R18 - Fair Market Rent Reevaluation - Fund Rental Housing Surveys

Submitted By: Cheryl Cohen

Common Theme: Regulatory; Financial

Recommendation:

The Governor's Housing Task Force supports the Behavioral Health System for Future Generations Commission's recommendation to the Governor for an appropriation of up to $1 million to support statistically relevant Fair Market Rent (FMR) reevaluation rental housing surveys per HUD regulations to support an increase to base federal Fair Market Rents (FMRs), thereby increasing Montana's Section 8 Housing Choice Voucher Payment Standards.

The HB 872 Behavioral Health System for Future Generations Commission (BHSFG) has assessed this recommendation to "Increase support for people with serious mental illness (SMI) and/or substance use disorder" by "coordinat[ing] with appropriate housing authorities to develop a Fair Market Rent (FMR) review to increase the purchasing power of housing vouchers." The Commission's April 23, 2024 meeting discussed a potential appropriation of $750,000 under the HB 872 framework to support this effort, given the correlation between persons served under DPHHS behavioral health programs and those same individuals utilizing or needing to utilize federal rental assistance vouchers to maintain housing stability. At the Commission's May 20, 2024 meeting, this recommendation was adjusted to a up to $1 million. The Commission approved moving this recommendation to the Governor's office for final approval.

Rationale:

The Montana Department of Commerce statewide Public Housing Authority, known as the Rental Assistance Bureau within the Montana Housing Division, has maximized its Section 8 Housing Choice Voucher Payment Standards (VPS) using available U.S. Department of Urban Development (HUD) waivers, including HUD's "Success Rate Payment" and "Exception Rate Payment Standards." Under the program, participants pay 30% of their adjusted monthly income toward rent and the federal Housing Assistance Payment (HAP) covers the difference up to a maximum Voucher Payment Standard. VPS are based on FMRs, which are in turn based on the standard quality, recent mover rents at the 40th percentile. HUD has acknowledged that "assessing the accuracy of FMRs is difficult because at any given time the true 40th percentile rent paid by recent moves is unknown." This is especially the case in rural/frontier areas with limited rental housing stock from which to base a statistically relevant sample.

Despite leveraging multiple HUD waivers to increase the VPS, Montana's 2023 VPS for studios, 1 bedrooms and 2 bedrooms were – on average - $134, $119 and $93/month LESS per month than the applicable 60% Low-Income Housing Tax Credit (LIHTC) restricted rents. This discrepancy is particularly acute in growing markets and more rural/frontier areas.

For example, in Lewis & Clark County the difference was $274, $222 and $202/month LESS per month than the applicable 60% LIHTC restricted rents. In Big Horn county, the difference was $167, $158 and $142/month LESS per month. Finally, the various waivers to increase VPS currently offered by HUD could change in the future. Assessing the discrepancy between Montana's base FMR and LIHTC 60% rents (average of all 56 counties) illustrates the considerably acute discrepancy between HUD's FMR methodology and the IRS/Treasury methodology for restricted below-market rents.

	Avg Difference 2023 VPS - 2023 LIHTC 60%
Studio / Efficiency	(134)
1 Bedroom	(119)
2 Bedroom	(93)
3 Bedroom	90
4 Bedroom	182

	Avg Difference 2023 FMR - 2023 LIHTC 60%
Studio / Efficiency	(262)
1 Bedroom	(261)
2 Bedroom	(271)
3 Bedroom	(149)
4 Bedroom	(98)

In short, if VPS are not keeping up with restricted, below-market rents in LIHTC properties, they are certainly not keeping up with general market rate rental costs. This is significantly reducing the leasing success rate of Montanans issued federal rental assistance vouchers. In fact, less than 50% of households issued vouchers are able to successfully lease up in the private rental market within the allowable 120-day timeline permitted by HUD.

HUD does provide for another option to increase Fair Market Rents (upon which VPS are based) if the jurisdiction can provide "statistically representative rental housing survey data" to justify the increase. Some HUD publications estimate this type of survey to cost between $20,000 - $30,000 per county. In partnership with other locals PHAs, the Montana Housing Division has learned a more realistic cost might be around $50,000 per county. Some states have conducted this survey on a regional, rather than individual county basis, which could help reduce overall costs.

The Montana Housing Division with the Department of Commerce is currently exploring an initial pilot rental housing survey for the Lewis & Clark, Broadwater, and Jefferson tri-county region, in partnership with the City of Helena, Lewis & Clark County, and Helena Housing Authority. This pilot could inform a regional, statewide approach. The City of Helena, Lewis & Clark County and the Helena Housing Authority are each contributing to cost-share for this initiative pilot, which is estimated at approximately $100,000. HUD is providing technical assistance resources for this effort.

The Rental Assistance Bureau's HUD administrative fees and HUD-held reserves are insufficient to undertake a broader state-wide effort, which could provide a more permanent solution to challenges with the voucher under-utilization and the difficulties of participants to secure a rental unit on the private market. Increasing the VPS could also support efforts to "project base" some of the tenant-based vouchers by pairing them in LIHTC or other affordable rental developments.

§ 982.503 Payment standard amount and schedule.

(c) HUD approval of exception payment standard amount —

(3) Above 120 percent of FMR.

(i) At the request of a PHA, the Assistant Secretary for Public and Indian Housing may approve an exception payment standard amount for the total area of a county, PHA jurisdiction, or place if the Assistant Secretary determines that:

(A) Such approval is necessary to prevent financial hardship for families;

(B) Such approval is supported by statistically representative rental housing survey data to justify HUD approval in accordance with the methodology described in § 888.113 of this title; and

(C) Such approval is also supported by an appropriate program justification in accordance with paragraph (c)(4) of this section.

(ii) For purposes of paragraph (c)(3) of this section, the term "place" is an incorporated place or a U.S. Census designated place. An incorporated place is established by State law and includes cities, boroughs, towns, and villages. A U.S. Census designated place is the statistical counterpart of an incorporated place.

Applicable § 888.113 reference:

(e) *Data sources.*

(1) HUD uses the most accurate and current data available to develop the FMR estimates and may add other data sources as they are discovered and determined to be statistically valid. The following sources of survey data are used to develop the base-year FMR estimates:

(i) The most recent American Community Survey conducted by the U.S. Census Bureau, which provides statistically reliable rent data.

(ii) Locally collected survey data acquired through Address-Based Mail surveys or Random Digit Dialing (RDD) telephone survey data, based on a sampling procedure that uses computers to select statistically random samples of rental housing.

(iii) Statistically valid information, as determined by HUD, presented to HUD during the public comment and review period.

Barriers Addressed:

- Improved voucher utilization rate of state and local PHA Section 8 Housing Choice Vouchers.
- Increased “success rate” of participants able to successfully lease up in the rental market with their voucher within 120 days. Commerce PHA “Success Rate” is currently around 48%.
- Address current catch-22 cycle of low utilization rates placing state and local PHA HUD-held reserves at risk of federal capture, as has occurred in recent years to the tune of $4.5 million.
- Increased housing stability for Montanans experiencing SMI/SUD at risk of housing instability or homelessness.
- Improved alignment between VPS with market rental rates.
- Increased landlord recruitment and retention.
- Increasing Montana’s base FMRs would be a more permanent and wholistic solution, versus smaller scale proposals such as a landlord retention/recruitment bonus, landlord mitigation fees for tenant damages beyond what can be covered by security deposit and/or proposed tax credits to landlords for renting before market rate.

Key Strategies:

- Recommend the Governor’s Office approve the recommendation to fund FMR studies, as supported by the HB 872 Commission during their May 20, 2024 meeting.
- As the process proceeds, consider balance of state funding contributions versus local match from either local PHAs and/or local governments.
- Continue advocacy efforts at the federal level to address underlying challenges with HUD methodology that disproportionately impacts rural Montana.
- Procure reputable university and/or consultant team to conduct surveys.
- Completion of tri-county study in partnership with City of Helena and Helena Housing Authority; process and results to inform statewide, regional approach.
- Completion of rental housing surveys by FYE 2026 to inform FY2027 submission to HUD for review and approval.

Dissenting Opinions:

- To minimize the need for any additional FTE resources, Commerce could explore partnering with one or both state universities or other reputable consultants with prior rental housing survey experience to complete this work.
- A cost sharing or match requirement with local public housing authority, tribal housing authority or units of local government could be considered.
- Competing needs for use of state funds.

Supporting Graphics:

BHSFG May 20th Meeting Slide Deck – See slides 7 - 12.