

# Responses to Comments on the Fiscal Year 2024 Housing Choice Voucher Administrative Plan

Below are Responses to comments on proposed edits to the Housing Choice Voucher Administrative plan. Those comments that have been accepted as part of the Administrative Plan are simply noted as ‘Accepted’.

Comment:	General - What is the opportunity for tiny homes in this plan?
Response:	Currently, Commerce does not own or operate any properties that are being assisted with the Housing Choice Voucher program. There will be opportunities for Project Basing Vouchers in the future, which will be awarded through a competition process. Tiny Home projects can be eligible for HCV assistance, and some HCV participants are being assisted in Tiny Homes, provided they meet HQS (or future NSPIRE) standards.

Comment:	5-II.B. Suggest revision to Commerce Policy language: "All families who are a new admission will be subject to the following subsidy standards listed below:" to "All families will be subject to the following subsidy standards listed below: The subsidy standards do apply to all and it would clear up any confusion and ensure continuity with language in 11-111.B. Subsidy standards and 24 CFR 982.505(c)
Response:	Accepted

Comment:	<p>Dear Commerce Staff,</p> <p>Thank you for the opportunity to provide public comment in reference to Commerce’s proposed 2025 Administrative Plan.</p> <p>As an organization, HRDC both delivers housing services across the entire continuum and develops housing across the entire continuum. This broad spectrum gives us a unique and distinct perspective on the challenges in getting individual programs and funding sources on the ground in the community and to the end user and consumer.</p> <p>HRDC would like to share two areas of comment, one about the need for the reevaluation of HUD’s Section 8 Fair Market Rents across the entire state and the second about project-basing vouchers.</p> <p>The need for the reevaluation of HUD’s Section 8 Fair Market Rents across the state is evident in the chronic underutilization of housing choice vouchers across the state. Landlord education and engagement will not fill the gap between the voucher payment standard and market-rate rents.</p> <p>This statistical data requires expensive surveys to collect rent data across relevant geographic</p>
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	<p>FMR areas. Voucher payment standards are hundreds of dollars below the market. Our local community, program participants, and landlords are missing out on hundreds of thousands of federal dollars every year that we should be receiving to provide housing and to pay landlords in our area. Thousands of families could be benefiting from this program today that are not allowed access due to the limitations of the program.</p> <p>HRDC supports a cost-share arrangement between field agents, housing authorities, local municipalities, and the state of Montana Department of Commerce Section 8 program to conduct a successful FMR reevaluation for our state.</p> <p>While we hope that item 1 will progress, there is no indication that it will provide a timely response to the current market conditions. Therefore, we also offer a more immediate response.</p> <p>HRDC has long believed that the best immediate response to remedy under-utilization is to project base as many vouchers as currently allowed under Chapter 17 of the Administrative Plan.</p> <p>Project basing 20 percent of the State’s vouchers won’t be enough to solve the immediate housing need or solve the underutilization of vouchers. Such a limited number of PBVs will be competitive and oversubscribed.</p> <p>In response, HRDC also suggests Commerce grant authority to its non-profit Field Agencies (FA), as defined in Chapter 1, Part 1, 1-I.B. Organization and Structure of the PHA so they can act in the same manner as autonomous PHAs in their authority to administer PBVs in the communities they serve. If this requires Commerce to designate the FAs as subrecipient, Commerce should take these steps.</p> <p>Thank you for your dedication to affordable housing in Montana, and I appreciate your consideration of this request.</p> <p>Respectfully,  Heather Grenier, President/CEO  HRDC District IX, Inc.  32 S Tracy Avenue  Bozeman, MT 59715</p>
Response:	<p>Commerce is currently leveraging Small Area Fair Market Rents (SAFMR), Success Rate Payment Standards, Exception Rate Payment Standards, and a current HUD waiver to increase Voucher Payment Standards to 120% of FMR. The Department is also exploring other avenues to reevaluate/increase HUD's FMRs, including the potential for a statewide Fair Market Rent Study (subject to available funding). Additionally, HUD published a new Federal Register Notice in May 2024 "Housing Opportunity Through Modernization of 2016 - Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes". This notice indicates that the current 120% of FMR waiver will continue to be available under the following parameters: "(3) A PHA may establish exception payment standard amounts between 110 percent and 120 percent of the applicable FMR for such duration as HUD specifies by notice</p>

upon notification to HUD that the PHA meets at least one of the following criteria:  
 (i) Fewer than 75 percent of the families to whom the PHA issued tenant-based rental vouchers during the most recent 12-month period for which there is success rate data available have become participants in the voucher program;  
 (ii) More than 40 percent of families with tenant-based rental assistance administered by the agency pay more than 30 percent of adjusted income as the family share; or (iii) Such other criteria as the Secretary establishes by notice."

Commerce's current PHA Administrative Plan includes language regarding Project Basing Vouchers. At this time, no change in language is needed to utilize HUD' PBV program. Due to complex federal requirements for PBV programs, and to ensure a fair and transparent approach to future PBV competitive application processes, Commerce will not be designating Field Agencies or any other outside contractor as a subrecipient at this time.

Comment: I am an independent living specialist with north central independent living services, Inc. in Black Eagle Montana I am submitting this comment regarding the 2025 HCV administrative plan. As a longtime housing aand the has often had to help and assist people with disabilities who live in North Central Montana up the following concerns: thethe HCV administrative manual needs to reflect that people with disabilities are often seeking apartments when they're homeless or an accident or a hospitalization Montana housinshould clarify how individuals with disabilities are to receive HCV vouchers and if there should be an emergency voucher used because someone has a disability or needs or McKenny - Vento services.

Montana housing and the administrative HCV manual should reflect that many people with disabilities need many reasonable accommodations. Participating PJs and others landlords should be willing to accommodate those with disabilities who may need things written or read them among other accommodations. Many people benefit from plain language and other materials being explained to them through visual or audio means which ever client needs. Montana housing needs to really explore the impacts of having a disability and a criminal record when someone does apply for HUD housing. There needs to be clarification as to how a sentence is to be deemed served and completed. By the same token ,those who are victims of domestic violence need to be protected as well from people who may seek to harm them.

In regards to the manual itself, Nichol believes that people with disabilities should have the highest level of autonomy with or without supports. N Cthat many potential renters do have do you have needs where they may need support however we are totally caution against using a guardianship unless somebody already has one in place .ifa "guardianship is needed we recommend that families and landlords study the opportunities under supported guardianship because many people with disabilities do handle their lives independently as possible but supports are often Edit requested and necessary.

wedo ask the PJs and landlords discuss with tenants and potential tenants about reasonable accommodations before infection or changes are hard discussed. As many people with disabilities have the opportunity to live in our public and HUD subsidizing unit.

	<p>We also asked the PJs and others look at prorating fines rents and timelines when eviction happens so that people can get back into HUD eligibility status as soon as possible.</p> <p>The state of Montana needs to look at implementing source of income legislation but we hope that Montana housing will study as programs and opportunities in order to make this vital programmatic change. We also ask that there be some clarification on family size rules reunification and custody requirements for individuals who find themselves trying to reunify or are a grandparent taking care of a minor child or a person with disabilities</p>
Response:	<p>Commerce's current PHA Administrative Plan provides direction for submission of Reasonable Accommodation requests. Decisions to deny or terminate assistance of a family that includes a person with disabilities is subject to consideration of the family's reasonable accommodation request(s). Additionally, there are similar protections provided under the Violence Against Women's Act (VAWA) for victims of domestic violence.</p> <p>Commerce will revert to the previous language utilized in our admin plan: "The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. Commerce requires that a minor be emancipated and granted the right to legally contract for housing before they can be offered housing under qualifying special programs, or HCV programs." The updated language was meant to clarify that if a legal guardianship was in place that guardianship must be taken into consideration. Based on recent public comment, this language appears to limit the clarity of this policy, so it will not be adopted.</p>

Comment:	<p>3-1.D Head of Household o Updated the Commerce policy to include clarification of guardians in relation to head of household. – “The head of household must have the legal capacity to enter into a lease under state and local law or be placed in the care of a legal guardian who possesses the legal capacity to enter into a lease under state and local law on behalf of head of household.”</p> <p>This provision is concerning, because it doesn't say who determines whether a person has legal capacity to sign a lease. Commerce staff should not be making those determinations. Commerce should presume that every head of household has legal capacity (even minors do, under Montana law). Commerce should not require a court-appointed guardian for any person who appears to lack capacity. Acquiring a guardianship is a time- and money- consuming process in district court, and there are other less extreme remedies to consider , such as a power of attorney.</p>
Response:	<p>Commerce will revert to the previous language utilized in our admin plan: "The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. Commerce requires that a minor be emancipated and granted the right to legally contract for housing before they can be offered housing under qualifying special programs, or HCV programs." The updated language was meant to clarify that if a legal guardianship was in place that guardianship must be taken</p>

	into consideration. Based on recent public comment, this language appears to limit the clarity of this policy, so it will not be adopted.
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Comment:	<p>3-III.B. Mandatory Denial of Assistance. Commerce Policy</p> <p>Currently engaging in is defined as any use of illegal drugs during the previous six months, except in the case of medical marijuana. In the case of medical marijuana, currently engaging is defined as an active medical marijuana card at the time of admission to the program.</p> <p>Denying a person a voucher because they have an active medical marijuana card does not comply with HUD regulations. HUD requires denial if the person is currently engaged in the use of illegal drugs. Just because someone has an active medical marijuana card does not mean that they are actively using marijuana. Just the act of possessing an active medical marijuana card does not disqualify someone from federal housing programs.</p>
Response:	<p>Currently engaging in is defined as any use of illegal drugs during the previous six months, including the use of medical marijuana, which remains a Schedule I drug at the federal level. In accordance with HUD's February 10, 2011 memorandum, "The Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661) requires that PHAs administering the Department's rental assistance programs establish standards and lease provisions that prohibit admission into HCV programs based on the illegal use of controlled substances, including state legalized medical marijuana.</p>

Comment:	<p>12-I.D. Mandatory Termination of Assistance</p> <p>Commerce Policy</p> <p>A family will be considered evicted if the family receives a formal eviction judgement from the court. If the family moves after a legal eviction order has been issued, the family will be considered evicted, whether or not physical enforcement of the order was necessary.</p> <p>It's confusing to use the phrase "legal eviction order" in the second sentence, when in the previous sentence it used the phrase "formal eviction judgement". A "legal eviction order" is the same as a "formal eviction judgement." It would be better to use "formal eviction judgment" in both sentences.</p> <p>Thanks much for your consideration of these comments.</p>
Response:	Accepted

Comment:	Is there a policy in place for follow up time frame? When a participant contacts a case worker, what is the policy for the amount of time the case worker has to follow up in a timely manner?
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Response:	Commerce has several policies throughout the PHA Administrative Plan in regards to response time. These response times vary depending on the type of request. Several of these response times are mandated by HUD, such as the timeframe for responding to submitted Request for Tenancy Approvals. Further response timeframes are set withing contracts between Commerce and its Field Agencies. These contracts include performance based incentives and disincentives, some of which are tied to response times. Commerce issued a customer service satisfaction survey and will be making those results available to our staff and Field Agency contacts in order to continue to improve.
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Comment:	Tenant Information Forms should be a required for all actions where an information change form is allowed.
Response:	At this time implementation of TIF requirements necessitates further discussion with field agencies.

Comment:	In regard to the state's 2024 Administrative Plan, I respectfully submit the follow comments:  1. Chapter 17-II.B. Owner Proposal Selection Process a. This section sets forth the rules and policies that both PHAs and Commerce must follow for awarding PBVs to a project. The rules and policies are well tested but should be updated to include new financing sources and (continued in next comment)
Response:	Commerce will include more specific information on owner proposal selections, including a list of what housing assistance programs will be eligible, as part of its competitive process. The financing sources listed in the PHA Administrative Plan (HOME and LIHTC) are examples. Commerce will specifically include National Housing Trust Fund as one of the eligible programs given it's requirements for units to be available for Extremely Low-Income households.

Comment:	2. Chapter 17-II.F. Cap on Number of PBVs in Each Project limited to 25 percent. a. The current 25 Percent per Project Cap should be eliminated. Montana is in the middle of an affordable housing crisis at the same time it has an unprecedented under-utilization of HCV and recently lost over \$4.5mm in voucher payment authority due to this under-utilization. PHAs need more tools to help get voucher tenants into safe, clean, affordable housing. b. Accordingly, Commerce should remove this 25 percent per project cap and allow PHAs to project base as many vouchers as they see fit for qualifying projects. At the very least, Commerce should increase the PBV per project to 50 percent.
Response:	The 25% project cap is set forth via 24 CFR 983.54 and is not a Commerce discretionary policy. As such Commerce cannot eliminate the project cap. There are exceptions to this policy.

<p>Comment:</p>	<p>3. Chapter 17-II.G. Site Selection Standards</p> <p>a. Currently states, “It is Commerce’s goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal Commerce will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.” It then includes a number of cases where Commerce will grant exceptions to the 20 percent standard. While Commerce’s existing policy and the exceptions are a valiant effort, it’s an antiquated approach that doesn’t address the current affordable housing crisis in the highest income cities throughout Montana, known as Zoom towns , where massive population growth and sky rocketing home prices, coupled with the cost of construction and high loan interest rates, require most LIHTC affordable housing projects in high-income cities (with very low overall poverty) to be built in Qualified Census Tracts (QCT) where the poverty level is over 25 percent. However, a site in one of these QCTs where the poverty level is over 25% but under 30%, can still meet the goal of deconcentrating poverty and expanding housing and economic opportunities within the high-income city.</p> <p>b. Accordingly, Commerce should encourage development opportunities in these high-income cities and revise this policy so that instead both PHA’s and Commerce have a policy that recognizes this reality of site selection and approves PBV housing in census tracts that have poverty concentrations of 30 percent or less and award PBVs based on the Department’s existing strategic goals of funding projects based on:</p> <ol style="list-style-type: none"> <li>1) Greatest number of units dedicated to serve 30% AMI residents, and</li> <li>2) Longest term of affordability, and</li> <li>3) Communities with the highest need</li> </ol> <p>Thank you!</p>
<p>Response:</p>	<p>Commerce will follow current guidelines withing 24 CFR 983.55 regarding site selection.</p>

<p>Comment:</p>	<p>Dear Commerce Staff,</p> <p>My name is Tyson O’Connell. I am the principal of United Housing Partners LLC (UHP). I am writing this letter on behalf of UHP and our community partners and consultants as public comment in reference to Commerce’s proposed 2025 Administrative Plan.</p> <p>In the wake of rapidly accelerated market rents across western Montana, voucher payment standards have struggled to keep up. As Commerce and Montana Housing (collectively “Commerce”) are aware, this issue has led to an alarming rate of under-utilization of Housing Choice Vouchers (HCV) in Montana’s larger population centers. Raising payment standards in Montana has proven a long and arduous process. It has also been a costly one. Millions of dollars of budget authority have already been lost as HUD revoked this budget authority due to under-utilization, and as of June 2023, nearly a quarter of all voucher recipients in the state were unable to find qualifying housing .</p> <p>We understand the state’s Public Housing Authorities (PHA) and Commerce are working on funding for the market studies required to raise voucher rent payment standards. However, no</p>
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one is quite sure how long this process will take, or whether or not the process will be successful in fully closing the gap between market rents and voucher payments.

It is UHP's belief that the best immediate response to remedy under-utilization is to project base as many State administered vouchers as currently allowed under the Chapter 17 of the Administrative Plan. The Administrative Plan and HUD regulations allow for 20 percent of a PHA's voucher total to be project based. Chapter 17 of the Administrative Plan also references Commerce's policy to project base up to 20 percents of its authorized units for project-based assistance. This policy allows Commerce to ensure long term use of these vouchers as well as help the properties awarded the project-based vouchers (PBV) with better integration and long-term success in their communities by reducing vacancies, turn-over, administrative expenses, and consolidating relationships between the property owner, resident, and PHA.

Project basing 20 percent of the State's vouchers won't be enough to solve the immediate housing need or solve under-utilization of vouchers. Such a limited number of PBVs will be competitive and over-subscribed. Chapter 17 should be updated so that Commerce allocates these limited resources according to strategic priorities and award available PBVs based on the three priorities specifically listed in the following paragraph. UHP respectfully submits the follow comments:

1. Chapter 17-II.B. Owner Proposal Selection Process

a. This section sets forth the rules and policies that both PHAs and Commerce must follow for awarding PBVs to a project. The rules and policies are well tested but should be updated to include new financing sources and

2. Chapter 17-II.F. Cap on Number of PBVs in Each Project limited to 25 percent.

a. The current 25 Percent per Project Cap should be eliminated. Montana is in the middle of an affordable housing crisis at the same time it has an unprecedented under-utilization of HCV and recently lost over \$4.5mm in voucher payment authority due to this under-utilization. PHAs need more tools to help get voucher tenants into safe, clean, affordable housing.

b. Accordingly, Commerce should remove this 25 percent per project cap and allow PHAs to project base as many vouchers as they see fit for qualifying projects. At the very least, Commerce should increase the PBV per project to 50 percent.

3. Chapter 17-II.G. Site Selection Standards

a. Currently states, "It is Commerce's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal Commerce will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less." It then includes a number of cases where Commerce will grant exceptions to the 20 percent standard. While this Commerce's existing policy and the exceptions are a valiant effort, it's an antiquated approach that doesn't address the current affordable housing crisis in the highest income cities throughout Montana, known as Zoom towns , where massive population growth and sky rocketing home prices, coupled with the cost of construction and high loan interest rates, require most LIHTC affordable housing projects in high-income cities (with very low overall poverty) to built in Qualified Census Tracts (QCT) where the poverty level is over 25 percent. However, a site in one of these QCTs where the poverty level is over 25% but under 30%, can still meet the goal of deconcentrating poverty and expanding housing and economic opportunities within the high-income city.



	<p>b. Accordingly, Commerce should encourage development opportunities in these high-income cities and revise this policy so that instead both PHA's and Commerce have a policy that recognizes this reality of site selection and approves PBV housing in census tracts that have poverty concentrations of 30 percent or less and award PBVs based on:</p> <ol style="list-style-type: none"> <li>1) Greatest number of units dedicated to serve 30% AMI residents, and</li> <li>2) Longest term of affordability, and</li> <li>3) Communities with the highest need</li> </ol> <p>4. UHP also suggests Commerce will grant authority to its non-profit Field Agencies (FA), as defined in Chapter 1, Part 1, 1-I.B. Organization and Structure of the PHA so they can act in the same manner as autonomous PHAs in their authority to administer PBVs in the communities they serve. If this requires Commerce to designate the FAs as subrecipient, Commerce should take these steps.</p> <p>Specifically, the District 9 Human Resource Development Council (HRDC) currently oversees and administers HCVs in Gallatin, Meagher, and Park counties. Bozeman has become ground zero of our state's struggle to keep up with housing demand and affordability. HRDC and Bozeman would benefit from the ability to project base 20% of its unused HCVs into PBVs at their discretion.</p> <p>Thank you for your dedication to affordable housing in Montana, and I appreciate your consideration of this request.</p> <p>Sincerely,</p> <p>Tyson O'Connell United Housing Partners</p>
Response:	<p>Commerce's current PHA Administrative Plan includes language regarding Project Basing Vouchers. At this time, no change in language is needed to utilize HUD' PBV program. Due to complex federal requirements for PBV programs, and to ensure a fair and transparent approach to future PBV competitive application processes, Commerce will not be designating Field Agencies or any other outside contractor as a subrecipient at this time.</p>

Comment:	<p>5-11. B I believe that children of different sexes should have a right to their own room. A mother with 2 kids that are a male 17 and daughter 4 should not have to share a room. As she would be granted a 2-bedroom voucher.</p>
Response:	<p>In determining its voucher size policy, Commerce must take into consideration the impact of increasing voucher sizes with per unit cost as a whole. In the interest of budgetary requirements and the functionality of the program as a whole, Commerce will not be changing its bedroom size policy at this time.</p>

<p>Comment:</p>	<p>Chapter 19 - Part II: Foster Youth to Independence (FYI) program</p> <p>There are currently 3 PHA's in Montana that have an agreement with DPHHS/CFSD to administer the FYI program. While this is a great opportunity in these communities, it limits availability to only 3 communities in Montana. CFSD have recently met with PHA's and Chafee providers in the 3 communities that currently offer the FYI Program and have heard about its great success. They have shared the need for FYI in other communities and the need for housing assistance specifically for those with lived experience in the Child Welfare System.</p> <p>The intention of the FYI program is to serve some of the most vulnerable in our community by offering housing vouchers. Many individuals working in public service know that housing is the foundation of wellness. Through FYI young Montana people that have lived experience in the Child Welfare System are given an opportunity to thrive and establish a foundation for sustainability in housing.</p> <p>As the Chafee Program Manager, I hope that you will consider working with CFSD to ensure that all youth that are eligible for the program have access to FYI Vouchers across the State of Montana. I look forward to exploring how we can collaborate to ensure this program is used to the full extend for Montana people.</p> <p>Thank you,</p> <p>Tonya Shumaker Chafee Program Manager</p>
<p>Response:</p>	<p>At this time Commerce does not have the resources to administer this program, but can revisit at a later date.</p>

<p>Comment:</p>	<p>Commerce will not include any amounts for an allowance for maintenance or major repair/replacement for homeowner's who entered the program after 2018.</p> <p>SPECIAL HOUSNG TYPES HOMEOWNERS CHAPTER 16</p>
<p>Response:</p>	<p>Accepted with changes to language</p>

<p>Comment:</p>	<p>Chapter 3, in pages 23-27 under reasons for denial of eligibility-</p> <p>Denial of application/assistance for life The housing authority will deny applicants assistance for life for an arrest or charge of the following arrests, charges, or convictions:</p> <ul style="list-style-type: none"> <li>•Accessory to murder;</li> </ul>
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	<ul style="list-style-type: none"><li>•Attempted murder;</li><li>•Homicide / Murder / Manslaughter;</li><li>•Lifetime registered sex offenders;</li><li>•Threatening a housing authority employee;</li><li>•Manufacturing and/or Distribution of methamphetamine</li></ul>
Response:	Commerce will follow HUD guidelines regarding criminal background screenings.