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April 30, 2026

Secretary Scott Turner
U.S. Department of Housing and Urban Development
2415 Eisenhower Avenue
Alexandria, VA 22314

Re: Docket No. FR-6520-P-01
Establishing Flexibility for Implementation of Work Requirements and Term Limits Proposed Rule

Dear Secretary Turner:

The Council of Large Public Housing Authorities ("CLPHA"), joined by Reno & Cavanaugh, PLLC ("Reno & Cavanaugh"), respectfully submits these comments in response to the Notice of Proposed Rulemaking ("Proposed Rule" or "NPRM") entitled "Establishing Flexibility for Implementation of Work Requirements and Term Limits," published in the Federal Register on March 2, 2026, Docket No. FR-6520-P-01.

CLPHA is a national non-profit organization that works to preserve and improve public and affordable housing through advocacy, research, policy analysis, and public education. CLPHA's membership represents eighty-four (84) of the nation's largest public housing authorities ("PHAs"). Our members collectively manage forty percent (40%) of the nation's public housing program, administer more than a quarter of the nation's Housing Choice Voucher ("HCV") program, operate a wide array of other housing programs, and collectively serve over one million low-income households. CLPHA's members share the goal of fostering economic self-sufficiency and upward mobility for the residents they serve. CLPHA members have long been at the forefront of voluntary workforce development, financial literacy, and self-sufficiency programming. These locally driven efforts have produced demonstrable, positive outcomes for residents and communities.

Reno & Cavanaugh has represented hundreds of PHAs throughout the country and has worked with its clients on housing issues for many years. Founded in 1977, Reno & Cavanaugh has developed a national practice that encompasses the entire real estate, affordable housing, and community development industry. Although our practice has expanded significantly over the past nearly five decades to include a broad range of legal and legislative advocacy services, Reno & Cavanaugh's original goal of providing quality legal services dedicated to improving housing and communities remains at the center of everything we do. Reno & Cavanaugh joins in these comments for the purpose of challenging the legal basis and justification for the Proposed Rule presented by HUD and in support of the other concerns expressed by CLPHA.

CLPHA is joined by Reno & Cavanaugh in submitting these comments to the Proposed Rule to raise our shared concerns about the Proposed Rule's legal foundation, administrative implications, and the critical importance of preserving local PHA discretion in any final rule. As detailed below, these comments are further grounded in four core concerns:

- The Proposed Rule exceeds HUD's statutory authority under the United States Housing Act of 1937 (the "1937 Act") and, if finalized, could expose PHAs and Multifamily Housing Owners to significant legal liability.

- The Proposed Rule imposes substantial administrative burdens on PHAs that are neither fully acknowledged by HUD nor adequately funded, diverting critical resources away from the housing and resident services that PHAs are charged with delivering.

- Any final rule must preserve meaningful local discretion, ensuring that PHAs and project owners — not HUD — determine whether and in what form work requirements or term limits are appropriate for their communities, and that no PHA or project owner is penalized if they or their communities decline to adopt these policies.

- CLPHA is fundamentally opposed to the use of term limits as a condition of Federal Rental Assistance (defined herein). Regardless of the minimum term established in any final rule, imposing time limits on housing assistance is harmful, unsupported by evidence, and inconsistent with the realities of the affordable housing market.

CLPHA and its members appreciate HUD's stated goals of promoting self-sufficiency and expanding housing opportunities. Whether or not a PHA determines that work requirements or term limits are appropriate for its community, what every PHA needs is adequate funding, meaningful local flexibility, and the legal certainty. However, those goals are most effectively advanced when PHAs retain the flexibility to design approaches that reflect their local housing markets, resident populations, and existing workforce development infrastructure — not through a one-size-fits-all policy that may strain resources and expose PHAs to legal risk.

I. CLPHA Members Are Proven Leaders in Voluntary Workforce Development.

Before addressing the specific legal and policy objections to the Proposed Rule, we first want to remind HUD that CLPHA members have long been at the forefront in creating and promoting innovative, voluntary initiatives to connect residents with employment opportunities, educational resources, and promoting pathways to economic self-sufficiency. The demographics of PHA-assisted populations underscore the importance of a holistic approach in achieving upward mobility, which must include robust and essential supportive services for residents and comprehensive administrative support and resources for housing providers. According to CLPHA's research:

- Nearly seventy-five percent (75%) of PHA residents are not work-able populations.[1] Only about twenty-five percent (25%) of PHA residents are able-bodied, working-age adults, most of whom work low-wage jobs and would potentially be subject to a work requirement.[2]
- Eighty-seven percent (87%) of households with one or more able-bodied, working-age members reported having at least one member working or who had recently worked.[3] Among able-bodied, working-age adults not currently employed, seventy-eight percent (78%) cited school attendance or family obligations as the primary reason for not working.[4]
- Wages are a major source of income in twenty-eight percent (28%) of all assisted households, while welfare serves as a major source of income for only 1.3 percent of households.[5] However, the median total annual income of households served ($14,317) remains around forty percent (40%) of the Federal Poverty Level, and the average assisted full-time worker would need a seventy percent (70%) wage increase to afford the typical market-rate rental unit.[6]

This data demonstrates that the Proposed Rule would affect a narrow slice of PHA-assisted households while imposing administrative and legal burdens on every non-Moving to Work ("MTW") PHA that chooses to adopt work requirement or term limit policies. The suggestion that the current system broadly disincentivizes work or that residents suffer from a lack of motivation is not supported by the demographics of those who receive assistance.

CLPHA member PHAs are already advancing workforce development through robust voluntary programs. These examples demonstrate the breadth of locally driven approaches PHAs are already employing and include the following:

- Family Self-Sufficiency ("FSS") programs operated by CLPHA members have enrolled thousands of families, generating millions of dollars in escrow savings and producing significant income gains. In one program, the first cohort of graduates completed with a combined $890,000 in escrow, representing average income gains in excess of $35,000. In another, fifty percent (50%) of 2025 graduates purchased homes and one hundred percent (100%) secured careers sustaining their financial independence.

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[1] This includes children under the age of eighteen (37%), elderly individuals (23%), and persons with disabilities (14%). *See Who Lives and Works in Federally Assisted Housing,* COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES, https://clpha.org/sites/default/files/CLPHA-WF%201pg-who-dig%20%281%29.pdf.
[2] *Id.*
[3] *Id.* (citing *Employment Trends Among People Living in Publicly Supported Homes*, PARHC (2018), https://www.pahrc.org/wp-content/uploads/2019/10/Employment-Trends-Among-People-Living-in-Publicly-Supported-Homes.pdf).
[4] *Id.* (citing *Employment Trends Among People Living in Publicly Supported Homes*, PARHC (2018), https://www.pahrc.org/wp-content/uploads/2019/10/Employment-Trends-Among-People-Living-in-Publicly-Supported-Homes.pdf).
[5] *Id.*
[6] *Id.*

- Several CLPHA members operate long-standing workforce centers serving hundreds to thousands of residents annually, providing job training, job placement, mental health resources, and business development support. One such center, operating for over thirty (30) years, has placed nearly 15,000 residents in growth-sector employment.
- CLPHA members have developed youth-focused workforce programs offering life skills, vocational training, and college preparation, serving residents from middle school through post-secondary completion. Some of these programs have operated for over four decades.
- Financial opportunity centers operated by CLPHA members take a bundled services approach combining one-on-one financial coaching, income supports, and employment services, with measurable results including increases in net worth and reductions in debt among participants.

II. The Proposed Rule Exceeds HUD's Statutory Authority and, if Implemented, Could Expose PHAs to Significant Legal Liability.

At CLPHA's request, Reno & Cavanaugh has conducted a legal analysis of the Proposed Rule and HUD's authority to issue the same under the 1937 Act. Based on Reno & Cavanaugh's analysis, CLPHA believes that the Proposed Rule exceeds the authority delegated to HUD by Congress under the 1937 Act and, if implemented, could expose PHAs and Owners to substantial legal risk. This position is further supported by the President's Proposed FY2027 budget request, which seeks to amend Section 12 of the 1937 Act to authorize work requirements and term limits for assisted families.[7] While CLPHA appreciates that HUD has published the Proposed Rule for public comment, promulgating regulations and policy through rulemaking does not absolve the need for Congress to first delegate to HUD the authority to implement work requirements or term limits. A summary of the legal analysis prepared by Reno & Cavanaugh is below.

A. The 1937 Act Does Not Authorize HUD to Condition Federal Rental Assistance on Employment or to Impose Term Limits.

The 1937 Act serves as the authorizing legislation that provides HUD with the framework under which it may implement the public housing, HCV, Section 8 project-based voucher ("PBV"), and Project-Based Rental Assistance ("PBRA" and, together with HCV, PBV, and Public Housing, "Federal Rental Assistance") programs and sets forth the applicable requirements. Where a statute expressly delegates the authority to promulgate rules to implement a statute, the agency must act within "the boundaries of [the] delegated authority" and engage in "reasoned decisionmaking" within those boundaries.[8] Even where a statute may contain ambiguities, this "does not necessarily reflect a congressional intent that an agency… resolve the resulting interpretive question" and go beyond the boundaries of the applicable statute when promulgating rules.[9]

[7] OFFICE OF MGMT. & BUDGET, BUDGET OF THE U.S. GOVERNMENT FISCAL YEAR 2027 APPENDIX (2026), https://www.whitehouse.gov/wp-content/uploads/2026/04/appendix_fy2027.pdf.
[8] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 395 (2024).
[9] *Id.* at 373.

As noted above, the 1937 Act does not provide HUD with authority to permit non-MTW PHAs or project owners to implement work requirements or term limits. To that end, the President's proposed FY2027 budget requests that Congress amend the 1937 Act to "give[ ] the Secretary permanent authority to require PHAs and multifamily property owners to implement work requirements and time limits for assisted families other than those who fall into an exempted category…"[10] If HUD already had the authority to implement work requirements and term limits as purported by the Proposed Rule, such statutory amendment would not be necessary. Additionally, as noted herein, the 1937 Act clearly and unambiguously states the criteria for continued eligibility, termination of assistance, and lease termination provisions for Federal Rental Assistance, none of which are contingent on employment or place a minimum two- (2) year limit on the term of participation. In the few discrete cases where Congress has intended certain rental assistance programs to be conditioned on employment or term of participation, this was clearly articulated in the 1937 Act.[11] Only after Congress has delegated authority to HUD to implement work requirements and term limits may HUD actually give PHAs and project owners the option to do the same.

- **Eligibility Criteria.** The 1937 Act clearly and unambiguously states the criteria that HUD, PHAs, and project owners shall use to determine initial and continued eligibility for Federal Rental Assistance programs. Under the 1937 Act, families must be "low-income" at the time of initial occupancy.[12] Eligibility for assistance under the 1937 Act is further limited based on a family's assets,[13] and any individual convicted of manufacturing methamphetamine on the premises in violation of Federal or State law is permanently ineligible for public housing tenancy.[14] Beyond these discrete limitations, families are presumed to qualify for Federal Rental Assistance so long as they are income-eligible. However, under the Proposed Rule, HUD would expand the continued eligibility criteria to permit consideration of employment status. In doing so, HUD exceeded the authority delegated to it by Congress under the 1937 Act.

- **Termination of Assistance.** The 1937 Act clearly and unambiguously sets forth the criteria to consider when terminating Federal Rental Assistance: for serious and repeated violation of lease terms or for "other good cause"; for certain criminal or drug-related activity; for fleeing prosecution or confinement after conviction; for violating probation or parole conditions; or, for public housing only, for noncompliance with community service requirements.[15] The factors set forth in the 1937 Act that constitute permissible bases for terminating tenancy or assistance do not include noncompliance with work requirements or overstaying a term limit. Further, neither would these constitute "other good cause"

[10] *See* U.S. DEPT. OF HOUSING & URB. DEV., CONGRESSIONAL JUSTIFICATIONS 2027 (2026), https://www.hud.gov/sites/dfiles/CFO/documents/2027-Congressional-Justifications.pdf.
[11] *See* 42 U.S.C. §§ 1437u(c)(1)(A), 1437z-4(c), 1437f(y)(4).
[12] 42 U.S.C. § 1437a(a)(1); *see also* § 1437f(o) (setting forth additional income eligibility criteria), § 1437n(a) (setting forth public housing eligibility criteria), § 1437n(b) (setting forth HCV and PBV eligibility criteria), and § 1437n(c) (setting forth PBRA eligibility criteria).
[13] *See* § 1437n(e).
[14] *See* § 1437n(f).
[15] *See* 42 U.S.C. § 1437d(l),§ 1437f(d)(1), § 1437f(o)(7).

under the 1937 Act. As a result, and because Congress has clearly and unambiguously spoken to the grounds to terminate a family's Federal Rental Assistance, Congress would need to amend the 1937 Act before allowing providers to terminate for noncompliance with work requirements or for overstaying a term limit.

- **Statutory Requirement to Renew Public Housing Leases.** With respect to the term limit proposal, the 1937 Act requires public housing leases to have initial terms of at least 12 months and to "automatically [renew] for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements)" or unless one of the statutorily-enumerated reasons listed above for termination arises.[16] Similarly, leases under Federal Rental Assistance programs must generally have initial terms of at least one year and may only be terminated for the statutorily enumerated reasons discussed above.[17] The 1937 Act does not authorize HUD to place additional parameters not included in the 1937 Act on the term of Federal Rental Assistance. Attempts to do so exceed the Congressionally delegated authority granted under the 1937 Act.

- **Work Requirements and Term Limits in Other HUD Programs.** HUD's proposal to allow the conditioning of ongoing receipt of Federal Rental Assistance on workforce participation or term-limiting assistance are inconsistent with how Congress has spoken to the connection between work, term of participation, and receipt of rental assistance elsewhere. For example, under the FSS program, Congress permits families to choose to participate and agree to "become and remain employed in suitable employment"; however, even then, Congress expressly does not allow HUD, PHAs, or Owners to terminate assistance based on successful completion or failure to complete the contract of participation.[18] Additionally, in the HCV homeownership context, Congress permitted HUD to require a family "demonstrate[ ] . . . that one or more adult members of the family have achieved employment" for a prescribed period, and provides that the Secretary "may limit the term of assistance for a family assisted under this subsection."[19] Under the whole act canon of interpretation, the HCV homeownership language suggests that when Congress intends to permit HUD to consider factors such as employment and term of participation in determining continued eligibility for rental assistance, Congress can legislate accordingly. These examples exemplify affirmative Congressional delegation of authority by statute to HUD, which the Proposed Rule lacks.

B. Legislative History Confirms That Congress Expressly Considered and Rejected Work Requirements and Term Limits for Federal Rental Assistance.

Before the Quality Housing and Work Responsibility Act of 1998 ("QHWRA") became law, multiple bills were introduced in Congress that would have conditioned housing assistance on

[16] 42 U.S.C. § 1437d(l).
[17] 42 U.S.C. § 1437f(d)(1).
[18] *See* §1437u(c)(1)(A)); *see also* § 1437u(c)-(d) (families "may not be terminated as a consequence of either successful completion of the contract of participation or failure to complete such contract").
[19] *See* §§ 1437z-4(c), 1437f(y)(4).

employment and would have further limited the term of assistance that families were eligible to receive. Two such bills were the Housing Opportunity and Responsibility Act of 1997 (H.R. 2) and the Public Housing Reform and Responsibility Act of 1997 (S. 462). These bills followed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA") in a broader welfare reform initiative that emphasized personal responsibility and self-sufficiency.

The Housing Opportunity and Responsibility Act of 1997 proposed requiring public housing residents to achieve 8-hour monthly work requirements and limiting the term of public housing tenancy by requiring participating families to enter agreements with PHAs setting target dates for program transition. The Public Housing Reform and Responsibility Act of 1997 also proposed requiring residents of public housing to perform eight (8) hours of monthly community volunteer work. Both proposed bills were fiercely debated.[20,21,22,23] Ultimately, neither bill became law and Congress did not enact the proposed work requirements or term limits. Instead, QHWRA, which contained a version of the proposed monthly community service requirement, was enacted requiring that each adult resident of public housing dedicate eight (8) hours per month to community service or participation in select economic self-sufficiency programs.[24]

Both the Congressional debate about incorporating work requirements into the 1937 Act and Congress' subsequent adoption of the public housing community service requirement through QHWRA indicate that, to date, Congress does not intend for HUD, PHAs, or Owners, to have the authority to condition Federal Rental Assistance on employment or to impose term limits. Since the passage of QHWRA, Congress considered various amendments to the 1937 Act, including through the Housing Opportunity through Modernization Act of 2016 ("HOTMA"), which suggests that if Congress intended to revisit the debate around work requirements and term limits, it had ample opportunities to do so. The fact that Congress did not incorporate work requirements

[20] 143 Cong. Rec. H2553-01 (May 13, 1997) (statement of Rep. Lazio) ("[I]f we are to make progress in our war against poverty, if we are to begin to transform communities, if we are to begin to empower communities and individuals and families, that will happen because we create the right set of incentives for responsibility, for work, for family, for economic development, for jobs, for empowerment, for rebuilding communities. . . . We are going to be standing with the families, with the people that have the capacity to take a job, and who want to take a job and want to earn more money for their families.").

[21] 143 Cong. Rec. H2042-02 (Apr. 30, 1997) (statement of Rep. Baker) ("The Welfare Reform Act, which a majority of my friends on the other side of the aisle voted for last year, requires 20 hours of work a week. This act simply proposes to require 2 hours of work per week. . . . [T]his is a process to enable a person to gather the skills they need to go out and work in the workplace with the strange idea that money is the cure to poverty.").

[22] 143 Cong. Rec. H2042-02 (Apr. 30, 1997) (statement of Rep. LaFalce) ("H.R. 2 . . . summarily repeals the 1937 Housing Act, on which Federal housing programs have been based for 60 years with little, if any, attention to the disruption this may cause for current housing assistance and the litigation that may well ensue because of it. . . . H.R. 2 proposes to burden public housing authorities and staff and residents with new work, immigration and welfare reform responsibilities, all of which are unfunded, all of which are unenforceable, all of which are in my judgment discriminatory.").

[23] 143 Cong. Rec. H2042-02 (Apr. 30, 1997) (statement of Rep. Velazquez) ("H.R. 2 also imposes a time limit on how long tenants may remain in public housing. Once this limit is reached, families will be evicted even if they still are living in poverty. . . . Instead of providing opportunities for job creation, this legislation will also force the poor into unpaid community service. How can we expect people to make the transition from welfare to work if we force them into unpaid labor? We should be creating real jobs with living wages, not threatening families with eviction.").

[24] 42 U.S.C. § 1437j(c)(1).

or term limits into the 1937 Act does not delegate such authority to HUD. Instead, it reflects a strong desire of Congress to consider, debate, and vote on such policies prior to enactment.

C. Only MTW PHAs Have the Statutory Authority to Implement Work Requirements and Term Limits.

Under Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. No. 104-334, as amended or modified through subsequent Congressional action, Congress granted certain PHAs the ability to waive portions of the 1937 Act to adopt local policies through the MTW demonstration program. This includes the ability of MTW PHAs to implement work requirements and term limits. With some exceptions, the 39 original MTW agencies exercise this authority by executing individual MTW Agreements with HUD setting forth permitted statutory and regulatory waivers, while the 100 expansion MTW agencies exercise this authority through specified safe harbor waivers listed in HUD's MTW Operations Notice, 85 FR 53444 (Aug. 28, 2020).

Whether through the Standard Agreement or the Operations Notice, the fact that HUD considers statutory waivers to be required for MTW agencies to implement work requirements and term limits further supports our assessment that Congressional action or other statutory waiver authority would be required to implement the Proposed Rule. We understand that HUD OGC has rejected requests from non-MTW PHAs to implement work requirements and term limits based on its interpretation of the 1937 Act, that only MTW agencies have the necessary authority to waive the applicable requirements in Section 8 and Section 9 of the 1937 Act as needed.

Interestingly, while the Proposed Rule would allow PHAs and Owners to impose term limits of not less than two years, the safe harbor for the 100 new MTW agencies provides for four (4) year minimum term limits. Similarly, despite that the Proposed Rule would allow Providers to require work-eligible adults to engage in work activities for up to forty (40) hours per week, the safe harbor for the 100 new MTW agencies provides for a maximum work requirements ranging from of fifteen (15) to thirty (30) hours per week.

D. The Proposed Rule Violates the Administrative Procedure Act.

By attempting to promulgate regulations that are inconsistent with the clear and unambiguous authority granted to HUD in the 1937 Act, HUD's Proposed Rule violates the APA, which sets forth the process and procedures to be used when promulgating rules and allows courts to set aside agency action when "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."[25]

In light of HUD's duty to act within the boundaries of its delegated authority and the Supreme Court's rejection of the *Chevron* doctrine, HUD's Proposed Rule is owed no deference.[26] Where a statute delegates authority to an agency to promulgate regulations, the agency must do so within

[25] 5 U.S.C. § 706(2)(C).
[26] *Loper Bright* , 603 U.S. 369 (2024) (overruling *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council*, *Inc.*, 467 U.S. 837 (1984)).

the boundaries of that delegated authority.[27] As such, under the APA, courts are authorized to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and even where a statute contains ambiguities, reviewing courts "need not and under the APA may not defer to an agency interpretation of the law."[28] As detailed herein, the 1937 Act does not authorize HUD to condition eligibility for Federal Rental Assistance on employment or to limit the term of such assistance. The absence of any explicit prohibition within the 1937 Act against such work requirements and term limits does not authorize HUD to read them into the 1937 Act through the Proposed Rule. Even if the 1937 Act was ambiguous as to whether PHAs and Owners may choose to adopt work requirements or term limits policies, HUD's interpretation of the Act in the Proposed Rule far exceeds its delegated authority and is owed no deference.

III. The Proposed Rule Imposes Unacknowledged and Unfunded Administrative Burdens on PHAs.

In addition to the lack of statutory authority for the Proposed Rule detailed above, CLPHA also has serious concerns about the administrative implications that the Proposed Rule, if implemented, would impose on non-MTW PHAs that choose to implement work requirements or term limits. CLPHA believes that HUD's regulatory impact analysis significantly underestimates the implementation costs and ongoing administrative burden that the Proposed Rule would impose.

A. Implementation Burdens Must Be Adequately Understood to Ensure Success.

HUD's Paperwork Reduction Act burden estimate projects only thirty (30) hours of one-time burden per PHA for developing and implementing a work requirements or term limits policy. CLPHA respectfully submits that, if implemented, this estimate understates the actual administrative investment required for PHAs that choose to adopt work requirements and/or term limits under the Proposed Rule. For those PHAs, successful implementation will require:

- Developing comprehensive written work requirements and/or term limit policies that satisfy all requirements of the Proposed Rule, including hardship policies and grievance procedures.
- Adopting amendments to PHA Plans, Administrative Plans, and/or Admissions and Continued Occupancy Policies, as applicable, each of which requires public notice, public hearings, and Resident Advisory Board input.
- Amending public housing leases, HCV information packets, and/or PBRA house rules along with Tenant Selection Plans and other project-level documents to incorporate work requirements and term limit provisions.

[27] *Id.* at 395. In *Loper Bright*, the Supreme Court overruled the *Chevron* doctrine, which required reviewing courts to uphold reasonable agency interpretations of statutes if Congress had not directly addressed the precise question at issue, because such deference to agency action "require[d] a court to ignore, not follow, 'the reading the court would have reached' had it exercised its independent judgment as required by the APA." *Id.* at 398-99 (quoting *Chevron*, 467 U.S. at 843 n.11).
[28] *Id.* at 412-13.

- Educating and communicating with participating HCV, PBV, and PBRA landlords on newly adopted work requirements, term limits, and their associated obligations under any revised policy, including potential lease modifications and notification responsibilities.

- Managing the increased tenant turnover that work requirements and term limits may generate, which risks undermining landlord confidence in the stability of housing assistance payments that is a foundational incentive for participation in the HCV program and could, over time, discourage property owners from accepting vouchers altogether.

- Providing written notice to all current program participants at least three (3) months before implementation, a significant undertaking for large PHAs serving tens of thousands of households.

- Identifying and coordinating with partner organizations to provide the supportive services that the Proposed Rule requires as a condition of adopting these policies or developing the in-house expertise and capacity to provide supportive services directly to residents.

- Establishing and implementing compliance verification and tracking systems to monitor work activity hours, assess hardship claims, and track term limit accrual for all covered households on at least an annual basis.

- Training staff on new policies, procedures, and legal obligations, including nondiscrimination and equal opportunity requirements.

The Congressional Budget Office has estimated that requiring tenants who are neither elderly nor disabled to work toward leaving assisted housing by participating in a self-sufficiency program such as FSS would cost approximately $12 billion if the number of assisted households were held constant and increase net federal spending by about $10 billion.[29] While the Proposed Rule is voluntary and narrower in scope, its administrative costs are real and significant. PHAs that have implemented work requirements through MTW have reported that these costs, if not adequately supported, can undermine program effectiveness. Specifically, MTW agencies have identified the following implementation challenges that HUD should acknowledge:

[29] *Require That Recipients of Housing Assistance Participate in a Work Support Program and Give Waiting-List Priority to Applicants Who Work*, CONGRESSIONAL BUDGET OFFICE (2015), https://www.cbo.gov/budget-options/other/51474 ("If the federal government expanded the FSS program and changed the waiting-list policy for PHAs, while holding constant the overall number of assisted households, net federal spending would increase by about $10 billion from 2016 through 2025, CBO estimates. The estimated cost includes $12 billion in federal spending to compensate staff who develop FSS contracts, help participants obtain jobs and services, provide ongoing case management, and maintain escrow accounts. The estimated budgetary effect also reflects $2 billion in federal costs associated with the rent payments that PHAs would usually retain but instead would put in escrow accounts held for the tenants when their income increased. (CBO is unaware of research that demonstrates that participating in the program affects participants' income; therefore, the estimate does not include such an effect.) Finally, the estimated budgetary effect reflects $4 billion in federal savings associated with replacing FSS participants who leave the housing assistance programs with households that include working adults. Such households have higher income and therefore make larger rent payments than the average household receiving assistance under current law.").

- The cost of providing case management and supportive services for residents subject to work requirements or term limits, which are essential to achieving positive outcomes.

- The difficulty of achieving resident awareness and understanding of requirements, underscoring the need for robust outreach resources.

- Benefits cliff concerns, where modest income gains from employment cause residents to lose eligibility for other public benefits, which HUD should work to mitigate through coordination with other federal agencies.

- Staff time required for compliance monitoring and documentation, which will need to be reflected in administrative fee calculations.

- Local labor market conditions, limited job availability, and wage levels that affect the feasibility of self-sufficiency within fixed time horizons, reinforcing the importance of local flexibility in program design.

CLPHA strongly urges HUD to ensure that any PHA choosing to implement work requirements or term limits has access to sufficient funding and technical assistance to do so effectively. Underfunded implementation does not serve residents, PHAs, or the policy's stated goals.

B. The Proposed Rule Provides No Dedicated Funding to Support Implementation.

The Proposed Rule would require PHAs and Owners that adopt work requirements or term limits to provide supportive services to work-eligible adults and to covered families approaching the end of their term. Yet, HUD explicitly notes in the Proposed Rule that it would be an ineligible use of HCV administrative fees to fund such services and prohibits PBRA Owners from expending project funds for this purpose. HUD states only that it "anticipates providing supplemental guidance" on permissible funding sources. This is wholly insufficient.

Dedicated funding for supportive services is not an ancillary concern but a prerequisite for any meaningful implementation of these policies, and the absence of a clear, adequately resourced funding stream renders the Proposed Rule unworkable in practice. HCV administrative fees, which HUD has chronically underfunded for years, cannot serve as a backstop. Most recently, Congress funded administrative fees at only ninety percent (90%) of PHA eligibility in FY2026, continuing a pattern of shortfalls that has forced PHAs to reduce staffing, cut services, and draw down existing reserves just to maintain core program operations. Layering an unfunded supportive services mandate onto an already strained administrative infrastructure would compound these pressures, threatening the operational stability of the very agencies HUD is asking to implement these requirements.

CLPHA strongly urges HUD, if it moves forward with any version of the Proposed Rule, to: (1) provide dedicated appropriations or set-aside funding for necessary supportive services and to support administrative implementation costs; and (2) ensure that no PHA is penalized for failing

to implement work requirements or term limits due to insufficient resources to provide the required supportive services.

IV. PHAs Should Have Maximum Flexibility to Design Local Workforce Development Approaches.

CLPHA shares HUD's stated commitment to promoting flexibility in program administration. To that end, CLPHA believes the Proposed Rule's value lies precisely in its voluntary nature by allowing PHAs to determine whether work requirements or term limits are appropriate for their communities and providing those PHAs with a pathway to implement them while leaving those that do not with the ability to opt out. CLPHA urges HUD to ensure any final rule related to work requirements or term limits preserves and strengthens that local discretion rather than creating conditions or funding incentives that push PHAs toward adoption of the specific policies in the Proposed Rule regardless of local context.

At the same time, CLPHA encourages HUD to recognize that the Proposed Rule alone is not sufficient to advance the goal of resident self-sufficiency at scale. Work requirements and term limits may be one tool among many, and their effectiveness depends heavily on the broader ecosystem of workforce development supports available to PHAs and residents. CLPHA encourages HUD to pursue the following complementary investments alongside the Proposed Rule:

- *Expand and fully fund the FSS Program.* The FSS program is a proven, voluntary, and legally authorized mechanism for promoting self-sufficiency that is already producing measurable outcomes across CLPHA members. Congress should be urged to expand FSS funding, and HUD should provide clear guidance to maximize FSS participation and effectiveness across all PHA programs.

- *Strengthen the ROSS Program.* The Resident Opportunities and Self-Sufficiency program supports service coordinators who connect residents with employment, training, and financial literacy resources. Expanded ROSS funding would amplify PHAs' existing workforce development capacity and provide the on-the-ground infrastructure that any successful work requirement program will also depend on.

- *Expand the MTW Program.* For PHAs that wish to test work requirements, term limits, or other innovative approaches to promoting self-sufficiency within a legally sound framework, the MTW demonstration program provides the appropriate mechanism. The original 39 MTW agencies have demonstrated what is possible when PHAs are given meaningful flexibility and broad waiver authority, producing locally tailored, innovative approaches to self-sufficiency that a more prescriptive regulatory environment simply cannot replicate. HUD should encourage Congress to further expand MTW eligibility in a manner that preserves and extends the robust flexibilities afforded to those original MTW agencies, so that more PHAs can access the tools necessary to design programs that reflect the unique needs of their communities and housing markets.

- *Provide regulatory clarity and technical assistance.* Whether or not a PHA adopts work requirements, HUD should provide robust guidance and technical assistance to PHAs seeking to partner with local workforce development agencies, Workforce Innovation and Opportunity Act boards, and other employment service providers. Removing bureaucratic barriers to such partnerships would meaningfully advance self-sufficiency outcomes across the full range of PHA approaches.

- *Address the benefits cliff.* HUD should work with other federal agencies to address the benefits cliff, which can discourage residents from increasing income. Providing transitional support mechanisms, such as graduated rent increases under the Earned Income Disregard and similar tools, would strengthen the incentive structure for work regardless of whether a PHA adopts formal work requirements.

These investments would create conditions that would ensure that PHAs across the country, regardless of their local determination on work requirements and time limits, have the tools they need to advance resident self-sufficiency.

V. The Proposed Rule Does Not Resolve the Purported Conflict Between Federal and State Law.

HUD cites the need to provide clarity to PHAs in states such as Arkansas and Wisconsin that have enacted laws purporting to require work requirements or participation in employability plans as a justification for the Proposed Rule. HUD also acknowledges that two states, Arkansas and Wisconsin, have established statewide policies that, upon finalization of the Proposed Rule, would become effective. Specifically, Arkansas would require PHAs to implement a twenty hour per week work requirement, and Wisconsin would require mandatory resident participation in PHAs' employability plans.[30] HUD asserts that the Proposed Rule would enable PHAs in those states to "integrate both Federal and State law within their jurisdiction" and better allow PHAs in states exploring similar policies "the necessary clarity needed to implement their initiatives" by allowing those PHAs to "comply with and integrate both Federal and State law within their jurisdiction."

However, absent Congressional authority to implement work requirements or term limits, only MTW PHAs, who have statutory authority to waive provisions of the 1937 Act to implement these types of policies, might conflicts such as these present a genuine challenge. That said, we are not aware of any MTW PHAs that are located in either Arkansas or Wisconsin. For all other non-MTW PHAs, federal law preempts state law, thereby prohibiting work requirements and term limits for the reasons described above. If HUD wishes to pursue such policies, even if voluntary for PHAs and other housing providers, then Congress must first authorize it.

[30] ARK. CODE ANN. § 14-169-109 (2024); WIS. STAT. ANN. § 16.314 (2018).

VI. Additional Specific Concerns Regarding the Proposed Rule's Provisions.

In addition to the overarching legal and policy concerns described above, CLPHA offers the following specific comments on provisions of the Proposed Rule:

A. The Two-Year Minimum Term Limit Is Insufficiently Protective.

The Proposed Rule would permit term limits of as little as two years. CLPHA **strongly opposes** this provision as both harmful and unsupported by evidence. HUD's own research demonstrates that assisted households do not remain in the program indefinitely by choice. A 2017 study commissioned by HUD's Office of Policy Development and Research, *How Long Do Households Stay in Assisted Housing Programs?*, examined household-level HUD administrative data from 1995 to 2015 and found that "the typical household stays in assisted housing for about six years and varies by household type. The elderly stay in assisted housing for about nine years, while nonelderly families with children stay about four." The study further found that "households receiving HCVs stay longest (6.6 years average, 4.8 years median), followed by public housing (5.9 years average, 3 years median) and Section 8 housing (5.8 years average, 3 years median)." Critically, the study found that increasing length of stay is driven primarily by market forces, including rising housing costs and inadequate incomes, rather than household preference or lack of motivation to achieve self-sufficiency. Imposing an arbitrary two-year term limit does nothing to address these underlying market realities. Given the severe shortage of affordable housing in most major metropolitan areas, a two-year term limit would expose families to housing instability with insufficient time to achieve economic self-sufficiency. The median renter household income has increased by only five percent (5%) in inflation-adjusted terms since 2001, while median rents have increased by twenty-three percent (23%). As noted elsewhere in these comments. even full-time workers in assisted housing would need an estimated seventy percent (70%) percent wage increase (equivalent to a $9.10/hour raise) to afford the typical market-rate rental unit. A two-year term limit is insufficient to bridge this gap.

B. The 40-Hour Work Requirement Cap and the Two-Year Term Limit Exceeds MTW Safe Harbor Standards.

The Proposed Rule would allow PHAs and Owners to require up to forty (40) hours per week of work activity and to establish term limits of as short as two (2) years. This exceeds the 15- to 30-hour per week work requirement range established in the MTW Operations Notice safe harbor for expansion MTW agencies. It is also inconsistent with the four (4) year minimum term limit safe harbor set forth in the MTW Operations Notice. Allowing non-MTW PHAs to exceed the HUD-imposed safe harbor ceilings that are permitted for MTW expansion agencies, who have statutory waiver authority to implement these policies, is incongruous and would impose unduly burdensome conditions on residents.

C. Compliance Verification Requirements Will Create Significant Administrative Burden.

The Proposed Rule requires PHAs and project owners to verify compliance on an at least annual basis but otherwise leaves compliance verification and enforcement largely to PHA and project owner discretion. CLPHA is concerned that PHAs will face significant administrative burden in establishing and operationalizing the robust compliance systems that would be required when implementing a work requirement or term limit. MTW agencies that have implemented work requirements have reported that compliance monitoring and tracking consume excessive staff time. Should HUD move forward with the Proposed Rule, HUD should permit PHAs and project owners to accept self-certifications from residents to evidence compliance and should provide other standardized compliance verification tools and templates to minimize the burden on PHAs and project owners and ensure consistent implementation.

D. The Fair Housing Concerns Are Significant and Must Be Addressed.

The Proposed Rule requires that work requirements and term limits be applied uniformly and not discriminate on the basis of race, color, national origin, sex, religion, familial status, disability, or other protected bases. However, CLPHA is concerned that, due to the demographics of PHA-assisted populations, even facially neutral work requirement or term limit policies under the Proposed Rule could result in disparate impacts on protected classes and expose PHAs to legal challenges. HUD should provide clearer guidance on PHAs' civil rights obligations and provide safe harbors for PHAs seeking to implement these policies before finalizing any version of the Proposed Rule.

E. The Proposed Rule Creates Irreconcilable Conflicts with Existing Statutory and Regulatory Frameworks, including HOTMA.

The Proposed Rule fails to account for the significant legal and administrative conflicts it would create with existing HUD statutory and regulatory frameworks, leaving PHAs to navigate irreconcilable obligations without guidance. Most critically, the Proposed Rule's term limit provisions conflict directly with the over-income framework established by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and implemented through Notice PIH-2023-03(HA).

HOTMA established a carefully constructed twenty-four (24) consecutive-month grace period before any adverse action may be taken against a family whose income has risen above 120 percent of Area Median Income. The Proposed Rule would permit term limits as short as two years, meaning both clocks could run simultaneously for working families whose rising incomes trigger over-income status during an active term limit period. The Proposed Rule provides no guidance on which timeline governs when these two frameworks conflict, forcing PHAs into legally exposed administrative choices with significant consequences for families.

The conflict is compounded by HOTMA's Non-Public Housing Over-Income ("NPHOI") framework, which provides a deliberate and measured off-ramp for upwardly mobile families, allowing them to remain in their units as unassisted tenants paying the applicable Fair Market Rent once they have exceeded the income limit for twenty-four (24) consecutive months. This mechanism was designed to preserve housing stability for successfully self-sufficient families while freeing up the underlying subsidy for other eligible households. The Proposed Rule's term limits would eliminate this off-ramp for many families by forcing them out of the program before they can transition to NPHOI status, or by severing their tenancy entirely even when a stable, market-rate tenancy was achievable and imminent.

The conflict with the FSS program is equally acute. The Proposed Rule encourages FSS participation as a vehicle for self-sufficiency, yet FSS operates on a five-year contract structure. A two-year term limit would truncate FSS participation mid-contract for many families. Moreover, the HOTMA final rule removed the prior regulatory protection at 24 CFR 960.261 that shielded FSS participants from over-income adverse action. A family successfully increasing earnings through FSS participation could simultaneously face term limit expiration and over-income status, with no safe harbor from either policy, at precisely the moment the program is working as intended.

These conflicts are not merely theoretical. Under HOTMA, PHAs must notify over-income families three times: once within thirty (30) days of the family's income initially surpassing the limit; once twelve (12) months after; and a final notice twenty-four (24) months after. PHAs that adopt the Proposed Rule's provisions would be required to simultaneously administer HOTMA's three-notice over-income process with its strict thirty (30) day notification timelines, track term limit accrual and work activity hours under the Proposed Rule, manage FSS contract timelines, and navigate flat rent elections and annual reexamination schedules, all governed by different legal standards, timelines, and notice requirements. HUD's regulatory impact analysis does not acknowledge any of these interactions, let alone provide the guidance PHAs would need to administer them coherently.

At their core, these two frameworks rest on incompatible premises. HOTMA's over-income framework holds that families should remain in assisted housing so long as their income stays below 120 percent of AMI, and that only sustained and substantial income growth should trigger adverse action. The Proposed Rule holds that time in program, not income level, is the governing criterion for continued assistance. A family earning forty percent (40%) of AMI who has been in the program for two (2) years could face removal under the Proposed Rule, while a family earning 119 percent of AMI could remain indefinitely under HOTMA. HUD has not reconciled this contradiction, and CLPHA submits that it cannot be reconciled without Congressional action. Until HUD conducts a comprehensive legal and regulatory analysis of how the Proposed Rule interacts with HOTMA and other existing statutory and regulatory obligations imposed on PHAs and project owners, and provides clear, binding guidance on how to resolve the conflicts that will inevitably arise, the Proposed Rule is not ready for finalization.

VII. Conclusion

For the reasons set forth above, CLPHA is joined by Reno & Cavanaugh in its belief that HUD lacks Congressional authority to implement either work requirements or term limits as set forth in the Proposed Rule and that, in order to pursue these policies, Congress would first need to amend the 1937 Act or provide PHAs and Owners with statutory waiver authority, similar to that authorized for MTW agencies. Further, CLPHA has serious concerns about unacknowledged administrative burdens and the absence of dedicated implementation funding. CLPHA urges HUD to ensure that if the Proposed Rule is finalized, it preserves full local discretion, where PHAs that determine work requirements or term limits are not appropriate for their communities must not be penalized or pressured into adoption.

CLPHA and its member PHAs are deeply committed to promoting economic self-sufficiency and workforce development for the residents they serve. This commitment is demonstrated every day through the voluntary, innovative, and effective programs that CLPHA members operate across the country. CLPHA stands ready to work with HUD to identify legally sound, well-resourced, and evidence-based approaches to advancing these shared goals.

If HUD elects to continue pursuing work requirement and term limit policies, CLPHA respectfully requests that HUD:

(1) Obtain Congressional authorization prior to issuing any rule that permits the conditioning of Federal Rental Assistance on employment status or the use of term limits for non-MTW PHAs;

(2) Ensure adequate funding to support the actual administrative costs and supportive services that would be borne by PHAs and project owners under any such rule;

(3) Align work requirement hour caps with the safe harbor standards that apply to MTW expansion agencies under the MTW Operations Notice; and

(4) Provide safe harbors, compliance tools, and technical assistance to PHAs and project owners when implementing work requirements.

CLPHA appreciates the opportunity to submit these comments and thanks HUD for its consideration.

Respectfully submitted,

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