



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

SPECIAL ATTENTION OF:

Moving to Work Public Housing Agencies;
Regional and Field Office Directors of Public
Housing

NOTICE: PIH-2013-02 (HA)

Issued: January 10, 2013

Expires: Effective until amended,
superseded, or rescinded

SUBJECT: Baseline Methodology for Moving to Work Public Housing Agencies

1. **Purpose.** This notice describes a compliance effort that ensures Moving to Work (MTW) Public Housing Agencies (PHAs) continue to meet the statutory obligation to serve substantially the same number of families as if they had not participated in the MTW demonstration. HUD has developed a numerical indicator that it will use to make annual determinations of compliance. This effort is known as the “MTW Baseline Project.”
2. **Applicability.** This notice applies to all MTW PHAs subject to Section 204 of the Appropriations Act of 1996 (MTW Statute). This includes MTW PHAs originally designated under Section 204 of the Appropriations Act of 1996 and any PHAs subsequently designated as a result of authorized increases to the number of participants in the demonstration.¹
3. **Background.** MTW PHAs have the ability to combine Section 8 (Housing Choice Voucher) and Section 9 (Public Housing Operating and Capital) funds into a single MTW block grant in order to provide housing assistance that better adapts to local needs. In granting this flexibility, the MTW Statute requires that MTW PHAs “[continue] to assist substantially the same total number of eligible low-income families as would have been served had the amounts [of funding] not been combined”² (Statutory Requirement). Because all MTW PHAs have the ability to combine funds, the Statutory Requirement applies to all MTW PHAs regardless of whether or not funds are actually combined in practice.

Historically, HUD has accepted an annual certification from each participating MTW PHA that is submitted with the Annual MTW Plan to verify compliance with the Statutory Requirement.³ In order to more accurately monitor the extent to which MTW PHAs are meeting the Statutory Requirement,

¹ Congress originally authorized the MTW demonstration in 1996 (P.L. 104-134; 42 U.S.C. 1437f note). Additional MTW PHAs were authorized under subsequent appropriations acts. This methodology only applies to PHAs operating under an active Standard MTW Agreement (not those PHAs that previously participated in the MTW demonstration and left).

² P.L. 104-134; 42 U.S.C. 1437f note.

³ No MTW flexibility exists with regard to non-discrimination and equal opportunity requirements, as detailed in PIH Notice 2011-31. This and a number of other requirements that MTW PHAs must meet are not discussed here. For more information on the MTW demonstration, visit: www.hud.gov/mtw.

in addition to the certification, HUD will calculate a ratio to compare the number of families being served annually by each MTW PHA to an approximation of how many families would have been served absent the MTW designation. HUD will then make an annual compliance determination to confirm that each MTW PHA fulfills the Statutory Requirement.

The remainder of this notice consists of several sections. The “Calculation Mechanics” section describes the calculations and data sources. This is followed by a “Variables” section that discusses which factors and circumstances will and will not result in changes to the baseline. Next, the “Compliance Determinations” section explains the various levels of acceptable performance and enforcement. Finally, the effective dates and assessment schedule are given in the “Implementation Timeline” section.

4. **Calculation Mechanics.** To verify compliance with the Statutory Requirement, HUD will compare the number of actual families served in an MTW PHA’s fiscal year to an adjusted “baseline” estimate of the number of families that would have been served absent the MTW designation. This ratio will result in an annual percentage that will show the extent to which the MTW PHA is meeting the Statutory Requirement.

All data will come from HUD’s Inventory Management System/PIH Information Center (IMS-PIC), the Voucher Management System (VMS) and/or HUD successor systems. HUD will also verify data in the MTW PHA’s Annual MTW Report.⁴ Section 5 of this notice contains more specific information on what factors will be used in the calculation.

The overall calculation can be represented as follows:

$$\boxed{\text{Families Served (Numerator)}} \div \boxed{\text{Baseline (Denominator)}} = \boxed{\% \text{ Total}}$$

a. Families Served (Numerator) Formula

Initial Calculation of Families Served (Numerator)

The initial numerator will equal the baseline (see 4b below).

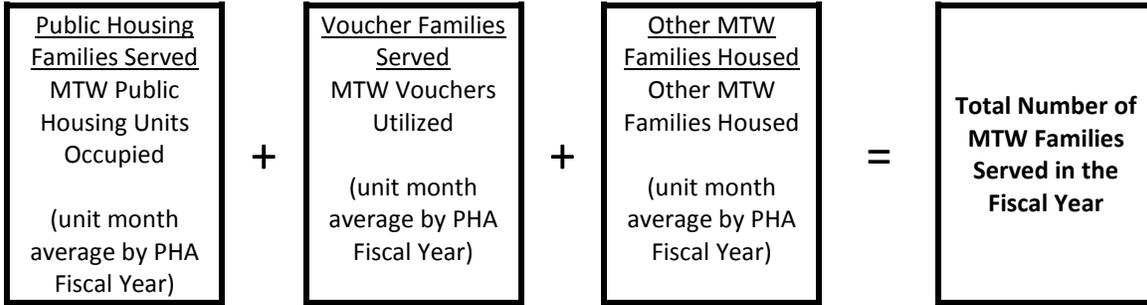
Calculation of Families Served (Numerator) in Subsequent Years

At the end of each MTW PHA’s fiscal year, HUD will determine how many families are served by summing the number of occupied public housing units, the number of vouchers utilized, and the number of other families housed⁵ by virtue of the MTW program.

⁴ Where there is a discrepancy between data reported in IMS-PIC/VMS and the data given by the MTW PHA, HUD will work with the MTW PHA to determine why a discrepancy exists. The data in IMS-PIC/VMS will ultimately control. Where no figures are available in HUD systems, HUD will use historical and/or PHA files.

⁵ Some MTW PHAs are able to provide non-traditional housing assistance to low-income families through an authorization in Attachment D of the Standard MTW Agreement titled “Uses of Funds.” MTW PHAs must activate this authorization through an activity in an approved Annual MTW Plan. More information on the types of units that may be counted as “Other MTW Families Housed” is in Section 5 of this notice.

This can be represented as follows:



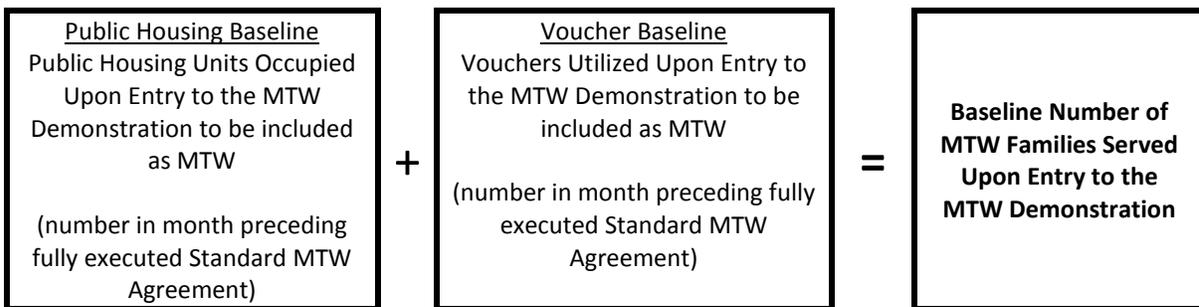
“Public Housing Families Served” will consist of a data snapshot of all units in an applicable occupied status in IMS-PIC for each month of the MTW PHA’s fiscal year. This data will then be summed and divided by twelve to determine an annualized, or average, number. “Voucher Families Served” will consist of snapshot data from VMS of all applicable leased categories for each month of the MTW PHA’s fiscal year. This data will then be summed and divided by twelve to determine an annualized, or average, number. “Other MTW Families Housed” will consist of snapshot data of all families receiving non-traditional housing assistance for each month of the MTW PHA’s fiscal year. This data will also be summed and divided by twelve to determine an annualized, or average, number.

b. Baseline (Denominator) Formula

Initial Calculation of Baseline (Denominator)

The initial denominator, or baseline, will be a snapshot number of vouchers utilized plus public housing units occupied in the month preceding the date when the Standard MTW Agreement was fully executed.⁶ Only those units subject to the MTW program will be included.

This can be represented as follows:



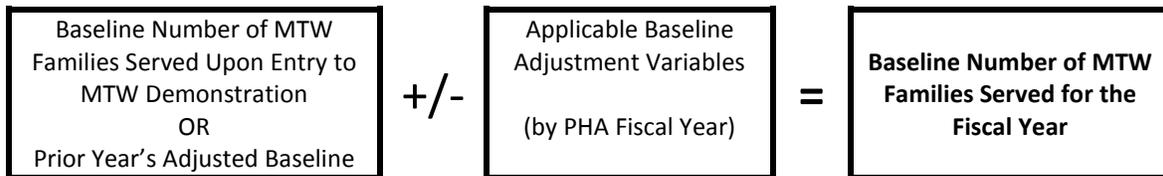
Calculation of Adjusted Baseline (Denominator) in Subsequent Periods

Every year that a PHA participates in the MTW program, the baseline will be adjusted according to a set of variables (defined in Section 5 of this notice). These variables are meant to account for changes to an MTW PHA’s capacity to serve families. The baseline may be adjusted up, to account for an increase in capacity to serve families (for example, with the award of incremental

⁶ Where utilization/occupancy data for the month immediately preceding execution of the Standard MTW Agreement is not available for an MTW PHA, HUD will use data closest to the available date.

MTW voucher units) or adjusted down to account for a decrease in capacity to serve families (for example, with the demolition of a public housing development). Other MTW families housed by the PHA by virtue of its participation in MTW would not adjust the baseline either up or down.

This can be represented as follows:



5. **Variables.** An MTW PHA’s baseline will be adjusted annually either up or down according to the variables listed here. Also included is a discussion of potential variables that will not result in adjustments to the baseline, but may affect the calculation in other ways. The variables in each of these categories are given in alphabetical order.

a. Variables Resulting in an Increase or Decrease to the Adjusted Baseline

Demolition/Disposition

Public housing units that are demolished or disposed of will be subtracted from the baseline. While these units will be subtracted from the “Public Housing” section of the baseline calculation, if applicable, a corresponding award of Housing Choice Vouchers (HCVs) will be added to the “Voucher” section of the baseline calculation. These units will be removed from the baseline when they achieve “Actual” demolition/disposition status in IMS-PIC. Because this process can take a substantial amount of time, units in the “Approved” demolition/disposition status will be counted in the numerator of the calculation until they achieve “Actual” status and are removed from subsidy calculations, IMS-PIC and the baseline.

Some MTW agencies have the flexibility to retain public housing operating subsidy for demolished/disposed public housing units instead of receiving a corresponding award of replacement vouchers. This flexibility, if applicable, would be outlined in Attachment A of the MTW PHA’s Standard MTW Agreement. Where this is the case, these public housing units will remain in the baseline.

Expansion of the MTW Program

Some MTW PHAs began the MTW demonstration as a pilot with only a portion of their vouchers or public housing units. Some of these MTW PHAs have subsequently opted to add more units, or the entire inventory, into the MTW demonstration. To account for this, in the fiscal year of the expansion, the occupied public housing units and utilized vouchers will be added to the MTW PHA’s baseline. This calculation would be similar to that of the initial calculation, but with a larger portion of the MTW PHA’s inventory. This would effectively result in a “re-baseline.”

Error by HUD

HUD may make an error in a funding calculation that results in a funding increase or decrease to the MTW PHA. This error could cause the MTW PHA to serve more or less families, regardless of status in the MTW demonstration. Where HUD determines that a HUD error was made and an

adjustment is necessary, the baseline will be adjusted accordingly. No adjustment would be available when an MTW PHA disputes a calculation and HUD determines it was properly made.

Funding Amendments (to Attachment A of the Standard MTW Agreement)

An MTW PHA and HUD may execute an amendment to the Attachment A of the Standard MTW Agreement that could result in an increase in the MTW PHA's capacity to serve families. Where this is the case, it would affect the baseline calculation. The specific numerical effects of such an amendment would depend on the facts and circumstances.

Additional Public Housing (Development or New ACC Units)

Development of new public housing units, or any other action that adds a public housing unit to the Annual Contributions Contract (ACC), would increase a PHA's capacity to serve additional families, regardless of status in the MTW demonstration. Each new unit that is added under the MTW PHA's ACC will be added to the MTW PHA's baseline. This assumes the unit will be occupied.

Incremental Voucher Awards (Litigation)

If an MTW PHA receives additional HCVs as a result of a court order or settlement, each voucher awarded that is or will be included in the MTW demonstration will be added to the MTW PHA's baseline. This assumes 100% utilization and would operate in the same way as the award of incremental vouchers (discussed below). These HCVs would not be added to the baseline until the court order or settlement is finalized.

Incremental Voucher Awards (Regular)

New, incremental voucher awards would increase the baseline number accordingly because had the MTW PHA not been in the MTW demonstration, an award of new vouchers would increase capacity to house more families. The number of HCVs awarded, and included in the MTW program, will be added in its entirety to the baseline upon award. This assumes a 100% utilization rate. Once utilized by a family and captured in VMS, these HCVs will also be counted in the numerator. While it may take time for the MTW PHA to lease up the HCVs, resulting in the initial appearance of low utilization, HUD will consider this possibility in the compliance determination process and not the calculation itself.

Incremental Voucher Awards (Tenant Protection/Enhanced)

As discussed in the demolition/disposition section above, HCVs added through tenant protection voucher or enhanced voucher awards will be added to the baseline. Like an incremental voucher award, the addition of tenant protection vouchers or enhanced vouchers would increase a PHA's capacity to serve more families, regardless of status in the MTW demonstration.

Tenant protection vouchers and enhanced vouchers are not eligible to be added to the MTW block grant until renewal (one year from the time of the award). In order to prevent a lag in the baseline calculation, in spite of the one year waiting period, new tenant protection vouchers and enhanced vouchers will be added to the baseline at the close of the PHA fiscal year when they were awarded. The number of tenant protection vouchers and enhanced vouchers will be added in their entirety to the baseline. This assumes a 100% utilization rate. As discussed above, any initial low utilization due to lease-up will be considered in the compliance determination process.

Merger of PHAs

If an MTW PHA merges with another PHA and plans to include the additional PHA's public housing and voucher inventory in the MTW demonstration, those occupied public housing units and utilized vouchers of the other PHA will be added to the MTW PHA's baseline. It is possible that HUD may determine a "re-baseline" is necessary. Such a calculation would operate in the same way as an MTW program expansion (see above).

b. Factors that do not Result in an Increase or Decrease to the Baseline

Audit/Review Findings

Audit or review findings are not factored into the baseline calculation. Any findings that an MTW PHA agrees to address should not affect the ability to serve families. This would be the case whether or not a PHA is participating in the MTW demonstration.

Demographics (Income)

Changes in income demographics could affect a PHA's ability to serve the same number of families. If the MTW PHA serves more extremely low income households and the aggregate tenant contribution is significantly altered, the PHA could be at risk of serving fewer families. Such a situation would affect the MTW PHA whether or not it was participating in the MTW demonstration. While this potential scenario is acknowledged, these types of challenges will be addressed through the compliance determination and not in the calculation itself (discussed in Section 6 of this notice).

Demographics (Population)

Changes in population demographics, such as an increase in large families requiring bigger units or more disabled families requiring reasonable accommodation, could affect the cost to house each family. An increase in the per-family cost could affect the MTW PHA's ability to serve the same number of families. Such a situation would affect the MTW PHA whether or not it was participating in the MTW demonstration. While this potential scenario is acknowledged, these types of challenges will be addressed through the compliance determination and not in the calculation itself (discussed in Section 6 of this notice).

Development (Affordable Housing)⁷

The creation of affordable housing with MTW funds does not result in an adjustment to an MTW PHA's baseline. Such housing represents families that the MTW PHA is able to serve because of its participation in the MTW demonstration. As a result, each family that is housed through affordable housing development with MTW funds would be counted in the numerator under "Other MTW Families Housed." Families counted in this category must follow all requirements contained in Public and Indian Housing (PIH) Notice 2011-45 (or its successor guidance) on "Parameters for Local, Non-Traditional Activities under the Moving to Work Demonstration Program."

The creation of affordable housing with non-MTW funds will not be considered in either the numerator or denominator of the calculation.

⁷ Affordable housing is defined for purposes of this notice as units that serve exclusively families at or below 80% Adjusted Median Income (AMI).

Expenses of the MTW PHA (Increases or Decreases)

Rising utility costs or higher than expected expenses for a PHA could potentially affect the number of households a PHA could serve. This would be the case regardless of the MTW PHA’s status in the MTW demonstration. Such a factor would not be considered in the baseline calculation. Through the compliance determination, this issue could be identified and a plan to implement MTW flexibilities to address it could be put in place.

Incremental Voucher Awards (Special Purpose)

Special purpose vouchers⁸ are not eligible to be included in the MTW block grant. Therefore, most types of special purpose vouchers are not considered in either the baseline or numerator of the calculation. Tenant Protection and Enhanced vouchers (discussed earlier) are the two categories of special purpose vouchers that are exceptions. These are included in the calculation, both in the baseline and the numerator.

Lack of Quality Rental Housing Stock in the Local Market

Many MTW PHAs operate in high density, urban areas where affordable housing stock is limited. Such limited stock could affect the number of families that the MTW PHA is able to serve because of higher Housing Assistance Payment (HAP) costs or slower lease-up process due to the inability of tenants to find a unit that meets Housing Quality Standards (HQS). While such scenarios may arguably have been exacerbated over the years, they are integral to the location of the MTW PHA and not affected by a PHA’s status in the MTW demonstration. This variable will therefore not be included in the calculation.

Local Market Ambiguities

Local market ambiguities include factors that are unique to the MTW PHA because of its location, local economic climate or other factors specific to the community. Such scenarios, while possibly affecting the number of families that would be served regardless of the PHA’s status in the MTW demonstration, would be impossible to account for in an equitable or predictable way in this calculation. Local market ambiguities are therefore not considered in the calculation. Unique situations could, however, be considered when making the annual compliance determination (discussed in Section 6 of this notice).

Local Voucher Program

Under the flexibilities offered through MTW, an MTW PHA may use the MTW block grant to create a local voucher program outside of its regular HCV program. This activity is allowable only to MTW PHAs. As such, were the PHA not in the MTW demonstration, it would not be able to serve families through a local voucher program. A local voucher program funded by the MTW block grant, either new or already being operated, would therefore not result in an adjustment to the baseline, but the utilized vouchers would be counted in the numerator in the “Other MTW Families Housed” category. Families counted in this category must follow all requirements contained in Public and Indian Housing (PIH) Notice 2011-45 (or its successor guidance) on

⁸ Special purpose vouchers include any vouchers appropriated separately or requiring separate reporting from the MTW PHA’s regular vouchers, including: Veterans Affairs Supportive Housing (VASH); Family Unification Program (FUP); Non-Elderly Disabled (NED); Mainstream Vouchers; and Tenant Protection/Enhanced Vouchers.

“Parameters for Local, Non-Traditional Activities under the Moving to Work Demonstration Program.”

The creation of a local voucher program with non-MTW funds will not be considered in either the numerator or denominator of the calculation.

Overleasing of Vouchers by the MTW PHA

An MTW PHA has the ability to overlease its voucher program, defined as exceeding the contract amount in the ACC. If an MTW PHA chooses to overlease its voucher program, it is the assumption that it does so because of additional funds accumulated or saved as a result of MTW flexibilities. Therefore, these additional families housed through overleasing would not have been served had the MTW PHA not participated in the MTW demonstration. Overleased vouchers, then, do not result in adjustment to the baseline. They would be calculated in the numerator only, in the “Vouchers” section, to capture the PHA’s ability to serve more families. Where a PHA was overleased upon entry to the MTW demonstration, the contract number of vouchers will be used to establish the baseline.

Proration (Public Housing)

Proration would result in less funding to the PHA, regardless of its status as an MTW PHA. This decrease in funding, however, would not result in a direct and immediate corresponding drop in occupancy. Because it would be difficult to calculate proration’s direct effect on occupancy, annually adjusting the baseline accordingly would not be feasible. The effects of proration may be considered in HUD’s annual compliance determination (explained in more detail in Section 6 of this notice). An MTW PHA’s baseline will not be adjusted, either up or down, according to proration levels in the public housing program.

Proration (Vouchers)

An MTW PHA’s baseline will not be adjusted, either up or down, according to proration levels in the HCV program. The effects of proration may be considered in HUD’s annual compliance determination (explained in more detail in Section 6 of this notice).

Services-Only Families

HUD interprets the Statutory Requirement to relate to housing assistance only. While providing services to families who are not receiving rental assistance is permissible (if the proper authorizations are available in the Standard MTW Agreement and invoked in an approved Annual MTW Plan), it should not be done at the cost of housing fewer families. Therefore, families receiving services only are not considered in either the baseline or the numerator of this calculation.

HUD is, however, interested in capturing these additional families that the MTW PHA is able to serve as a result of its participation in the MTW demonstration. HUD obtains this information through the Annual MTW Report.

Voluntary Compliance Agreement (VCA)

Any VCA entered into between the MTW PHA and HUD is not included in the numerator or denominator of the baseline calculation. Such a situation should not affect the MTW PHA’s ability to serve families.

6. Compliance Determinations. HUD will make a compliance determination annually after computing the MTW PHA's families served (numerator) and adjusted baseline (denominator) for the MTW PHA's fiscal year. Varying categories of compliance/non-compliance are in place to account for scenarios that may arise. Any "Compliant" or "Substantially Compliant" designation represents an MTW PHA's compliance with the Statutory Requirement. If an MTW PHA is designated as "Non-Compliant," the MTW PHA must work with HUD to develop and enter into a corrective action plan as described below. Non-compliance with the Statutory Requirement would constitute a breach of the MTW PHA's Standard MTW Agreement.

a. Compliance Determinations that Result in an MTW PHA Meeting the Statutory Requirement

Compliant

This category is used when an MTW PHA either meets or exceeds its adjusted baseline, resulting in a percentage at or above 100%.

Compliant – No Fault of PHA

This category is used when an MTW PHA falls below the adjusted baseline in a given year (or years) due to circumstances out of its control. This category of compliance will be available at the discretion of HUD for instances such as extreme proration, natural disasters, and/or other situations deemed applicable and appropriate.

Substantially Compliant – Nominal Dip

This category is used when an MTW PHA falls between 95% and 100% of the adjusted baseline in a given year.

MTW PHAs that HUD determines were substantially under-leased in the voucher and/or public housing program(s) upon entry to the demonstration may not be considered for this category.

Substantially Compliant – Plan in Place/Plan in Progress

This category is used when an MTW PHA falls below the adjusted baseline in a given year (or years) to a larger (defined as a dip of 5% or more below the adjusted baseline in a given year(s)) and/or sustained degree (defined as any dip below the adjusted baseline for two or more consecutive years).

This category of compliance requires that the MTW PHA create, submit to HUD, and have approved by HUD a "Baseline Plan" that results in a percentage at or above 100%. Depending on the level of dip and the circumstances, HUD will determine appropriate format and level of detail required. This Baseline Plan will be submitted by the MTW PHA at the request of HUD, who will determine applicable deadlines. This category will be assigned while the MTW PHA is developing a Baseline Plan, while the Baseline Plan is in the process of being approved by HUD, and when the Baseline Plan is in place. An MTW PHA that does not complete a Baseline Plan per HUD's guidelines (including content and deadlines) will be moved to the "Not Compliant" category described below.

In approving the MTW PHA's Baseline Plan HUD will consider factors including but not limited to: whether the MTW PHA was fully or near fully leased in the voucher and/or public housing

program(s) upon entry to the demonstration, the size of the MTW PHA's inventory, funding proration and offsets that affect the MTW PHA, whether the dip is a consistent pattern or isolated incident, whether the dip is due to a reporting lag of some kind, whether the dip is due to local issues and/or the amount of time the MTW PHA expects is necessary for the dip to be corrected.

MTW PHAs that HUD determines were substantially under-leased in the voucher and/or public housing program(s) upon entry to the demonstration may not be considered for this category.

b. Compliance Determinations that Result in an MTW PHA Not Meeting the Statutory Requirement

Not Compliant

This category is used when an MTW PHA that HUD determines was substantially under-leased in the voucher and/or public housing program(s) upon entry to the demonstration falls below the adjusted baseline with no, or insufficient, explanation. It also applies to an MTW PHA in the "Substantially Compliant – Plan in Progress/Plan in Place" category that HUD determines is not meeting the obligations of that category as described above and/or the terms of the Baseline Plan resulting from that category.

HUD will work with the MTW PHA assigned the "Not Compliant" category to enter into a corrective action plan. The corrective action plan will be in the format of an agreement signed by HUD and the MTW PHA. Sustained non-compliance constitutes a breach of the Standard MTW Agreement and may result in revocation of the MTW designation.

- 7. Implementation Timeline.** HUD has tested this methodology and determined a historical record of families served (numerator) and adjusted baseline (denominator) for each current MTW PHA. These provisional numbers, through the MTW PHA's 2011 fiscal year, are not considered for purposes of compliance. Beginning in the MTW PHA's 2012 fiscal year, this methodology is effective and compliance determinations are valid.

The process of assessing compliance will occur with the submission of each MTW PHA's Annual MTW Report. MTW PHAs will have the opportunity at this time to view HUD's assessment of the Statutory Requirement and provide any assertions as to corrections or errors.

- 8. Further Information.** Any questions concerning this notice should be directed to the Moving to Work Office, Office of Public Housing Investments, at (202) 402-6231 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339

/s/
Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing