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Department of Housing and Urban Development  
451 7th St. SW, Room 4176  
Washington, DC 20410-5000  
*Submitted electronically to Collette.Pollard@hud.gov*

Re: Docket No. FR-5916-N-02, 60-Day Notice of Proposed Information Collection: Form 50900: Elements for the Annual Moving to Work Plan and Annual Moving to Work Report

Dear Ms. Pollard:

These comments are submitted by the Center on Budget and Policy Priorities. The Center is an independent, nonprofit policy institute that conducts research and analysis on a range of federal and state policy issues affecting low- and moderate-income families. The Center's housing work focuses on improving the effectiveness of federal low-income housing programs.

We appreciate the opportunity to comment on HUD's proposed revisions to the MTW plan and report. These comments focus on ways to increase the utility of data related to the number of families assisted by MTW agencies, the incomes of families assisted, and the sources and uses of MTW funds. HUD's proposed revisions make several significant improvements in these areas, but further changes are needed. Our comments emphasize several main points:

- **HUD should ensure that key data on topics such as incomes of assisted families and sources and uses of funds are available to the public.** In some cases, HUD's report template allows PHAs to omit key data that are submitted to HUD through other reporting processes. We recognize that HUD wishes to avoid duplicative burdens on PHAs. These omissions, however, mean that the data are not available to stakeholders or researchers seeking to assess or provide informed input regarding local MTW programs. This informed input is particularly crucial at a time when HUD is preparing to implement a very large MTW expansion that will stretch its own capacity to directly oversee local programs. Most importantly, it is essential that HUD require agencies to include in their reports data on actual sources and uses of MTW funds.
- **HUD should require agencies to provide the information needed to assess compliance with statutory requirements.** In their reports, MTW agencies must certify their compliance with statutory requirements to assist substantially the same number of families and ensure that 75 percent of assisted families are very low-income. These

certifications require that agencies compare their actual performance in each area to a baseline or target, but agencies are not required to show the numbers they used for both sides of this comparison for either requirement. These figures should be disclosed in the reports, since they are needed to assess the performance of individual agencies and MTW as a whole, and also for stakeholders to provide informed input on local policies (since agencies cannot implement policies that would cause them to violate the statutory requirements).

- **HUD should require agencies to break caseload, funding, and spending data down by program.** These specific breakdowns are needed for stakeholders and researchers to understand the meaning of the figures agencies report.

In addition, we urge HUD to resume regular on-line posting of MTW reports. HUD has posted MTW plans covering years through 2016, but it has not posted MTW reports since 2013. Some MTW agencies make reports easily accessible on their own websites, but others do not. MTW reports are a potentially important resource for advocates and researchers, and their utility is clearly reduced if they are not publicly available. We recognize that there may be some delay between submission and approval of MTW reports. If this delay will be more than a few months, HUD should post the submitted reports (while making clear that these reports have not received final approval from HUD).

We recommend below a number of specific changes to improve the proposed form.

#### **Number of Families Assisted**

- **Provide separate data on families assisted by each local non-traditional program.** HUD's proposed form would improve reporting on the planned and actual number of families assisted in local non-traditional programs by requiring that agencies break the number of families assisted into three categories rather than two (by adding homeownership programs to tenant-based and project-based assistance). When agencies have more than one local program in one of these categories, however, these breakdowns will not be sufficient to make the figures useful to stakeholders and researchers. HUD should require agencies to report the number of families assisted separately for each local program, in both the plan table on page 8 and the report table on page 11.
- **State explicitly that port-in vouchers should not be included in reports.** In the existing form 50900, agencies separately report the number of unabsorbed port-in vouchers they administer and add the vouchers to the total number of families assisted that is used to determine whether they meet the substantially the same requirement. This approach is incorrect, since assistance for these families is paid for by another agency rather than the MTW agency. In the proposed form, HUD appropriately eliminates the port-in row in the households-served table on page 11. HUD should also make clear in the instructions on page 2 that agencies should not count unabsorbed port-ins as assisted households, so that agencies do not mistakenly respond to the elimination of the port-in row by lumping those vouchers into their main voucher leasing count.

- **Make clear that agencies may not merely estimate the number of families they assist.** In the note under the households served table on page 11, HUD states that “In instances when a Local, Non-Traditional program provides a certain subsidy level but does not specify a number of units/households to be served, the MTW PHA should estimate the number of households to be served.” It is possible that this was intended only to apply to the planned number of households served, which would be reasonable since planned figures for both local and federal programs are presumably estimates. From its placement, however, the note appears to cover both planned and actual figures for local programs.

This would be inconsistent with the MTW statute, since an agency — or its contractors or partners — would have to count the number of assisted families in order to ensure that the agency complies with the statutory requirements to assist substantially the same number of eligible low-income families, assist families that are 75 percent very low-income, and maintain a comparable mix of families assisted. HUD should modify the note or move it to the “Planned” columns in that table, so that it is clear that the “Actual” columns must show actual counts of families assisted. (If for some reason an agency is not able to obtain data on the families a program assists, that program should not count toward the total number of households the agency is considered to serve for purposes of the substantially the same calculation.)

- **Include substantially-the-same baselines in reports and (through separate notice or regulation) revise calculation of baselines.** Agencies should be directed to show the number of families they are required to assist to comply with the requirement to assist substantially the same number of families, and to explain any adjustment in that baseline since the prior report. HUD published a notice (PIH 2013-02) explaining the methodology it uses to set the baselines, but it has never made the actual baselines public. Moreover, the baselines may change from year to year based on loss of public housing or addition of incremental vouchers, so it will be impossible for readers of plans and reports to know an agency’s baseline unless it is included in the documents annually. HUD’s existing and proposed (on page 13) forms already require agencies to report the baseline and actual breakdown of households by size needed to measure compliance with the statutory requirement to maintain a comparable mix of families. HUD should require similar information for the substantially the same requirement. There is no apparent rationale to treat the two requirements differently.

In addition, HUD should revise its methodology for setting the substantially the same baselines, which would require revision of PIH 2013-02 or issuance of a regulation. The current notice uses a flawed method that sets the baseline at the number of families assisted when an agency entered MTW, adjusted up or down based on loss of public housing or award of incremental vouchers. This is inconsistent with the statutory requirement that agencies assist substantially the same number of low-income families as they would assist if funds were not combined, since many MTW agencies receive enough funding to assist far more families than they did when they entered MTW (as adjusted by HUD), if they did not shift funds from one funding stream to another.

Importantly, HUD’s authority in this area is not limited by the fiscal year 2016 appropriations act’s MTW provision. In that provision, Congress directed HUD to extend

agreements for existing MTW agencies under the terms and conditions of their current agreements. Since those agreements do not specify how the substantially the same baseline should be calculated, however, HUD is free to revise its methodology for both new and existing agencies.

- **Exclude families not receiving substantial ongoing housing assistance from the number of families assisted for purposes of the substantially-the-same requirement (potentially through separate notice or regulation).** The substantially-the-same requirement is intended to constrain an agency's ability to reduce the level of assistance it provides below what it would have provided without MTW funding flexibility. HUD, however, has used an extremely loose definition of "assistance" that undermines this purpose. This is because it has allowed agencies to count as "assisted" families that receive extremely shallow subsidies — and even families that receive no ongoing MTW-funded assistance but merely live in a development that was built with even a small contribution of MTW capital funds many years earlier.

As a result, agencies can cut the number of families that receive meaningful rental assistance, shift funds to their administrative budgets or other purposes, and still comply with the substantially-the-same requirement by counting families that are "assisted" using little or no MTW funding. A version of this may be occurring in the case of Atlanta, for example, which consistently serves thousands fewer families than it could through its voucher program and reports over 3,000 families assisted through LIHTC or down payment assistance (although there is not enough information in its report to determine whether any of these families received assistance from current year MTW funds, or whether the agency needed these families to reach HUD's substantially the same baseline).

Commendably, the instructions on page 3 of HUD's proposed form remove a particularly problematic sentence from the current form stating that families in LIHTC units that only received MTW development subsidies in the past should be counted. And in general the proposed form seems consistent with excluding families that do not benefit from current-year MTW funds. HUD should, however, provide further guidance to clarify that this is HUD's intent and prevent agencies from counting extremely shallow subsidies as assistance. This guidance could be provided through revisions to the form 50900 instructions or in a separate notice or regulation.

HUD could, for example, instruct agencies to count only families that receive at least a minimum amount of assistance from current year MTW funds (such as \$4,000, adjusted for inflation and potentially local housing costs). HUD would have authority to apply this policy to all MTW agencies, since the definition of assistance — like the substantially the same baseline — is not spelled out in current MTW agreements.

### **Incomes of Assisted Families**

- **Use regular HUD income thresholds.** HUD's requirement on page 12 that agencies report the number of families assisted in local, non-traditional programs that are below 30 percent of area median income, 30-49 percent, 50-80 percent, and above 80 percent is a significant improvement over the current report, which only requires agencies to identify

households above and below 50 percent of median. The more detailed breakdowns will make it easier for users of the reports to understand the impact of MTW policies on the income mix of families assisted.

HUD, however, should specifically direct agencies to report the number of Extremely Low-Income, Very Low-Income, and Low-Income families assisted rather than the number within the listed percentages. For all three thresholds, HUD makes adjustments that sometimes cause the published limits to differ from the figures that could be obtained simply by multiplying the median income by the applicable percentage. The differences can be particularly large for the ELI threshold, which is actually set at the higher of the federal poverty line or 30 percent of median income. HUD and agencies are legally required to use the published VLI limit to determine compliance with the MTW income targeting requirement, and it would be beneficial to also use the published thresholds at the other levels to facilitate comparisons with other data sources and avoid any ambiguity about which thresholds are being used.

- **Make explicit that agencies should report the income bracket of all families they assist.** HUD should make clear on page 12 that agencies should report the income bracket of all families they assist in the plan year, not just families they newly assist that year. This is a significant distinction, because the MTW requirement in this area works differently from the regular U.S. Housing Act income targeting requirement, which specifically requires agencies to ensure that at least 75 percent of families *newly* assisted in the voucher program (and 40 percent in public housing) are extremely low-income. Without clear instructions from HUD, some agencies familiar with the regular ELI requirement might assume that the MTW requirement also covers only newly assisted families. This difference is important in the context of MTW, since some MTW policies (such as changes in tenant rents) could cause lower-income families to lose assistance soon after entering, with the effect that very low-income families account for a much higher share of newly admitted families than of all assisted families.
- **Report incomes of families assisted through federal rental assistance.** HUD's proposed report form (like the existing one) requires agencies to report the income distribution of families assisted through local programs, but not through federal vouchers and public housing. Housing agencies report these voucher and public housing data to HUD through program data systems, but because they are omitted from the MTW report it is not possible for readers of the report to determine the overall income breakdown of families assisted by an agency, or whether and by how much the agency meets the requirement that 75 percent of assisted families be very low income.

The proposed form helpfully requires agencies to report the actual *number* of families assisted through the voucher and public housing programs (which was previously also omitted) in addition to local programs, and specifies on page 13 that the number of families considered in assessing the mix of families by size must be the same as the total number of assisted families counted for the substantially the same requirement. HUD should similarly require agencies to report income breakdowns for families assisted through each federal and local program and all programs combined, and include a similar note stating that the number of

families the income assessment considers should be the same as the total number assisted.

- **Report incomes for each local, non-traditional program separately.** As with the number of families assisted, HUD should also direct agencies on page 12 to report the incomes of families assisted by each non-traditional program separately. If, for example, an agency runs a homeownership program and a local rental assistance program and between the two serves a substantial number of non-VLI families, it would be important to the community to know through which program those non-VLI families are assisted.

### **Sources and Uses of Funds**

- **Include actual expenditures in report.** On page 22, HUD should require that agencies report actual data on the sources and uses of MTW funds rather than simply referring to the FASPHA submissions. Presumably HUD omitted these data from the report to minimize administrative burdens for PHAs, since the PHAs would already provide these data in their regular financial reporting. But the burden of adding these data to a report should be modest, and including them is essential to increasing transparency in the program and allowing informed public input (since community stakeholders would clearly be at a disadvantage in providing comments if they have access to projected expenditures in MTW plans each year, but never to actual expenditures broken down in the same way). This would go beyond the reporting required of non-MTW agencies, but this would be reasonable given the broad additional flexibility MTW provides. It would also clearly be consistent with the 2016 appropriations act, which explicitly gives HUD authority to establish special financial reporting requirements for all MTW agencies.
- **Report funding and expenditures separately by program and major activity.** The ability to transfer rental assistance funds from one purpose to another is the single most consequential flexibility provided by MTW. In 2014, the last year for which we have complete data from HUD, agencies used \$590 million of voucher subsidy funding for purposes other than voucher housing assistance payments. We can easily estimate that this resulted in 63,000 fewer families receiving vouchers, but it is impossible to know with any precision how those funds were used or what their impact was.

The MTW report should allow stakeholders, researchers, and policymakers at the federal and local level to easily determine when funds are transferred, how much is transferred, and for what purpose the funds are used. For example, an agency may choose to spend less on vouchers and more on public housing operations or administration or a local initiative than Congress appropriated for these purposes, but this choice should be transparent from the data on sources and uses of funds.

MTW agencies receive funding separately for voucher renewals, voucher administrative fees, and public housing operating and capital funds, and could easily report funding from these sources separately. HUD should require them to do so for planned and actual funding on pages 20 and 22.

Similarly, agencies should break their planned and actual uses of funds down into major programs and activities, including the federal voucher and public housing programs, each

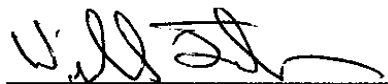
major local non-traditional housing assistance program separately, and each major other initiative. Within these categories, HUD should require agencies to show expenses for significant categories, for example separating voucher HAP expenditures from voucher administrative expenditures, and splitting out various types of public housing operating expenses.

In addition, the categories used should allow comparison with the number of families assisted in each program. In other words, for public housing, vouchers, and each significant local project-based, tenant-based, or homeownership assistance program, the report should enable stakeholders to determine both how many families were assisted and how much was spent to assist them.

- **Exclude port-in expenses from use of funds table.** It is not clear why HAP port-in expenses (FDS 97350) are included in the uses of funds table on page 20, since these are not expenses of the MTW agency. If HUD does retain those expenses in the table, it should also show the corresponding payments by the issuing agency as a source of funding, and break out each of these categories into a separate row — but it seems clearly preferable to simply exclude the payments. (If voucher program policy in the future changes to provide funds directly to receiving agencies, then it would be appropriate to revise form 50900 to include the related expenditures.)
- **Replace depreciation expenses with explanation of where funds actually go.** Depreciation expenses, while relevant for accounting purposes, do nothing to indicate how MTW funds are used. These expenses should be removed from the uses of funds table on page 20. Instead, HUD should require agencies to report where funds actually go. For example, if an agency has a surplus and deposits it in a reserve or uses it to pay down debt, the uses of funds table should show that. HUD should also require agencies to report balances of MTW and other funds in their reserves.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Fischer", with a horizontal line underneath.

Will Fischer  
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Center on Budget and Policy Priorities