

## **Project-Based Voucher Addendum**

During FY2003, MHA plans to implement a process for using project-based vouchers to further the MHA goal of maintaining, developing or assisting in the development of housing for low income persons in the Missoula area. MHA plans to make available for project-basing up to 20% of its baseline allocation of units over the next five years. In order to further the goals of deconcentration of poverty, and increasing available housing for elderly or persons with disabilities, project-based vouchers will be offered throughout the Missoula community. Specific locations will be determined by the location of existing projects or land available for purchase for new construction.

As with all programs that are covered by the MHA Plan, the PBV will be carried out in conformity with the nondiscrimination requirements specified in the PHA Plan regulations, and will affirmatively further fair housing as required by the PHA Plan regulations.

### **I. INTRODUCTION**

On October 27, 2000, the President signed into law the Fiscal Year 2001 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (Pub. Law 106-377, 114 Stat. 1441) ("Appropriations Act"). Section 232 of the Appropriations Act substantially revises the provisions of the U.S. Housing Act of 1937 that govern the authority of a PHA to designate a portion of its available tenant-based voucher funds for project-based assistance (see 42 U.S.C. 1473f(o)(13) (as amended by "Section 232" of the Appropriations Act). The Conference Report on the Appropriations Act stated that the statutory changes to the project-based voucher program are intended to make project-basing of voucher assistance more flexible.

This Addendum to the Missoula Housing Authority's (MHA's) Section 8 Administrative Plan is a statement of its intent to operate a Project-Based Assistance Program (hereinafter referred to as PBV) and to provide information on how it intends to operate the PBV under the requirements of the new law. This Addendum also provides information to eligible families, owners, and other interested members of the public.

This Addendum is based on Section 232 and HUD's Initial Guidance Notice, dated January 8, 2001, identifying which elements of the new project-basing law are effective immediately, and states how the law is to be implemented pending issuance of revised program regulations. In the event of changes required to this addendum because of future rulemaking concerning the project-based voucher program, the MHA will take all reasonable steps to comply with new rules without jeopardizing actions previously taken that are consistent with HUD's Initial Guidance and Section 232.

### **II. PROVISIONS OF THE MHA'S PBV PROGRAM**

**The following provisions of the MHA's PBV Program are effective on November 25, 2002 as adopted by the Board of Commissioners.**

Except where this section specifies otherwise, the present project-based regulations at 24 CFR part 983 continue to apply to newly constructed and substantially rehabilitated housing and

now also apply to existing housing. Upon determination of good cause and subject to statutory limitations, the MHA may seek a waiver from HUD for any provision of the applicable project-based regulations in accordance with 5 CFR 5.110.

### **A. Authorization To Provide Project-Based Vouchers For Existing Housing**

Consistent with Section 232 and HUD Guidance, the MHA from time-to-time may enter into HAP contracts that attach project-based voucher assistance to existing housing units that fully meet the housing choice voucher program HQS (see 24 CFR 982.401) but that would not have qualified for project-basing as newly constructed or rehabilitated units.

A housing unit will be considered an “existing unit” for purposes of the project-based voucher program if, at the time of the MHA’s written notice of selection of the project for project-based assistance, the units require a maximum expenditure of less than \$1,000 per assisted unit (including the unit’s prorated share of any work to be accomplished on common areas or systems) to comply with the HQS.

### **B. Unit Selection Policy, Advertising, And Owner Application Requirements For Existing Housing With Assistance Attached To 25 Percent Or Fewer Of The Units In A Building**

For existing housing developments in the project-based voucher program, which have assistance attached to no more than 25 percent of the development’s units, the MHA shall advertise the availability of the project-based assistance. Such advertisements must meet standards comparable to those in 24 CFR 983.51(b); otherwise, section 983.51 does not apply to these projects.

Specifically, the MHA will advertise in a newspaper of general circulation that the MHA will accept applications for assistance for existing housing projects. The advertisement will be published once a week for three consecutive weeks; specify an application deadline of at least 30 days after the date the advertisement is last published; specify the number of units the MHA estimates that it will be able to assist under the funding the MHA is making available for this purpose; and state that only applications submitted in response to the advertisement will be considered. The MHA advertisement will also state the MHA’s selection policies. In all cases, the MHA will maintain documentation of responses to advertisements or competitive proposals received in response to the MHA notice.

### **C. For Existing Housing Developments With More Than 25 Percent Project-Based Units (I.E., At This Time, For The Elderly And Special Populations Only, Since The Supportive Services Exception To The 25% Cap Is Not Implemented As Of Yet), And For Newly Constructed Or Rehabilitated Units**

The MHA will establish policies for public advertisement and competitive selection of units to be assisted with project-based voucher assistance. 24 CFR 983.51 is applicable. Specifically, in accordance with 24 CFR 983.51, the MHA will advertise in a newspaper of general circulation that it will accept applications for assistance under part 983 for specific projects. The advertisement must be approved by the HUD field office and may not be published until after the later of HUD authorization to implement a project-based program or ACC execution. The advertisement must: be published once a week for three consecutive weeks; specify an application deadline of at least 30 days after the date the advertisement is last published; specify the number of units the MHA estimates it will be able to assist under the funding it is

making available for this purpose; and state that only applications submitted in response to the advertisement will be considered.

#### **D. 20 Percent Limit**

The total cumulative number of project-based units will not exceed 20 percent of the baseline number of units in the MHA's voucher program.

#### **E. Consistency With MHA Plan**

The MHA will submit as a required attachment to the MHA Plan template, or as an amendment to the MHA Plan, depending on the circumstances, a statement of the projected number of project-based units and general locations and how project basing would be consistent with the MHA Plan.

As with all programs that are covered by the MHA Plan, the PBV will be carried out in conformity with the nondiscrimination requirements specified in the PHA Plan regulations, and will affirmatively further fair housing as required by the PHA Plan regulations.

#### **F. Consistency With The Goals Of Deconcentrating Poverty And Expanding Housing And Economic Opportunities**

The MHA's PBV Program will be consistent with the goals of deconcentrating poverty and expanding housing opportunities. Until HUD issues further instructions, the MHA will implement the deconcentration of poverty requirements in Section 232 by requiring that all new project-based assistance agreements or HAP contracts be for units in census tracts with poverty rates of less than 20 percent, unless HUD specifically approves an exception.

#### **G. Partially Assisted Building Requirement**

The MHA will not enter into an agreement or HAP contract or other binding commitment to provide project-based voucher assistance for more than 25 percent of the units in any one building, except for single-family dwellings and projects for elderly families and disabled families. In accordance with existing program usage, single family dwellings refer to 1-4 family dwellings. For the purpose of the single family dwelling requirement, a dwelling may be part of an overall development as long as the dwelling consists of 4 units or fewer.

#### **H. Family Choice to Move With Continued Assistance**

The new law provides that assisted families may move from the assisted building, and retain federal housing assistance. For the continued assistance option, Section 232, similar to existing 24 CFR 983.206(d)(2), requires for new HAP contracts that the owner permit the assisted tenants to move from the housing at any time after the family has occupied the dwelling unit with project-based voucher assistance for 12 months.

Consistent with the law, the MHA will provide the family with housing choice voucher assistance or such other tenant-based rental assistance that is subject to comparable income, assistance, rent contribution, affordability and other requirements. HUD will set the standards as to what may qualify as comparable assistance by regulation, but, for new HAP contracts incorporating this requirement, the MHA will use voucher assistance available under the ACC to provide tenant-based assistance for the family. If no such assistance is available at the time

the family moves, the MHA will give the family priority to receive the next available tenant-based voucher.

Vouchers under funding allocations targeted by HUD for special purposes (e.g., family unification, mainstream disabled) are not available for this purpose, since they are required to be used only for the targeted purpose.

## **I. HAP Contract Term**

Consistent with the law, a HAP contract between the MHA and an owner of housing under this program may have a duration of up to 10 years (as determined by the MHA), subject to the future availability of sufficient appropriated funds under the MHA's consolidated ACC with HUD.

Upon expiration of the HAP contract term and consistent with the law, the MHA may agree with the project-based housing owner to extend the HAP contract for such period as the MHA determines appropriate to expand housing opportunities (as well as an extension to assure long-term affordability of the housing, as provided under prior law). All HAP contract extensions must be contingent upon the future availability of appropriated funds.

## **J. Rent Limits**

The new law provides that the HAP contract shall establish gross rents (rent to owner plus the allowance for tenant-paid utilities) that do not exceed 110 percent of the established Fair Market Rent ("FMR"), or any HUD-approved "exception payment standard" (i.e., a payment standard amount that exceeds 110 percent of the published FMR) for the area where the housing is located.

If a unit has been allocated a low-income housing tax credit under the Internal Revenue Code of 1986 at 26 U.S.C. 42, but is not located in a "qualified census tract" as defined in the law, the rent to owner may be established at any level that does not exceed the rent charged for comparable unassisted units in the same building or elsewhere.

Within the limitations mentioned above, the initial rent to the owner may differ from payment standard amounts in the payment standard schedule adopted for the MHA's tenant-based voucher program. However, just as in the regular tenant-based program and the project-based program under prior law, the initial and adjusted rent to owner must be reasonable in relation to rents charged in the private market for comparable unassisted units (see 42 U.S.C. 1437(f)(o)(10)(A)).

## **K. Rent Adjustments During The Term Of The HAP Contract**

Section 232 provides that a housing assistance payments contract for project-based voucher assistance shall provide for rent adjustments and that the adjusted rent for any assisted unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market and may not exceed the maximum rent limits permitted under the statutory limitations summarized above. Determination of whether rent is reasonable in relation to comparable units shall be governed by 24 CFR 983.256.

The annual rent adjustment provisions at 983.254 and the special rent adjustment provisions at 983.255 shall only be applicable if the AHAP with the owner was executed before the effective date of this notice. These annual and special adjustment regulatory provisions do not apply to project-based assistance for existing housing pursuant to this notice, and do not apply

if the Agreement for newly constructed or rehabilitated housing was executed on or after the effective date of this notice.

## **L. Family Share Of Rent And Housing Assistance Payment**

The housing assistance payment is calculated in accordance with 24 CFR 983.260 as the gross rent minus the total tenant payment. The family share is calculated in accordance with 24 CFR 983.261 by subtracting the amount of the HAP from the gross rent.

## **M. Tenant Selection**

The MHA selection system for project-based units will comply with the requirements specified below, which in most respects (except for the income targeting provision) are a codification of present regulatory and contractual requirements.

**Income Targeting:** The requirements of 42 U.S.C. 1437n(b) and 24 CFR 982.201(b)(2) govern the selection of eligible families for this program, and generally provide that not less than 75 percent of families admitted annually to the MHA's combined tenant-based and project-based voucher program shall be families whose incomes do not exceed 30 percent of the area median, as determined by HUD.

Applicants may only be selected from the MHA waiting list. The MHA will only maintain a separate project-based waiting list if all MHA tenant-based assistance applicants who seek project-based housing can be placed on this list upon request and without penalty to any other application for assisted housing they may have pending. Subject to its waiting list policies and selection preferences specified in the MHA administrative plan, the MHA may place a family referred by an owner of project-based voucher units on its waiting list.

If the MHA chooses to establish a separate waiting list for project-based assistance, the MHA will give all applicants currently on its waiting list for tenant-based assistance the opportunity to also have their names placed on the waiting list for project-based assistance in accordance with the MHA's established selection policies.

As required in HUD's project-based program regulations, the MHA will refer families to housing units from the waiting list according to its regular applicant selection policies. If an applicant does not rent a unit with project-based assistance, or the owner turns an applicant down for admission to a project-based unit, the applicant will not be removed from the MHA's tenant-based assistance waiting list for that reason but must maintain its position on the list as though no offer of housing had been made.

**Vacant units:** The HAP contract will be in a form prescribed by HUD. The MHA may enter into such a contract that agrees to provide vacancy payments up to 60 days after a unit becomes vacant, in an amount not to exceed the rent to the owner as provided by the HAP contract on the day the family vacated. [[Page 3610]]

The MHA may only make such payments for a vacant unit if:

1. The vacancy was not the owner's fault, and
2. The MHA and owner take action to minimize the likelihood and length of any vacancy.

**Reduction Of Contract Units After Vacancy:** Except for units for which an AHAP was executed before the effective date of this notice, the new law supersedes 24 CFR 983.152(b) and (c). Instead, the following provisions apply:

If no eligible family rents a vacant unit within 120 days (commencing on the first day of the month when the vacancy occurs), the MHA may terminate its commitment to make any additional housing assistance payments for the unit for the balance of the HAP contract term. The MHA may use the amounts so saved to provide other voucher assistance.

#### **N. Future Modifications To This Addendum**

The MHA's PBV Addendum remains in effect until the new project-based voucher changes in law have been fully implemented through a new regulation.

In the event of changes required to this addendum because of future rulemaking concerning the project-based voucher program, the MHA will take all reasonable steps to comply with new rules without jeopardizing actions previously taken that are consistent with HUD's Initial Guidance and Section 232.