lease (PH):</i> The Agency may establish community rules through a local lease. <i>Establish Reasonable Fees through Local Lease (PH):</i> The Agency may charge fees that are reasonable and cost effective through a local lease.	Agency may only implement changes to the lease under this activity that do not require either a regulatory or statutory waiver. Fair Housing and other civil rights requirements continue to apply. An appeals process and hardship policy must be put in place. The hardship policy must be developed and adopted in accordance with MTW guidance.
2	PH—Rent Policies.	The Agency is authorized to determine family payment, including the total tenant payment, the minimum rent, utility reimbursements and tenant rent. The Agency is authorized to adopt and implement any reasonable policies for setting rents in public housing, including but not limited to: Establishing definitions of income and adjusted income or earned income disallowance that differ from those in current status and regulations. Agency must comply with Section 3(b)(2) of the Act to determine eligibility.	Certain provisions of Section 3(a)(2), 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 CFR 5.603, 5.611, 5.628, 5.630, 5.632, 5.634 and 960.255 and 966 Subpart A.	<i>Rent Policies (PH): Income bands—</i> The Agency may implement changes to the rent calculation in order to create a system based upon rent bands. Such rent policies are structured using two variables: (1) income bands, or ranges, that assign dollar increments that have been determined locally by the Agency, and (2) bedroom size. In a table, the y-axis lists the income bands and the x-axis lists the various bedroom sizes. In creating this system, the Agency may also adopt a flat rent policy within each income band instead of calculating rent based on adjusted income. The income bands may result in total tenant payment being more than 30%. <i>Rent Policies (PH): Flat Rents—</i> The Agency may establish flat rents based on bedroom size. <i>Rent Policies (PH): Minimum Rent—</i> The Agency may implement a minimum rent policy that is targeted towards work able families. <i>Rent Policies (PH): Other Income-Based Rent Model—</i> The Agency may calculate rent at an alternative adjusted income. <i>Rent Policies (PH): Gross Income Rents—</i> The Agency may calculate rent as a percentage of gross income that does not include income deductions and/or exemptions. <i>Rent Policies (PH): Alternative Utility Allowance—</i> The Agency may create a utility schedule(s) for all units based upon bedroom size, the property location and/or the types of utilities paid by resident.	The rent bands must be set in accordance with bedroom size. A hardship policy must be put in place. The hardship policy must be developed and adopted in accordance with MTW guidance. Minimum rent may not exceed \$250. Tenant rents may be calculated between 25% to 50% of adjusted income. Hardship policy, impact analysis, and any other information required by HUD for the oversight of this policy must be provided to HUD upon request. The gross income calculation may not exceed 40% of rent burden for working families and 27% for elderly and/or disabled households. The Agency should review its schedule of utility allowances each year, and must revise its allowance for a utility category if there has been a change of 10 percent or more 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.

APPENDIX B—CONDITIONAL WAIVERS—Continued

No.	Waiver name	Waiver description	Regulations waived	Available activities	Parameters
3	PH—Work Requirements.	The Agency is authorized to implement a requirement that a specified segment of its public housing residents work as a condition of tenancy subject to subject to all applicable Fair Housing 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 Public Law 105–276. Those individuals exempt from the Community Service Requirement in accordance with Section 12(c)(2)(A), (B), (D) and (E) of the 1937 Act are also exempt from the Agency's work requirement.	Certain provisions of Section 3 of the 1937 Act and 24 CFR 960.206.	<i>Work Requirement (PH):</i> The Agency may implement a work requirement for public housing residents between the ages of 18 and 54. The requirement shall be no less than 15 hours of work per week and no more than 30 hours of work per week. Work requirements shall not be applied to exclude, or have the effect of excluding, the admission of or participation by persons with disabilities or families that include persons with disabilities. Work requirements shall not apply to person with disabilities or families that include persons with disabilities. However, persons with disabilities and families that include persons with disabilities must have equal access to the full range of program services and other incentives.	Residents must have the opportunity to utilize the provisions of the Agency's Grievance Procedure to resolve a dispute regarding a determination that a resident has failed to comply with the work requirement. The Agency must update its ACOP to include a description of the circumstances in which residents shall be exempt for the requirement and hardship policies. The ACOP should include a description of what is considered work as well as other activities that shall be considered acceptable substitutes for work. Services, or referrals to services, must be provided by the Agency to support preparing families to comply with this requirement. The hardship policy in the ACOP should apply to residents who are actively trying to comply with the Agency's work requirement, but are having difficulties obtaining work or an acceptable substitute. The ACOP should also describe the consequences of failure to comply with the work requirement. Agencies may not implement the PH-Work Requirements Waiver on individuals exempted from the Community Service Requirement under Section 12(c)(2)(A), (B), (D) and (E). While the work requirements do not apply to persons with disabilities or families that include a person with disabilities, such persons and families are not precluded from working or engaging in substitute activities (such as caring for a family member who is disabled). Regardless of the level of engagement with work or substitute activities, persons and families that include persons with disabilities must have equal access to services or referral to services to support their efforts to obtain work or an acceptable substitute, and any other services or other incentives associated with the program.
4	PH—Term Limits.	The Agency is authorized to adopt and implement term limits for its Public Housing program.	Certain provisions of Section 3(a)(3)(A) and Section 6(l) of the 1937 Act and 24 CFR 5.603 and 966 Subpart A.	<i>Term Limits (PH):</i> The Agency may limit the duration for which a family receives housing assistance.	The term of assistance may not be shorter than 5 years except in the case of short-term transitional housing programs. Services, or referrals to services, must be provided by the Agency to support preparing families for the termination of assistance. A hardship policy must also be created to address extenuating circumstances. Hardship information and any other information required by HUD for the oversight of this policy must be provided to HUD upon request. Agency must also conduct an impact analysis prior to the implementation of this activity. An Agency may not retroactively apply the 5-year term limit to families currently residing in public housing.
5	PH—Income Deductions and Exclusions.	The Agency is authorized to restructure the initial, annual and interim review process in the public housing program in order to affect the income deductions and exclusions. The terms "low-income families" and "very low-income families" shall continue to be defined by Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). HUD has defined "Annual Income" at 24 CFR 5.609 and MTW Agencies must determine the eligibility of the family in accordance with provisions of 24 CFR 5.609.	Certain provisions of sections 3(a)(1) and 3(a)(2) of the 1937 Act and 24 CFR 5.611, 966.4 and 960.257.	<i>Elimination of Deduction(s) (PH):</i> The Agency may eliminate one, some or all deductions. <i>Standard Deductions (PH):</i> The Agency may replace existing deduction(s) with a standard deduction(s). <i>Alternate Income Inclusions/Exclusions (PH):</i> The Agency may establish alternate policies to include or exclude certain forms of participant income during the income review and rent calculation process. These alternate policies must be consistent with the inclusions and exclusions at 24 CFR 5.609.	The Agency must determine the initial eligibility of a families in accordance with 24 CFR 5.609. Prior to the implementation of the activity a hardship policy and impact analysis must be developed and adopted in accordance with MTW guidance. Agencies are required to follow 24 CFR 5.609(c) and other federal statutes that specifically exclude certain income sources from being counted as income.

Activities Related to Housing Choice Vouchers

1	HCV—Earned Income Disregard.	The Agency must comply with Section 3(b)(2) of the Act to determine eligibility. The Agency may calculate the tenant's share of rent in a manner other than that required by statute and regulation in order to eliminate or create an alternative Earned Income Disregard which may not be used to determine eligibility or recertification. Rent calculations must comply with Fair Housing and Civil Rights requirements.	Certain provisions of Sections 16(b) of the 1937 Act and 24 CFR 5.603, 5.609, 5.611, 5.628, 982.516, 982.201 and 982 Subpart E.	<i>EID (HCV):</i> The Agency may eliminate the Earned Income Disregard from the calculation of the tenant's share of the rent. <i>EID (HCV):</i> The Agency may create an alternative to the Earned Income Disregard in order to calculate the tenant's share of the rent.	
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APPENDIX B—CONDITIONAL WAIVERS—Continued

No.	Waiver name	Waiver description	Regulations waived	Available activities	Parameters
2	HCV & PBV— Reexamination Policies and Lease Terms.	<p>The Agency is authorized to define, adopt and 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 (42 U.S.C. 1437a(b)(2)).</p> <p>The Agency is authorized to determine the length of the HAP contract, the length of the lease period, when vouchers expire, and when vouchers will be issued or re-issued.</p>	<p>Certain provisions of Section 8(o)(5), 8(o)(7) and 8(o)(13)(F) and (G) of the 1937 Act and 24 CFR 982.516 and 982.162(b).</p> <p>Certain provisions of Sections 8(o)(7)(a), 8(o)(13)(F) and 8(o)(13)(G) of the 1937 Act and 24 CFR 983 Subpart F.</p>	<p><i>Elimination of Deduction(s) (HCV):</i> The Agency may eliminate one, some or all deductions.</p> <p><i>Standard Deductions (HCV):</i> The Agency may replace existing deduction(s) with a standard deduction(s).</p> <p><i>Alternate Income Inclusions/Exclusions (HCV):</i> The Agency may establish alternate ways to include or exclude participant income.</p> <p><i>Length of HAP Contract (HCV & PBV):</i> The Agency may change the term of a HAP contract.</p> <p><i>Alteration of HAP Contract (HCV & PBV):</i> The Agency may alter the length of the lease period, when vouchers expire and when vouchers will be issued or reissued.</p>	<p>The Agency must determine the eligibility of a families in accordance with 24 CFR 5.609. Prior to the implementation of the activity a hardship policy and impact analysis must be developed and adopted in accordance with MTW guidance. The Department will develop a rider to the HAP contract that reflects MTW authorizations that adjust the current elements of the HAP contract.</p> <p>Agencies implementing revised lease terms, including length of lease period for HCV and PBV families, must demonstrate how the altered lease terms, including length, benefit the tenant. The anniversary and expiration date for any additional units added to a PBV HAP contract must be the same as that for the original units under the PBV HAP contract. The Department develop a rider to the HAP contract that reflects MTW authorizations that adjust the current elements of the HAP contract.</p>
3	HCV & PBV— Tenant Term Limits.	<p>The Agency is authorized to implement term limits for HCV and PBV units designated as part of the MTW Demonstration.</p>	<p>Certain provisions of Section 8(o)(7) and 8(o)(13)(F)–(G) of the 1937 Act and 24 CFR 982 Subpart L and 983 Subpart E.</p>	<p><i>Term Limits (HCV & PBV):</i> The Agency may limit the duration for which a family receives housing assistance.</p>	<p>The term of assistance may not be shorter than 5 years except in the case of short-term transitional housing programs. Services, or referrals to services, must be provided by the Agency to support preparing families for the termination of assistance. A hardship policy must also be created to address extenuating circumstances. Hardship information and any other information required by HUD for the oversight of this policy must be provided to HUD upon request. Agency must also conduct an impact analysis prior to the implementation of this activity.</p>
4	HCV & PBV— Rent Policies.	<p>The Agency is authorized to adopt and implement any reasonable policy to establish payment standards, rents or subsidy levels for tenant-based 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 any reasonable policies to calculate the tenant portion of the rent that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations.</p>	<p>Certain provisions of Sections 8(o)(2)(A), 8(o)(2)(B), 8(o)(3), 3(a)(1), 8(o)(2)(C), and 8(o)(13)(H)–(I) of the 1937 Act and 24 CFR 982.508, 982.503 and 982.518.</p> <p>Certain provisions of Sections 8(o)(1), 8(o)(2), 8(o)(3), 8(o)(10) and 8(o)(13)(H)–(I) of the 1937 Act and 24 CFR 982.508.</p> <p>Certain provisions of Sections 8(o)(1), 8(o)(2), 8(o)(3), 8(o)(10) and 8(o)(13)(H)–(I) of the 1937 Act, 24 CFR 982.518, 982.308, 982.451, 983 Subpart E, 982.508, and 982.503.</p> <p>Certain provisions of Sections 8(o)(1), 8(o)(2), 8(o)(3), 8(o)(10) and 8(o)(13)(H)–(I) of the 1937 Act and 24 CFR 982.518.</p>	<p><i>Rent Policies (HCV & PBV): Payment Standards—</i>The Agency is authorized to adopt and implement any reasonable policy to establish payment standards that do not exceed 200% of the FMR. This may include the setting of payment standards outside of the basic range, and creating multiple payment standards based on variations in the local rental market.</p> <p><i>Rent Policies (HCV & PBV): Income Bands—</i> The Agency may implement changes to the rent calculation in order to create a system based upon rent bands. Such rent policies are structured using two variables: (1) Income bands, or ranges, that assign dollar increments that have been determined locally by the Agency, and (2) bedroom size. In a table, the y-axis lists the income bands and the x-axis lists the various bedroom sizes. In creating this system, the Agency may also adopt a flat rent policy within each income band instead of calculating rent based on adjusted income.</p> <p><i>Rent Policies (HCV & PBV): Initial Rent Burden—</i>The Agency may waive the maximum family share at initial occupancy of 40% of the family’s adjusted monthly income.</p> <p><i>Rent Policies (HCV & PBV): Stepped Rent—</i> The Agency may create a stepped rent model that alters the family’s rent payment on a fixed schedule in both frequency and amount. Implementation of this activity may only occur if the Stepped Rent activity is combined with another Rent Policy waiver identified in HCV-Rent Policies Available Activities.</p> <p><i>Rent Policies (HCV & PBV): Minimum Rent—</i>The Agency is authorized to adopt and implement any reasonable policies to calculate the tenant portion of the rent that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations.</p>	<p>A hardship policy must also be created to address extenuating circumstances. Hardship information and any other information required by HUD for the oversight of this policy must be provided to HUD upon request.</p> <p>A hardship policy must also be created to address extenuating circumstances. Hardship information and any other information required by HUD for the oversight of this policy must be provided to HUD upon request.</p> <p>A hardship policy must also be created to address extenuating circumstances. Hardship information and any other information required by HUD for the oversight of this policy must be provided to HUD upon request. Agency must also conduct an impact analysis.</p> <p>Rent increases may not occur more than once per year. This activity may only apply to non-elderly and/or non-elderly and disabled residents. Agency must implement a grace period policy for HCV families that reach zero HAP through this activity. The grace period would allow families to receive zero HAP for at least six months before being transitioned off the HCV program.</p> <p>Minimum rent may not exceed \$250. Tenant rents may be calculated between 25% to 50% of adjusted income. Hardship policy, impact analysis, and any other information required by HUD for the oversight of this policy must be provided to HUD upon request.</p>

APPENDIX B—CONDITIONAL WAIVERS—Continued

No.	Waiver name	Waiver description	Regulations waived	Available activities	Parameters
5	HCV & PBV—Rent Reasonableness.	The Agency is authorized to determine contract rents and increases and to determine the content of the HAP contract that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. 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. Agency must determine that rents charged by owners are reasonable before entering into a HAP contract.	Certain provisions of Sections 8(o)(1)(B) and 8(o)(13)(H) of the 1937 Act and 24 CFR 982.308, 982.451 and 983 Subpart E. Certain provisions of Section 8(o)(10) of the 1937 Act and 24 CFR 982.507.	<i>Rent Policies (HCV & PBV): Contract Rents</i> —The Agency is authorized to determine contract rents and increases and to determine the content of the HAP contracts that differ from the currently mandated program requirements in the 1937 Act and its implementing regulations. <i>Rent Reasonableness (HCV & PBV):</i> 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.	A family's rents may be calculated between 25% to 50% of adjusted income. Any lease alteration(s) must comply with State and local law. A hardship policy must be put in place. The hardship policy must be developed and adopted in accordance with MTW guidance. Agencies must provide, for HUD's approval, an alternative measure to determine that rents charged by owners to voucher participants are reasonable.
6	HCV & PBV—Work Requirements.	The Agency is authorized to implement a requirement that a specified segment of its HCV and PBV residents work as a condition of tenancy subject to all applicable Fair Housing Requirements.	Certain provisions of Sections 8(o)(7)(a), 8(o)(13)(F), and 8(o)(13)(G) of the 1937 Act and 24 CFR 982.303, 982.309 and 983 Support F.	<i>Work Requirement (HCV & PBV):</i> The Agency may implement a work requirement for HCV and PBV residents between the ages of 18 and 54. The requirement shall be no less than 15 hours of work per week and no more than 30 hours of work per week. The Agency shall provide supportive services to assist families obtain employment or an acceptable substitute. Work requirements shall not be applied to exclude, or have the effect of excluding, the admission of or participation by persons with disabilities or families that include persons with disabilities. Work requirements shall not apply to persons with disabilities or families that include persons with disabilities. However, persons with disabilities and families that include persons with disabilities must have equal access to the full range of program services and other incentives.	The Agency must update its Administrative Plan to include a description of the circumstances in which families shall be exempt from the requirement. The Administrative Plan must also include a hardship policy. The Administrative Plan should include a description of what is considered work as well as other activities that shall be considered acceptable substitutes for work. Services, or referrals to services, must be provided by the Agency to support preparing families for the termination of assistance. The hardship policy in the Administrative Plan should apply to families who are actively trying to comply with the Agency's work requirement, but are having difficulties obtaining work or an acceptable substitute. The Administrative Plan should also describe the consequences of failure to comply with the work requirement.
7	PBV Unit Types	Subject to subsidy layering review, the Agency is authorized to determine property eligibility criteria, including types of units currently prohibited by Section 8 regulations so long as these units are rental housing and meet HQS.	Certain provisions of Section 8(p) of the 1937 Act and 24 CFR 983.53(a)–(b) and 982 Subparts H and M.	<i>PBV Unit Types:</i> As long as units are rental housing and meet HQS, the Agency may attach and pay PBV assistance for units in various types of housing including housing described at 24 CFR 983.53(a)(3), (5) and (6).	The Agency must provide a transition plan to both the affected residents and HUD prior to the end of the demonstration. If the Agency places a PBV unit in a public housing project, then the Agency will not receive operating funds for that PH unit. PBV units must comply with HQS and be consistent with fair housing deconcentration requirements. This waiver is subject to subsidy layering review.

Activities Related to Local, Non-Traditional

1	Local Non-Traditional Activities—Rental Subsidy Programs.	The Agency is authorized to use MTW funds to provide rental subsidy to a third-party entity.	N/A	<i>Rental Subsidy Programs:</i> The Agency may provide funds for supportive housing programs and services. <i>Rental Subsidy Programs:</i> The Agency may provide funds for homeless/transitional housing programs and services. <i>Rental Subsidy Programs:</i> The Agency may provide funds for the creation of a local rental subsidy program that addresses special needs populations.	Agency is subject to Notice PIH 2011–45 or any successor notice and/or guidance. Any MTW funds awarded to a third party provider must be competitively bid.
2	Local Non-Traditional Activities—Service Provision.	The Agency is authorized to use MTW funds to provide supportive services to eligible participants.	N/A	<i>Service Provision:</i> The Agency may provide services for residents of other Agency owned or managed low-income housing that is not public housing or Housing Choice Voucher assistance. <i>Service Provision:</i> The Agency may provide services for low-income non-residents. <i>Service Provision:</i> The Agency may provide supportive services subsidies or budgets for low-income families. <i>Service Provision:</i> The Agency may contract with a third party provider for the provision of services to eligible participants.	Agency is subject to Notice PIH 2011–45 or any successor notice and/or guidance. Any MTW funds awarded to a third party provider must be competitively bid.
3	Local Non-Traditional Activities—Housing Development Programs.	The Agency is authorized to contribute MTW funds to the development of affordable housing outside of Sections 8 and 9.	N/A	<i>LIHTC Development:</i> The Agency may contribute MTW funds towards a Low Income Housing Tax Credit project. <i>Affordable Housing Development:</i> The Agency may contribute MTW funds towards the development of housing for low-income families.	Agency is subject to Notice PIH 2011–45 or any successor notice and/or guidance. The use of federal funds must be consistent with the requirements of 2 CFR 200 and other basic federal principles.

Appendix C—Public Comments To Be Solicited Through MTW Operations Notice

Waivers

Does the list of general waivers, MTW activities, and parameters in Appendix A and Appendix B contain the needed flexibility to achieve the three MTW statutory objectives? If not, what waivers, activities, and/or parameters are missing?

Are there any MTW activities and/or waivers that should not be included as general waivers, available to all MTW agencies without prior HUD approval?

Are there any MTW activities and/or waivers that should not be included as conditional waivers but rather should be included as general waivers, or not included at all?

Does the list of conditional waivers, MTW activities, and parameters in Appendix B contain the needed flexibility to implement any alternative income-based rent model? If not, what waivers, activities, and/or parameters are missing?

Term of Participation

Assuming all cohorts are selected between 2017 and 2020, is the end of each MTW agency's Fiscal Year 2028 an appropriate timeframe for MTW participation, and understanding that HUD may extend cohort-specific waivers to accommodate evaluation of MTW activities that require additional time?

Is there a preferable length or structure for the term of MTW participation?

What elements of the MTW agency's transition plan should be mandatory?

What elements of the transition process should HUD require in order to protect residents from potential harm and minimize disruptions to agency operations?

Funding, Single Fund Budget, and Financial Reporting

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

What sanctions or restrictions should HUD consider using should an MTW agency continue to fail to meet the budget utilization requirement?

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

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

Are there any comments or clarifications needed in relation to funding, the MTW Block Grant, or financial reporting?

Evaluation

Is there any information not captured in HUD administrative data systems that would provide informative data points or performance metrics for evaluating the MTW demonstration?

What are measures of activities that "reduce cost and achieve greater cost effectiveness in Federal expenditures" that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?

What are measures of activities that "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" that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?

Should HUD standardize a definition of "self-sufficient"? If so what elements of self-sufficiency should be included in HUD's definition?

What are measures of MTW activities that "increase housing choices for low-income families" that can apply to and are either being reported in existing HUD systems or can be reported by every MTW agency?

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

Is there any information not captured in HUD administrative data systems that would be informative data points or performance metrics in terms of evaluating the MTW demonstration?

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

Are there any alternative or additional metrics that would enhance performance evaluation on the MTW demonstration?

Program Administration and Oversight

Is the MTW Supplement to the Annual Plan, as described, an appropriate mechanism for HUD to track MTW agencies' activities and use of waivers? Are there specific elements that should be included in the MTW Supplement to the Annual Plan?

Should MTW agencies with a combined unit total of 550 or less public housing units and Section 8 vouchers be exempt from the requirement to submit the Annual Plan? If so, how should HUD collect information on the activities and waivers implemented over the course of the demonstration?

Do you have suggestions for how HUD can strengthen the public engagement process to ensure that residents have an opportunity to offer meaningful input in the selection and implementation of MTW activities?

How could HUD measure public housing and voucher program performance for MTW agencies and incorporate those measures into PHAS and SEMAP?

Are there MTW-specific indicators that should be included in a revised PHAS and SEMAP assessment?

Should an MTW agency retain its high-performer status in PHAS or SEMAP until MTW specific indicators are developed?

Are HUD's monitoring and oversight efforts sufficient for MTW agencies?

What are the specific areas of risk that should be considered for MTW agencies?

Are there additional areas that should be monitored for MTW agencies?

Regionalization

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

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

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

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

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

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

MTW Agencies Admitted Prior to 2016 MTW Expansion Statute

Is it appropriate to permit existing MTW agencies to come under the framework of this Operations Notice and associated MTW agreement?

Should these existing PHAs be subject to any different or supplemental requirements?

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