

# MTW Collaborative

455 Massachusetts Avenue, NW, Suite 425  
Washington DC 20001-2621



November 3, 2020

Regulations Division  
Office of General Counsel  
US Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-7000

Re: [Docket No. 85-FR-55312] 60-Day Notice of Proposed Information Collection: Moving to Work Demonstration

To Whom It May Concern:

The MTW Collaborative represents public housing authorities (“PHAs”) participating in HUD’s Moving to Work Demonstration program (“MTW”). The MTW Collaborative monitors and advocates on behalf of MTW agencies’ interests and facilitates the sharing of information, best practices, and innovations between MTW agencies. Our membership includes those agencies currently participating in the MTW program and, upon implementation, will include public housing authorities newly designated as MTW pursuant to the expansion of the MTW program as authorized by Congress.

We welcome the opportunity to comment on HUD’s proposed changes to the 50900 form. The MTW Collaborative, previously known as the MTW Executive Steering Committee, has repeatedly, and for years, called for a joint review process between MTW agencies and HUD on performance measures well in advance of the Department revising the Form 50900. Over multiple discussions between HUD and MTW agencies during Standard Agreement contract negotiations and when the prior version of Form 50900 was set for renewal in 2017, HUD staff indicated that the Department would take our recommendation seriously and would engage in a collaborative process that would involve representatives from HUD and MTW agencies.

To that end, we appreciate the steps that HUD has taken so far to engage more deliberately with MTW agencies around the proposed Form 50900, specifically on the MTW performance metrics (Section IV) and tracking reserves (Section V.A.IV “Planned Application of PHA Unspent Operating Fund and HCV Funding”). We would first like endorse the comments submitted to HUD by the MTW Finance Workgroup regarding tracking reserves and reiterate their two concerns:

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- **The reserve section should only focus on total unspent funds and planned uses of those funds.**
- **HUD needs to provide MTW agencies with accurate reconciliations of HUD held funds.**

While in general the MTW Collaborative agrees that reporting on reserves information in the Form 50900 is a positive development that will assist MTW communities, we urge HUD to make the above changes. One fundamental component of the MTW program is the flexibility to use fungibility to combine funds into a single block grant, making it challenging, if not impossible, for agencies to report funds by origin source. Additionally, agencies will be unable to provide the requested information regarding total unspent MTW funds without timely and accurate information from the Department on HUD-held MTW voucher funds.

Secondly, we offer our comments on the Form 50900 performance metrics. As mentioned above, we appreciate the steps that HUD has taken to deliberately engage agencies around the MTW metrics. At the beginning of this process HUD committed to continue to work with MTW agencies to improve and further develop the MTW performance metrics until the point that there was mutual agreement between MTW agencies and the Department. We understand that the 60-day notice does not yet reflect the feedback given by MTW agencies during our conversations with HUD and that the Department intends to incorporate at least some of these comments into the subsequent 30-day and final notices. However, in addition to the MTW industry's ongoing concerns regarding the Form 50900, HUD has proposed several new and substantial elements to the form that we believe, and HUD staff has also indicated, warrant further discussion beyond the timeline available under the Paperwork Reduction Act (PRA) for HUD to produce a new 50900 prior to the expiration of the current form in January 2021. These changes include requiring that MTW agencies report on performance metrics by statutory objective instead of on an individual activity level, which represents a significant shift in the reporting framework, as well as the introduction of new qualitative elements such as narratives and case-studies, and changes to the baseline reporting requirements. While we appreciate HUD's efforts to streamline and innovate on the metrics reporting and believe, for instance, that reporting by statutory objective is a promising new approach, we note that our conversations with HUD so far have not yet yielded a meaningful or mutually agreed upon strategy with which to move forward.

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Given the critical and ongoing need to both rethink and overhaul the Form-50900 and give appropriate and full consideration to these new and substantial changes, as well as HUD's continued promise to work collaboratively with MTW agencies toward that end, we request the following:

- **HUD rescind the proposed performance metric changes under Section VI and reinstate the previous metrics in the 30-day and final notice.**
- **HUD will continue to work with MTW agencies on developing new metrics. Upon mutual agreements from HUD and the MTW agencies, these new metrics can be added to the Form 50900 via an addendum under the Paperwork Reduction Act.**

## Guiding Principles

As we continue to engage with HUD, we hope that the following guiding principles will help shape the discussion around performance metrics. We believe the performance metrics and the Form 50900 should be a tool for agencies to implement new strategies, respond to outcome data with timely program improvements, and communicate meaningful information about MTW agency results and outcomes to HUD, Congress, and their local communities:

- **MTW agencies are the gold standard in their communities.** MTW agencies are mission-driven, high-performing organizations that are held to high standards by their local communities, their Boards, auditors, the statutory requirements, etc. A compliance heavy approach to the metrics fails to recognize the high standards that MTW agencies meet and exceed when providing for their communities.
- **MTW as "America's Housing Policy Lab".** MTW agencies ability to design and test new and innovative strategies is key to their work and a hallmark of the program. The metrics should provide a practical and valuable tool for highlighting successes, but also for self-reflection. The ability of MTW agencies to test and to flexibly pivot are fundamental benefits of the program, not flaws.
- **Flexibility as a hallmark of MTW.** MTW agency activities often intentionally differ in goals and design across agencies in order to serve local needs and those differences do not always allow for uniform application of one set of metrics across different agencies

activities. Rather than focusing on whether an activity increased or decreased a specific metric, the focus should be- did the activity meet the goal set by the agency?

Additionally, MTW agencies often view their work holistically and we believe approaching MTW work through traditional HUD programmatic lenses will not provide a full or accurate picture.

- **Minimizing administration burden:** The Form 50900 has traditionally been a source of administrative and staff burden, with certain metrics being cumbersome or entirely inappropriate for agencies. Minimizing burden should be a key goal moving forward. We also appreciate HUD providing clarity that agencies can state “N/A” for metrics that do not apply.
- **Providing value in aggregate.** HUD has proposed that MTW agencies report by statutory metrics, rather than individual activities. We feel this is a promising and worthwhile proposal to consider. We note that the metrics should have value in aggregate, across activities and across MTW PHAs. This gets to the “apples and oranges” problem that plagues the current metrics.

## Specific Comments on Form 50900

- **Program Compliance:** Under Section III “Approved MTW Activities” HUD has included a new subsection “Program Compliance”, which requires agencies to report on average error rates for rent calculations, conducting inspections, and beginning new lease ups. We are very concerned about the inclusion of this subsection, which introduces new compliance requirements seemingly without rationale, and request that HUD strike it from the form. HUD has indicated in conversations that this information is not intended for compliance purposes, but to provide program information to the MTW Office and for MTW agencies internally. First, the subsection has “compliance” in the title, so HUD should understand our reluctance to accept that explanation. Second, we would remind the Department that MTW agency activities are often subject to reviews and audits outside of the HUD MTW Office. Some MTW agencies expressed concern that state auditors would review the error rates of calculation and extrapolate that data agency wide, which could erroneously indicate a significant cost impact for the agency. Additionally, HUD includes five specific questions in this subsection including, “are staff calculating tenant rent portions, utility allowances, and HAP correctly” and “are

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inspections compliant with HQS or new agency policies”. These questions have no relation to the requested error rates and again, seem to imply a compliance objective that is well beyond what MTW agencies are required to provide under their Standard Agreements. We strongly request that HUD strike this subsection from the Form 50900.

- **Contract of Participation:** We note that HUD has introduced new language and requirements under the Certificate of Compliance that require further legal review and we will be providing more extensive comments under the 30-day notice or other Reno & Cavanaugh language. For example, under Item 21, HUD writes that MTW agencies must comply with housing quality standards “as required by PIH Notice 0211-45, or successor notice.” A PIH notice cannot supersede the terms of the MTW Standard Agreement and HUD should not be attempting to insert compliance with a PIH notice into the Standard Agreement. Additionally, under Item 21 HUD references 24 CFR Part 982, referring to Housing Quality Standards in voucher households. However, MTW agencies may waive 24 CFR Part 982 per our Attachment C. HUD should not be requiring PHAs to enforce a regulation that we are able to waive.

Thank you for the opportunity to submit comments. We also welcome the opportunity to continue to collaboratively work with HUD to develop MTW performance metrics and a Form 50900 that more effectively captures and reports on MTW initiatives and impacts and would ask that HUD honor its commitment to do so. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Lofton". The signature is stylized with a large, sweeping "A" and a cursive "L".

Andrew Lofton  
President  
MTW Collaborative