



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Local Financial Impact Review – Issued April 22, 2015

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## Municipal Cost Impacts of Massachusetts's Hotel/Motel-Based Homeless Families Shelter Program





# The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

SUZANNE M. BUMP, ESQ.  
AUDITOR

TEL (617) 727-2075  
FAX (617) 727-2383

April 22, 2015

His Excellency, Charles D. Baker, Governor  
The Honorable Karyn E. Polito, Lieutenant Governor  
The Honorable Stanley C. Rosenberg, President of the Senate  
The Honorable Robert A. DeLeo, Speaker of the House  
The Honorable Chairs of the Joint Committee on Children and Families  
The Honorable Chairs of the Joint Committee on Education  
The Honorable Chairs of the Joint Committee on Housing  
The Honorable Chairs of the Joint Committee on Revenue  
The Honorable Chairs of the Joint Committee on Municipalities and Regional Government  
Honorable Members of the General Court

Dear Colleagues:

It is my privilege to submit this review of municipal cost impacts from state-sponsored hotel/motel shelter programs and related educational policies for homeless families in Massachusetts. This study was undertaken pursuant to General Laws Chapter 11, Section 6B, which grants the State Auditor's Division of Local Mandates (DLM) authority to review any law or regulation that has a significant financial impact on local government.

This study was prompted in part by the growing disparity between the annual amount that municipalities are paying, and the amount reimbursed by the state, for transportation costs mandated by the commonwealth's acceptance in 2002 of the federal government's McKinney-Vento Homeless Education Assistance Improvements Act. My office determined in 2011 that these costs constituted an unfunded mandate as defined in General Laws Chapter 29, Section 27C. The General Court responded by initiating the annual appropriation of funds to reimburse cities and towns for this mandate. Over the past two fiscal years, however, the amount of this appropriation was first reduced and then held flat even as costs increased. For FY 2014, municipalities were left with \$7.1 million in unreimbursed costs for this mandate—and FY 2015 will almost certainly see an even larger gap. Even with an additional \$1 million in funding contained in Governor Baker's proposed budget for FY 2016, this financial impact of state policy on local budgets is likely to intensify.

However, when it comes to the cost of providing K-12 education for homeless students, and providing temporary shelter for homeless families, McKinney-Vento transportation costs are not the only financial impacts felt by local governments as a direct result of state policy and programs. A DLM survey of affected communities also points to added expenditures at the local level for educational services provided to students from homeless families placed by the state in local hotel/motel shelters. In parallel, the survey has gathered evidence of unreimbursed local expenditures on students still enrolled in districts

where they no longer reside, but where they are entitled to continuing educational services under the terms of McKinney-Vento. While these costs may, or may not, qualify as unfunded mandates under state law, they nonetheless represent an additional fiscal impact on Massachusetts's cities and towns in excess of \$4.5 million per year.

Moreover, it appears (although the Department of Revenue's tax confidentiality rules and a general lack of documentation prevented DLM from proving) that hotel and motel operators may not be collecting and remitting local option room excise taxes on some, or perhaps all, hotel/motel shelter rooms. If true, this means that cities and towns with hotels and motels that provide shelter rooms are losing annual revenues in excess of \$1.7 million statewide.

Taken together, these cost factors (including statewide under-reimbursement of the McKinney-Vento transportation mandate) suggest a local burden of at least \$13.3 million per year from the combined impacts of McKinney-Vento requirements for homeless students and the state's practice of providing overflow shelter housing in hotels and motels. The study also recognizes that these local impacts of statewide policy are concentrated disproportionately in fewer than 50 of the state's 351 cities and towns, many of which rank as less affluent communities where these impacts are especially difficult to absorb.

In light of these findings, DLM has recommended that the state fully reimburse McKinney-Vento transportation costs and consider additional reimbursements for education-related expenses directly related to the hotel/motel shelter programs and McKinney-Vento requirements. DLM further recommends that the Department of Housing and Community Development—the agency that operates the hotel/motel shelter program—ensure that room excise taxes are collected on rooms it books through the program.

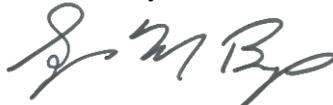
Finally, because of the disproportionate impact of these policies on a small number of what are often less affluent communities, DLM also recommends that all state agencies and branches of state government adopt a more proactive and systematic approach to understanding local costs of state policies—and more fully mitigating them whenever possible. I am very pleased to note that this recommendation is in close accord with the spirit and intent of Governor Baker's Executive Order Number 554 creating a Community Compact Cabinet.

In closing, I am most appreciative that the Department of Housing and Community Development has been highly responsive to, and cooperated fully with, this study. As is documented here, they have embraced its recommendations for changes to DHCD procedure and have already taken steps toward implementing those changes.

I hope the information contained in this report will assist you in enhancing state law, policies, and procedures that directly affect the resources and revenues of our local governments and schools. Copies of the report are available on the OSA's website, [www.mass.gov/auditor](http://www.mass.gov/auditor), or by calling DLM at (617) 727-0025. Please don't hesitate to reach out to my office with any questions or comments.

Thank you for your continued support of our shared effort to improve the fairness, accountability, transparency, and efficiency of Massachusetts state government.

Sincerely,



Suzanne M. Bump  
Auditor of the Commonwealth

# *Municipal Cost Impacts of Massachusetts's Hotel/Motel-Based Homeless Families Shelter Program*

*A Report Issued Pursuant to General Laws Chapter 11, Section 6B*

## **EXECUTIVE SUMMARY**

### **Purpose and Scope**

The Division of Local Mandates (DLM) within the Office of the State Auditor (OSA) undertook this Municipal Impact Study to examine the financial impact on local governments of two state initiatives for homeless families:

- Education-related transportation requirements for homeless students (known as McKinney-Vento transportation costs); and
- The hotel/motel family shelter network managed by the Department of Housing and Community Development (DHCD) as part of its Emergency Assistance (EA) program.

These local cost impacts include:

- The state's continued underfunding of McKinney-Vento transportation costs that DLM had determined in 2011 to constitute an unfunded mandate pursuant to General Laws Chapter 29, Section 27C.
- Unreimbursed expenditures for education services for students who no longer reside in the community where they once did ("community of origin"), but whose families have elected to have their children return to that community of origin for their continued K-12 education.
- Unreimbursed expenditures for expanded or enhanced education services designed to accommodate additional students assigned to local school districts ("host communities") when homeless families are placed in hotels or motels under the EA program.
- Lost or forgone local option room excise tax revenue when host communities do not receive taxes from room payments made by the state for shelter purposes.

In addition—and of equal importance—this study explored potential inequities in how these local costs are distributed among cities and towns across the state, which result in the local financial burdens falling disproportionately on the Commonwealth's least affluent communities.

### **Overview of the Emergency Assistance Hotel and Motel Shelter Program**

Since 1983, the state has provided emergency shelter housing for homeless families through an overflow hotel/motel shelter program funded under the EA program. Since 2009, the EA hotel/motel shelter program has been administered for DHCD by a contractor that recruits hotels and motels willing to provide specific types of rooms and services for a fixed daily rate. Under McKinney-Vento standards, parents of homeless school-aged children may elect either to keep those children in the originating community's schools or to enroll them in the schools of the host community to which they have been relocated by the state under the EA program.

State expenditures on the EA hotel/motel shelter program have increased sharply in recent years: According to figures released by the Governor's Office, FY 2015 state spending on hotels and motels for homeless families will exceed \$40 million, compared with \$1 million only six years ago. The total amount budgeted in FY 2015 for the program was \$180 million, up from \$150 million in FY 2010. The Governor's Office also notes that the average EA-funded hotel/motel stay for a homeless family is seven months at an average cost of \$2,500 per month.

### **Establishing a Benchmark for Estimating Local Costs for Host Communities**

The number of families in overflow hotel/motel shelters, and the locations in which they are housed, vary from week to week and from community to community. In 2014, the number of homeless families in EA-provided hotel/motel housing generally fell within a range of between 1,700 and 2,000 families in any given week. This study used DHCD's count on December 2, 2014 as a roughly representative snapshot of the size and distribution of the hotel/motel shelter population across the state. The 1,730 families counted in the December 2 total included 1,874 school-aged children (5–18 years) and were sheltered in hotel/motel housing at 50 hotels and motels in 35 communities across the state.

**Assessing the Local Cost Impacts of State Requirements for Educating Homeless Students in Massachusetts**

DLM surveyed a weighted sample of 55 school districts. Forty-one school districts responded to the survey, which therefore represents only 12 percent of the Commonwealth’s 351 municipalities and is by no means definitive. (It does, however, represent roughly 75 percent of the communities with active EA hotel/motel shelters in 2014.) Nonetheless, the data obtained from this survey suggest that some communities are experiencing significant *unreimbursed* cost impacts in some or all of the following categories:

- Expanded classroom educational services (including textbooks and materials).
- Extracurricular and enrichment programs.
- Dedicated before- and/or after-school programs.
- Special-needs programs.
- Dedicated administrative services.

<b>Education-Related Unreimbursed Cost Data from Reporting School Districts</b>			
For Non-resident Homeless Students	For Students in Local Hotel/Motel Shelters	For McKinney-Vento Transportation Costs	Total for 41 Districts
<b>\$2,933,143</b>	<b>\$1,509,634</b>	<b>\$3,989,525</b>	<b>\$8,432,302</b>

*(Costs shared across categories are listed in only one column to avoid double counting.)*

The unreimbursed school district expenses identified from all 41 reporting districts totaled \$4.4 million. When combined with the \$3.9 million FY 2014 underpayment of McKinney-Vento transportation costs for these same districts, the total *education-related* local impact of the state’s homeless programs in these 41 districts was \$8.4 million in 2014.

**Local Option Room Excise Taxes**

School-related expenses are not the only impacts on local budgets of the state’s placement of homeless families in hotel and motel shelter programs. Another potential impact may be seen in lost revenue from local option room occupancy excise taxes. In attempting to assess this impact, however, DLM encountered major impediments to determining whether, or how much, state or local excise tax was being collected on hotel/motel shelter rooms. In the end, this lack of information required DLM to model this potential impact rather than gather reported data.

**Given the absence of data, this study assumed that *host communities have not been receiving the revenue they would have received had DHCD been paying local option room excise tax.*** To model the loss of this revenue, this study assumed average year-round levels of occupancy (as determined by the Massachusetts Office of Tourism and Trade) multiplied by the rooms occupied in the December 2 snapshot sample and then multiplied by relevant local option tax percentages and an average room rate of \$85 per night. Under this modeling method, the potentially forgone local room excise revenue for cities and towns across the state totals \$1.7 million annually.

The impact of this potential lost revenue is greatest for communities with the highest numbers of rooms in use by the EA program. Communities with the 10 highest modeled revenue losses accommodated nearly 70 percent of the homeless families sheltered under the EA program in 2014, yet collectively those 10 communities are home to less than 8 percent of the state’s population. These “top-10” communities—Holyoke, Danvers, Brockton, Allston-Brighton, Waltham, Chicopee, Greenfield, Weymouth, Malden, and Natick—potentially suffered more than twice as much local room excise revenue loss (\$1.3 million) as all of the 25 other snapshot communities combined.

<b>Modeling Potential Forgone Room Excise Tax Revenue for 10 Cities and Towns with the Highest Number of EA Families in Hotel/Motel Shelter on December 2, 2014</b>				
Combined 2010 Population	Percentage of MA Population	Percentage of MA Homeless Families	Number of Rooms in Use	Annual Forgone Revenue
<b>514,765</b>	<b>7.86%</b>	<b>67.69%</b>	<b>1,171</b>	<b>\$1,332,380</b>

### **Equity in the Allocation of Homeless Population**

***The communities hosting the 10 highest percentages of homeless families in statewide hotel/motel shelters (Holyoke, Danvers, Brockton, Allston-Brighton, Chicopee, Waltham, Malden, Leominster, Greenfield, and Weymouth) collectively provided shelter to 69% of the state’s homeless families but had a combined population of less than 8% of the state’s 6.5 million residents.***

Five of these municipalities are gateway municipalities (as defined in General Laws Chapter 23A, Section 3A) that the Commonwealth has designated for special assistance with local development and economic activity initiatives. ***Only three of these communities—Danvers, Waltham, and Weymouth—had median household incomes at or above the state average.*** Thus, the effect of underfunding McKinney-Vento transportation costs while maintaining the current pattern of providing shelter for homeless families in hotel and motel housing is to place disproportionate cost burdens on communities that can least afford them.

## **FINDINGS AND POLICY RECOMMENDATIONS**

### **On the McKinney-Vento Unfunded Mandate**

*Finding:* Since the Department of Elementary and Secondary Education regularly compiles data on the actual cost to local and regional school districts of McKinney-Vento transportation services for homeless students, this study has required no modeling or estimation to document the continued, and significant, underfunding of the McKinney-Vento unfunded mandate. This adverse cost impact on local education budgets currently exceeds \$7 million per year.

*Recommendation:* **These transportation costs should not be imposed on communities trying to make the most of scarce local education dollars.** The Massachusetts Legislature and the state’s executive leadership should provide **100% reimbursement of the cost for this unfunded local mandate.**

### **On Other Homeless-Related Local Education Costs**

*Finding:* Even using the limited sample of 41 out of 351 Massachusetts communities, **this study was able to identify more than \$4.4 million in unreimbursed local non-transportation costs in 2014**, including special education services (Individualized Education Programs) for special-needs homeless students, administrative costs, after-school and summer programs, expansion of English Language Learning and liaison programs, and additional textbooks and materials.

*Recommendation:* The Massachusetts Legislature and Governor’s Office should direct relevant executive agencies to collect and publish information that more fully and accurately assesses non-transportation costs for educating homeless students living in shelters and/or receiving educations in communities where they do not reside. Since local governments would not incur these costs absent the McKinney-Vento requirements and the state’s active role in relocating families to hotel/motel shelters, **the state should consider providing reimbursements for these expenditures.**

### **On Local Option Room Excise Tax Payments**

#### *Findings*

1. **EA hotel/motel shelter rooms are subject to tax** based on the Department of Revenue’s (DOR’s) 1986 *Letter Ruling 86-5* and are not subject to the criteria for the “90-day rule” under DOR’s “Technical Information Release TIR 07-2: *Lowney v. Commissioner of Revenue.*”
2. Because DHCD, DOR, and municipal authorities cannot currently determine whether taxes are being paid on shelter rooms, the possibility exists that **local option room excise tax is not being collected for some—perhaps all—of the hotel and motel rooms rented by the state under the EA program.** For communities hosting hotel and motel shelters in 2014, this study estimates potential forgone revenue that may exceed \$1.7 million per year.
3. Current state law and procedures for the collection of room excise taxes require that information concerning the rooms and rates on which excise tax is collected be listed on the occupant’s bill but nowhere else. **The invoices currently presented to DHCD for EA shelter rooms do not provide this information, since DHCD is invoiced for a previously negotiated, inclusive flat rate per room per night.**

4. Because of DOR privacy rules and the absence of this information on EA program invoices, municipalities have no way of knowing whether local option taxes are being collected for shelter rooms. In the case of local option room excise taxes, **cities and towns that have local laws (under the terms of General Laws Chapter 40, Section 57) providing for the suspension and/or revocation of licenses for failure to pay local taxes therefore have no way to ensure that the requirements of these laws have been met.**

#### *Recommendations*

1. To reduce any adverse impact of potentially forgone room excise tax revenue on local budgets, **DHCD should work with DOR to clarify that these taxes should be collected for hotel and motel rooms rented under the EA homeless family shelter program under all circumstances and regardless of the length of stay for any individual family.**
2. Working with its EA contractor, DHCD should establish written contracts with hotel and motel operators providing shelter rooms for homeless families. These contracts should, at a minimum, specify that local room excise taxes are being collected, and should indicate the base nightly taxable rate from which taxes have been calculated. In addition, the new contracts should mandate that hotel and motel operators submit monthly EA invoices to DHCD that list the base rates and taxes collected for all rooms rented for shelter purposes.
3. To assist local governments with revenue compliance and budget planning, DHCD should share the tax payment information collected through its monthly invoices with the chief executives of the municipalities in which EA hotels and motels are located.
4. To improve compliance and enforcement, DOR should amend its room excise tax reporting forms so that hotel and motel operators report aggregated data containing the same information on base rates and excise taxes charged that is required by law on hotel and motel bills.
5. DOR should also share data with each affected municipality on the collection of local-option room excise tax revenue from hotels and motels within that municipality's boundaries. This data sharing should help to give cities and towns the information necessary to enforce ordinances that require suspension or revocation of operating licenses for local businesses that fail to pay local taxes. The arrangement would not require the release of personal or business income tax data, only business excise tax information.

#### *Agency Response*

DHCD indicated in an April 9, 2015 letter to DLM that it accepts and is fully implementing Recommendations 2 and 3 above. (A copy is included as an appendix to this report.)

#### **On Equity in the Distribution of Local Costs for the McKinney-Vento and EA Programs**

*Finding:* The current statewide hotel/motel shelter program disproportionately concentrates local education, transportation, and potentially forgone revenue costs in fewer than 50 of the state's 351 cities and towns.

*Recommendation:* This finding underscores the overarching value of protecting municipalities from, and reimbursing them for, local cost impacts of state policies, both as a matter of equity and as sound fiscal practice. All state agencies and branches of state government, including DOR and DHCD, should adopt a more proactive and systematic approach to understanding local costs of state policies. Where these costs fall disproportionately on a few communities, or on less affluent communities, the Commonwealth should consider mechanisms to distribute the costs more evenly and/or to reimburse the affected communities.

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# **Local Financial Impact Review**

## *Municipal Cost Impacts of Massachusetts's Hotel/Motel-Based Homeless Families Shelter Program*

*A Report Issued Pursuant to General Laws Chapter 11, Section 6B*

### **INTRODUCTION**

#### **Statutory Authority**

Under the authority of General Laws Chapter 11, Section 6B, the Division of Local Mandates (DLM) within the Office of the State Auditor (OSA) is empowered to assess the “estimated and actual financial effects on each city and town of laws, and rules and regulations of administrative agencies of the commonwealth either proposed or in effect.” DLM may review any state law or regulation that has a significant financial impact on local spending, even when that law or regulation does not constitute an unfunded local mandate as defined by the state’s Local Mandate Law.<sup>1</sup> ***An OSA Section 6B review, also known as a Municipal Impact Study, results in a report to the Legislature that quantifies local financial impacts and may include recommendations for fiscal, legislative, or regulatory relief.***

#### **Purpose and Scope**

This Municipal Impact Study examines the impact of costs imposed on local jurisdictions, including school districts, by two separate but interrelated state policies affecting homeless families:

- Education-related transportation requirements for homeless students; and
- The hotel/motel family shelter network managed by the Department of Housing and Community Development (DHCD) as part of its Emergency Assistance (EA) program.<sup>2</sup>

This is not the first time OSA has examined the transportation and education costs included in this review. In 2011, OSA determined that certain school district expenditures for education-related transportation of homeless children did, in fact, constitute an unfunded local mandate under state law.<sup>3</sup> In its responses to two similar requests for determination filed by the Town of Danvers and the City of Waltham,<sup>4</sup> OSA stated that the state’s contractual acceptance in 2002 of certain provisions of the

- 
1. General Laws Chapter 29, Section 27C, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter29/Section27C>.
  2. Housing Stabilization Governing Statute, General Laws Chapter 23B, Section 30F, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter23B/Section30>. See also Emergency Assistance Regulation (current) 760 Code of Massachusetts Regulations (CMR) 67.00, <http://www.mass.gov/hed/economic/eohed/dhcd/legal/regs/760-cmr-67.pdf>.
  3. Ibid., paragraphs (c) and (d).
  4. Bump, Suzanne, *Town of Danvers: Emergency Assistance Program, Education Cost Impacts (Office of the State Auditor Oct. 27, 2011)*, <http://www.mass.gov/auditor/docs/dlm-mandate/2011/102711-danvers-letter.pdf>; *City of Waltham: Temporary Housing for Homeless Families and Children, Education Cost Impacts (Office of the State Auditor Dec. 12, 2011)*, <http://www.mass.gov/auditor/docs/dlm-mandate/2011/121211-waltham-homeless-busing.pdf>.

federal government’s McKinney-Vento Homeless Education Assistance Improvements Act of 2001 (hereinafter “McKinney-Vento”) had imposed a transportation cost mandate in excess of \$11 million per year on school district budgets statewide.

OSA’s determinations further observed that, in addition to imposing these transportation costs on local budgets, the state’s acceptance of McKinney-Vento had established other, unprecedented, education-related spending requirements for children of homeless families. In her determinations, however, Auditor Suzanne Bump wrote that, while these additional costs might not necessarily meet the technical standards of an unfunded local mandate under General Laws Chapter 29, Section 27C, they nonetheless constituted “a substantive new obligation with no discernible history in pre-1981 law.”<sup>5</sup>

In response to this OSA determination, the Massachusetts Legislature appropriated \$11.3 million in FY 2013 to reimburse what turned out to be \$12.01 million in local homeless-related school transportation costs incurred in the prior year.<sup>6</sup> In its FY 2014 budget, the state appropriated \$7.35 million to reimburse \$14.46 million in local expenditures, requiring cities and towns to absorb more than \$7 million in unfunded mandate costs. In the FY 2015 state budget, the Legislature once again pegged the appropriation at \$7.35 million, while the Baker administration has proposed an increase to \$8.35 million in FY 2016—although the amount eligible for reimbursement totaled \$14.45 million in FY 2014 and will likely exceed that level in each of the next two fiscal years.

Thus, in the years since the Auditor issued her determination on this issue, cities and towns have received reimbursement for the McKinney-Vento unfunded transportation cost mandate at the rate of 94 cents on the dollar in FY 2013 but less than 51 cents on the dollar in FY 2014. Without a supplementary appropriation before the end of the fiscal

**Excerpts from OSA’s 2011  
McKinney-Vento  
Determinations**

“When a homeless family or child is moved into emergency housing in another city or town, the [McKinney-Vento] Act requires that school placements be made to further a child’s best interests. For the duration of the homelessness, this allows for placement in the new community’s (host community) schools, or in the community from which the family or child moved (school of origin). . . . When the parent chooses the school of origin, the city or town where the school of origin is located provides and pays for the education of the child, and the two communities share the cost of transportation to and from the school of origin—unless the two communities reach an alternative payment agreement. . . .

“It is DLM’s long-held position that the Local Mandate Law does not apply to costs imposed upon cities and towns by federal law. However in this case, there is no federal mandate, because [the Department of Elementary and Secondary Education] has voluntarily accepted McKinney-Vento aid.”

(Citations listed as endnotes, p. 18.)

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5. Ibid., p. 6.

6. The cost of transporting a child from one district to another for educational purposes is split evenly between the “host community” (where the child currently resides) and the “community of origin” (where the child was attending school when s/he became homeless).

year, local and regional school districts will be facing another substantial shortfall in reimbursements for this unfunded local mandate in FY 2015.<sup>7</sup> Even with the \$1 million increase proposed by Governor Baker for FY 2016, the total unreimbursed costs imposed on local governments by McKinney-Vento will exceed \$24 million over four years.

***Yet while the state’s practice of underfunding of the McKinney-Vento transportation cost mandate is clearly a significant burden on local budgets, it is only one element in a larger cost picture.***

In order to examine and document the full impact of the state’s homeless programs on local budgets, DLM has undertaken this study to explore cost factors *beyond* the unfunded local mandate imposed by McKinney-Vento transportation costs. These factors include:

- Unreimbursed expenditures for education services for students who no longer live in the community where they once did (“community of origin”), but whose families have elected to have their children return to the community of origin in order to continue receiving educational services.
- Unreimbursed expenditures for expanded or enhanced education services designed to accommodate additional students assigned to local school districts (“host communities”) when homeless families are placed in hotels or motels under the EA program.<sup>8</sup>
- Lost or forgone local option room excise tax revenue when host communities do not receive taxes from room payments made by the state for shelter purposes.
- Any other municipal costs that can be directly attributed to the assignment of homeless families to hotel or motel shelter housing.

In addition—and of equal importance—DLM undertook this study to explore potential inequities in how these local costs are distributed among cities and towns across the Commonwealth. Since the state has made a commitment to providing special assistance and support to certain municipalities through the Gateway Cities Initiative<sup>9</sup> and similar policies, this study addresses the question of whether state programs to shelter homeless families may disproportionately impose local cost burdens on the Commonwealth’s least affluent communities.<sup>10</sup>

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7. *Report Under the Provisions of Joint Rule 11A for the Conference of H.4001 and S.2160 Fiscal Year 2015 Budget Sections 2, 2B & 2E*; see also additional figures supplied by the Massachusetts Department of Elementary and Secondary Education, <http://www.doe.mass.edu/finance/transportation/>.

8. See “Addressing the Need,” p. 5, below.

9. General Laws Chapter 23A, Section 3A, defines a gateway city as a municipality with a population greater than 35,000 and less than 250,000, a median household income below the state average, and a rate of educational attainment of a bachelor’s degree or above that is below the state average.

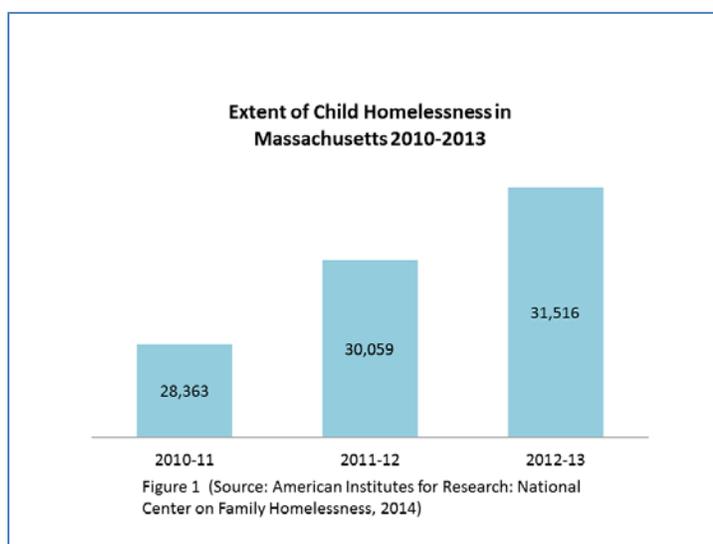
10. For more on the state’s commitment to assisting municipalities in addressing inequities and inefficiencies in cost impacts of state law and regulation, see also the text of Governor Charles D. Baker’s Executive Order No. 554, issued January 23, 2015 (<http://www.mass.gov/governor/press-office/press-releases/fy2015/exec-order-to-strengthen-municipal-partnerships-signed.html>) and accompanying letter from Lieutenant Governor Karyn E. Polito to municipal officials dated February 9, 2015 (<http://www.mass.gov/dor/docs/dls/citytown/croninletter2915signed.pdf>).

## BACKGROUND

### **Child and Family Homelessness as a Persistent Issue in Massachusetts**

Family homelessness has long been—and remains—a significant problem across the Commonwealth. Indeed, the combination of high rents, a lack of affordable housing, stagnant income growth for working families, and the lingering aftereffects of the 2007–2009 Great Recession will probably make homelessness a major public policy challenge in Massachusetts for the foreseeable future. In its *2014 Annual Homeless Assessment Report (AHAR) to Congress*, the US Department of Housing and Urban Development noted that, while the national homeless population had declined by more than 2 percent, the numbers of homeless people in Massachusetts (including all individuals, whether or not they lived in family groups) had *increased* by 40.4 percent between 2007 and 2014—and by 11.6 percent between 2013 and 2014 alone.<sup>11</sup> Massachusetts continues to experience a shortfall of affordable rental housing stock in comparison to demand, and at \$2,300 per unit per month, it currently ranks second among the 50 states for median rental prices.<sup>12</sup> According to the National Low Income Housing Coalition, Massachusetts ranked 7th among the 50 states for the amount of income needed—\$24 per hour—for a single-income household to afford the fair market rent for a two-bedroom apartment. (At the time of this 2014 study, the estimated mean hourly income in Massachusetts was \$17.47.<sup>13</sup>)

Yet while chronic homelessness remains a long-term problem, Massachusetts compares favorably with other US states when rated for its efforts to provide temporary shelter for homeless children and families. In a November 2014 nationwide ranking of states on their performance in addressing child homelessness, Massachusetts had the third highest rating overall (after Minnesota and Nebraska) in a composite rating system that took into account four criteria: extent of child homelessness (adjusted for state population), child wellbeing, risk for child homelessness, and



11. Henry, M., et al, *The 2014 Annual Homeless Assessment Report (AHAR) to Congress (Part 1)*, report prepared for the Department of Housing and Urban Development, October 2014, p. 9.

12. "State Median Rental Prices for All Homes," Zillow Real Estate Research, January 2015, <http://www.zillow.com/research/data/>.

13. Arnold, A., et al, report prepared for the National Low Income Housing Coalition, *Out of Reach 2014*, pp. 13 and 103.

state policy and planning efforts. Yet this same survey also noted that the number of homeless children in the state rose from 28,363 in 2010 to 31,516 in 2013. (See Figure 1: This number includes children in all forms of state-supported shelter housing as well as those living outside the shelter system.<sup>14</sup>)

### **Addressing the Need**

In 1983, the Commonwealth began providing emergency shelter housing for homeless families in participating hotels and motels whenever no accommodations were available within the state’s network of dedicated shelter facilities. This overflow hotel/motel shelter program is funded through the state’s Emergency Assistance (EA) program. In addition, the state also operates the HomeBASE (Building Alternatives to Shelter) short-term housing transition assistance program. Inaugurated in FY 2010, HomeBASE provides direct, targeted financial assistance to help homeless families find alternatives to, or to transition away from, emergency shelter housing. Both programs are managed through the Department of Housing and Community Development (DHCD).<sup>15</sup>

As currently configured, the EA hotel/motel shelter program is administered for DHCD by a contractor that recruits facilities willing to fulfill DHCD requirements. Once these hotels and motels agree verbally to provide specific types of rooms and services for a fixed daily rate, they are accepted into the program. The contractor and DHCD officials monitor the hotels and motels for compliance with the state’s requirements, and DHCD directly reimburses operators based on monthly invoices for rooms occupied. ***There is, however, no written contract executed at either the contractor or the state level with participating hotels and motels.***

### **A Note on “Right to Shelter”**

The legal authority for the EA program derives from Article XLVII of the Massachusetts Constitution, a 1917 amendment stating, “The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.”

Transcripts of the 1917 Constitutional Convention debates clearly suggest that Article XLVII does not extend a blanket “right to shelter.” Instead, the amendment gives the legislature the authority to provide shelter at public expense when circumstances warrant.

Indeed, subsequent legislation and executive regulations governing the EA program have placed limits on eligibility. Over 50 percent of all applications for EA assistance are denied under current eligibility criteria.

(Citations listed as endnotes, p. 18.)

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14. Bassuk, E., et al, *America’s Youngest Outcasts: A Report Card on Child Homelessness*, prepared for the National Center on Family Homelessness, November 2014, <http://www.homelesschildrenamerica.org/mediadocs/282.pdf>.

15. For more on HomeBASE, see 760 Code of Massachusetts Regulations (CMR) 65.00: The Massachusetts Short-Term Housing Transition Program, <http://www.mass.gov/courts/docs/lawlib/700-799cmr/760cmr65.pdf>. The EA hotel/motel overflow shelter program was originally managed by the Department of Transitional Assistance, but was transferred to DHCD in 2009.

When a homeless family applies to DHCD representatives, and is declared eligible for emergency assistance funding, the family may be offered HomeBASE support to find or retain stable housing, or may be placed in transitional, congregate, or other housing operated by various public or nonprofit agencies. However, when these resources are deemed inapplicable or are unavailable, the family is referred to the EA hotel/motel contractor for placement at the nearest participating hotel or motel facility that meets the requirements for that specific family.

If that placement is made within one hour's travel time or less from the family's community of origin, then under McKinney-Vento standards, the parent(s) of school-aged children in that family may elect to keep their children in the originating community's schools or to enroll them in the schools of the host community to which they have been relocated by the state under the EA program. The two communities—origin and host—split the transportation costs, for which they then seek annual reimbursement from the state.

As noted in the Scope section of this report, McKinney-Vento transportation costs are rising. State expenditures on the EA hotel/motel shelter program have also increased sharply in recent years: According to figures released on March 2, 2015 by the Governor's Office, FY 2015 state spending on hotels and motels for homeless families will exceed \$40 million, though it was \$1 million only six years ago. The total amount budgeted in FY 2015 for the EA program was \$180 million, up from \$150 million in FY 2010. The Governor's Office also notes that the average EA-funded hotel/motel stay for a homeless family is seven months at an average cost of \$2,500 per month.<sup>16</sup>

### **Establishing a Benchmark for Estimating Local Costs for Host Communities**

Over calendar year 2014, the total number of homeless families in EA-provided hotel/motel housing generally fell between 1,700 and 2,000 families in any given week. This number varied significantly from week to week, however, as did the numbers of families assigned to specific hotels and motels in each host community. Given that high variance, this study used DHCD's count of homeless families in hotel and motel shelters on December 2, 2014 as a snapshot that fell below the median weekly total. On that night, 1,730 families with a total of 1,874 school-aged children (5–18 years) were sheltered in hotel/motel housing at 50 hotels and motels in 35 communities across the state.<sup>17</sup> (See Table 1.)

### **Assessing the Local Cost Impacts of State Requirements for Educating Homeless Students in Massachusetts**

In its 2011 determination, OSA noted that the state's voluntary 2002 adoption of the requirements of the federal McKinney-Vento Act had the effect of requiring local and regional school districts to pay for two types of educational costs for which they had not previously been responsible. The first of these, which the Auditor definitively declared to be an unfunded local mandate, is the cost of transporting

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16. Office of Governor Charles D. Baker, "Baker-Polito Administration Unveils Initiatives to Reduce Homelessness, Proposes \$20 Million 'End Family Homelessness Reserve Fund,'" <http://www.mass.gov/governor/press-office/press-releases/fy2015/initiatives-to-reduce-homelessness-unveiled-.html>.

17. In addition, the 1,730 families in the December 2, 2014 snapshot sample included 1,546 non-school-aged children. See Appendix A for the full December 4, 2014 DHCD report for the night of December 2, 2014.

homeless students to and from out-of-town shelter housing in host communities to ongoing educational services provided in communities of origin.<sup>18</sup>

A second category of costs imposed by McKinney-Vento stems from the McKinney-Vento requirement for community-of-origin school districts to provide educational services for students who no longer reside in the school district (because they have been assigned by the state to shelter housing in another community). These are costs that the Auditor noted were outside the scope of her determination but that might qualify as unfunded local mandates.<sup>19</sup>

There is, however, a third category educational cost potentially associated with the state’s use of hotel and motel housing. This type of cost (likely not an unfunded mandate) would be incurred when a school district must, *without reimbursement from state or federal sources*,<sup>20</sup> expand its educational services to accommodate additional students assigned to live in that district in hotel or motel shelter housing.

To determine the extent to which school districts were experiencing costs in the first two categories, and to explore the question of whether school districts were incurring costs that might fall into this third category, DLM surveyed a sample of **55 school districts selected on the basis of the size of their past applications for McKinney-Vento transportation reimbursements and/or the presence within these districts of families in state-funded hotel/motel shelter housing in calendar year 2014**. Forty-one districts responded to the survey, which asked specifically for education costs that were unreimbursed by the Commonwealth or the federal government through aid formulas or grants. (The survey did not ask for information about direct transportation costs of the type previously determined by the Auditor to constitute an unfunded mandate—described in the “Background” section, above—since they

Community of Placement	Total Families	#H/Motels
Allston-Brighton*	131	3
Attleboro	35	1
Bedford	22	1
Braintree	8	1
Brockton	162	3
Burlington	3	1
Chelmsford	57	2
Chicopee	112	3
Danvers	171	3
Dartmouth	42	1
Greenfield	74	2
Haverhill	11	1
Holyoke	191	3
Leominster	85	2
Lexington	13	1
Malden	92	2
Marlborough	5	1
Methuen	44	1
Natick	59	1
North Attleboro	14	1
Northborough	22	1
Norwell	15	1
Plainville	12	1
Saugus	24	1
Somerset	35	1
Springfield	33	1
Swansea	34	1
Tewksbury	8	1
Waltham	108	1
Wareham	14	1
West Springfield	1	1
Westwood	18	2
Weymouth	71	1
Woburn	3	1
Worcester	1	1
<b>Grand Total</b>	<b>1,730</b>	<b>50</b>

\* Allston and Brighton are adjacent neighborhoods within the City of Boston, but are tracked separately by DHCD as specified shelter locations. Since they are contiguous, their data were combined for this table. There are no other Boston neighborhoods with h/motels currently participating in the EA program.

18. For the purposes of this study, this cost is assumed to include full or partial funding of administrative positions necessary to the planning and operational management of McKinney-Vento-related transportation.

19. Bump, *op. cit.*, p. 3

20. In some cases—depending on what time of year they are assigned to a host community—homeless students can be included in the official student population count used by the state to apportion local aid to education. In other cases, schools receive federal grants for some expenses related to the education of homeless students.

are already well documented and available from the Department of Elementary and Secondary Education.)

While by no means a definitive measure of the full cost to cities and towns statewide, the data obtained from this survey suggest that some communities are experiencing significant cost impacts in some or all of these categories as a result of the state’s current homeless programs.<sup>21</sup> For example, some of the reporting communities, including Attleboro, Brockton, and Natick, reported that they had established afterschool programs specifically for homeless students at hotel and motel housing, or for students who had to wait after hours for transport home to shelters in other jurisdictions.

<b>District</b>	<b>Gateway City Y/N</b>	<b>Unreimbursed School Expenses from Non-resident Homeless Students</b>	<b>Unreimbursed School Expenses from Students in Local H/Motel EA Shelter</b>	<b>Combined School-Related Homeless Impacts in 2014</b>
Marlborough		\$ 125,137	\$ 526,232	\$ 651,369
Swansea		301,332	191,739	493,071
Attleboro	Y	217,600	60,000	277,600
Revere	Y	237,900		237,900
Boston			229,655	229,655
Somerville		197,225		197,225
Haverhill	Y	179,600		179,600
Greenfield		179,464		179,464
Quincy	Y	158,604		158,604
Natick		100,224	54,514	154,738
Brockton	Y	2,400	151,170	153,570
Worcester	Y	130,700		130,700
Barnstable	Y	123,320		123,320
Chelsea	Y	102,116		102,116
Dartmouth			96,503	96,503
Lynn	Y	93,275		93,275
Waltham		85,125	425	85,550
Danvers		82,084		82,084
Taunton	Y	67,415		67,415
Saugus		63,750	2,100	65,850
<b>Total for Top Twenty Districts Reporting</b>		<b>\$ 2,447,271</b>	<b>\$ 1,312,338</b>	<b>\$ 3,759,609</b>

*(Costs shared across categories are listed in only one column to avoid double counting.)*

21. See Appendix B for copies of the survey documents and datasets.

Several districts, including Northborough and Marlborough, reported that the influx of homeless students sheltered in hotel and motel rooms had necessitated an expansion of translation and English Language Learning services, while others (including Natick) cited the acquisition of additional textbooks and materials after the school year had already started.

A substantial number of districts—Lexington, Quincy, and Revere among them—reported that they were paying for Individualized Education Programs (IEPs)<sup>22</sup> for special-needs students who no longer resided within their borders or who had been assigned to their district as part of the EA hotel/motel shelter program; results in this expense category alone exceeded \$2 million per year among the responding school districts.

The 20 school districts reporting the largest unreimbursed cost impacts from homeless students are shown in Table 2, above.

The total unreimbursed school district expenses identified from all 41 reporting districts was \$4.4 million in calendar year 2014. By comparison, the underpayment of the McKinney-Vento transportation costs for those same districts totaled \$4.7 million in FY 2014.

### **Accounting and Procedural Issues Concerning Local Option Room Excise Taxes**

School-related expenses are not the only impacts on local budgets of the state's placement of homeless families in hotels and motels homeless programs.

Another cost factor is the effect of this policy on municipal revenue from local option room occupancy excise taxes.

Under the terms of General Laws Chapter 64G, Section 3A, municipalities are permitted to establish a local option room excise tax on charges for hotel and motel rooms. The allowable charge was raised by the

### **A Lack of Transparency on Local Options Tax Accounting**

Because of Department of Revenue (DOR) privacy rules and the lack of reporting requirements beyond the invoices provided to individual customers, municipalities have no ability to determine what amount of local tax revenue they may be forgoing as a result of the EA program. Indeed, municipalities have no way to determine whether hotels and motels within their jurisdiction are paying accurate and appropriate local option room excise taxes of any type, whether or not these taxes are associated with rooms rented by the state to provide shelter for homeless families.

In a March 19, 2015 letter to the Auditor's Division of Local Mandates (see Appendix D), DOR's counsel noted that DOR's audit staff looks "at whether the hotel is correctly calculating the state and local-option occupancy tax and therefore they would pick up any noncompliance with [the state's room excise tax law]." In the same letter, however, DOR reiterated its long-held position that General Laws Chapter 62C, Section 21(a), forbids disclosing "an individual taxpayer's payment or other content of any tax return or other document filed with the commissioner without the taxpayer's consent."

This is a particularly vexing problem for communities that have, pursuant to General Laws Chapter 40, Section 57, passed local laws that allow a municipality to revoke or suspend the licenses of business establishments, including lodging houses, that fail to pay local taxes. This inability to determine whether local option taxes (including room and meal taxes) have been properly assessed makes these laws difficult to enforce and increases the potential for tax fraud.

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22. The US Department of Education's Institute for Education Services defines IEPs as "educational programs for individual students, each geared to the particular student's needs and conducted in accordance with a written plan agreed on between the student (and/or parents) and school officials . . . originally conceived for use in educating disabled children [and] gradually expanded to include all special needs groups." More information is available at <http://eric.ed.gov/?ti=Individualized+Education+Programs> and <http://www.doe.mass.edu/sped/IDEA2004/default.html>.

legislature in 2009 from an amount not to exceed 4 percent to an amount not to exceed 6 percent (4.5 to 6.5 percent in Boston) added to the state room excise tax of 5.7 percent.<sup>23</sup> Under the terms of the state statute, the state and local taxes are to be listed separately on every bill presented to the occupant, and aggregate payments for both the state and local room excise are to be made monthly by each hotel and motel operator to the Massachusetts Department of Revenue (DOR). DOR is required to provide municipalities with quarterly disbursements of local excise receipts it collects on behalf of cities and towns.

Under this state law, the sole record of the details of room excise taxes charged (base room rate and the calculation of both state and local taxes per night) is the invoice provided to the occupant; the monthly reporting forms used to submit tax payments to DOR differentiate between “total rents” and “taxable rents” but provide no other data.<sup>24</sup>

DOR’s position is that the state must pay room excise tax for rooms booked under the EA program. In 1986, in *Letter Ruling 86-5: Rooms Rented to the Department of Public Welfare (DPW)*, DOR declared that DPW is an “occupant” under the definition of that term in General Laws Chapter 64G, Section 1(f). Unless otherwise exempt, “DPW is obligated to reimburse the operator of the hotel, motel or lodging house for the tax.”<sup>25</sup>

There are several specific exemptions included in the statute. One of them may have become a reason for hotel and motel operators in the EA shelter program to believe they are exempt from collecting the excise tax on shelter rooms. Under the terms of General Laws Chapter 64G, occupants of rooms rented continuously for periods longer than 90 days do not have to pay state and local room excise taxes (provided that the period of stay is agreed to in writing before the beginning of the stay). In its “Guide to Trustee Taxes: Room Occupancy Excise Tax,” DOR advises, “If there is no agreement on the length of the rental, the operator must collect tax from the occupant on an ongoing basis and remit any tax collected.”<sup>26</sup>

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23. General Laws Chapter 64G, Section 3 (St. 1969, Chapter 546, Section 22, amended Chapter 64G, Section 3, increased the room occupancy tax imposed by the Commonwealth by 0.7%).

24. See Appendix C for DOR’s Monthly Room Occupancy Return tax reporting forms for hotels and motels.

25. Department of Revenue, “Technical Information Release TIR 07-2: Lowney v. Commissioner of Revenue,” <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/2007-releases/tir-07-2-lowney-v-commissioner-of-revenue.html>. “If there is no agreement on the length of the rental, the operator must collect tax from the occupant on an ongoing basis and remit any tax collected to the Department monthly in accordance with 830 CMR 62C.16.1: Room Occupancy Excise Returns and Payments. After passage of the ninetieth day, the operator must return or credit any tax collected to the occupant, and may recover any tax paid over to the Department by (1) taking a credit against any tax owed on future returns, or (2) by filing an application for abatement with the Department on Form CA-6. The operator must retain proof that the tax has been repaid or credited to the occupant.”

26. Federal government employees and US military personnel traveling on business are also exempted from state and local excise taxes. See DOR Guide to Trustee Taxes: Room Occupancy Excise Tax, <http://www.mass.gov/dor/businesses/current-tax-info/guide-to-trustee-taxes/room-occupancy-excise-tax.html#rentals>.

Does the “90-day rule” apply to at least some EA shelter program rooms? The statutory exemption clearly depends on specific criteria not typically met by these rentals. Participating hotels and motels sign no written agreement in advance; a family’s stay in a specific room is often shorter than 90 days (with the state charged only for nights when a room is actually occupied); and the exemption may be claimed as a credit only after the tax has been collected for 90 days. DOR’s advisories and applicable case law do not appear to support any applicability of this exemption.

In addition, the contract between DHCD and the independent contractor that manages the EA program stipulates, “The Contractor shall . . . negotiate the optimal nightly rate within the reimbursement framework as set by the Department of Housing and Community Development. Note that the nightly rate shall be inclusive of all costs *such as taxes*, appropriate sleeping furnishings such as beds, cribs or cots as well as at a minimum access to a microwave oven and refrigerator” (emphasis added).<sup>27</sup>

Yet while it may be clear that EA shelter rooms should be subject to room excise taxes, it is surprisingly difficult to determine whether the local option taxes are, in fact, paid. DOR does not require hotels and motels to submit detailed information on the base rates it uses to calculate room excise taxes and, under its privacy rules, would not share that information if it did collect it.<sup>28</sup> The flat-rate-per-night invoices submitted to DHCD for EA room rentals do not offer this information, either. Municipalities with multiple hotels and motels (only some of which participate in the EA shelter program) cannot do more than guess at the variables that may lead to increases or decreases in their quarterly lump-sum payment of room excise tax revenue collected by DOR.

Based on the results of the survey undertaken for this study, only one host community—the Town of Danvers—has attempted a detailed analysis of local excise revenue. This community’s experience suggests that “based on historic occupancy rates and revenue trends combined with actual displaced family data over the past four years” it is not receiving any excise tax payments on shelter rooms.<sup>29</sup>

### **Modeling the Loss of Local Revenue due to the EA Program**

Given this absence of data, this study assumes that *host communities have not been receiving the revenue they would have had if DHCD been paying local option room excise*. To model the loss of this revenue, this study assumed average year-round levels of occupancy (as determined by the Massachusetts Office of Tourism and Trade<sup>30</sup>) multiplied against the rooms occupied in the December 2, 2014 snapshot sample and then multiplied by relevant local option tax percentages and an average

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27. Community Service Network, Inc., Contract #(CT) OCD 8400 HS FY15 HMC 00E0, June 30, 2014, p. 3.

28. See Appendix D for the complete text of the letter from Roger H. Randall, Tax Counsel, DOR Legal Division, to Vincent P. McCarthy, Director, Division of Local Mandates, Office of the State Auditor, March 19, 2015.

29. See Appendix E for Clark, William H., et al, “Letter from Town of Danvers Board of Selectmen to Rep. Theodore C. Speliotis,” January 6, 2015. This quotation is from p. 1.

30. From monthly room occupancy reports, see <http://www.massvacation.com/travel-trade/stats-facts/stats-reports/#travelstats>.

room rate of \$85 per night. Under this modeling method, the resulting total of potentially forgone local room excise revenue for cities and towns across the state totals \$1.7 million annually.<sup>31</sup>

As summarized in Table 3, below, the impact of this potential lost revenue is greatest for communities with the highest numbers of rooms in use by the EA program. Communities with the 10 highest modeled revenue losses accommodated nearly 70 percent of the homeless families sheltered under the EA program in 2014, yet collectively those 10 communities are home to less than 8 percent of the state’s population. These “top-10” communities—Holyoke, Danvers, Brockton, Allston-Brighton, Waltham, Chicopee, Greenfield, Weymouth, Malden, and Natick—potentially suffered more than twice as much local room excise revenue loss (\$1.3 million) as all of the 25 other host communities combined.

<b>Community</b>	<b>2010 Pop.</b>	<b>% MA Pop.</b>	<b>% MA Homeless Families</b>	<b>No. Rooms in Use</b>	<b>Local Room Occ. Rate</b>	<b>Annual Forgone Revenue</b>	<b>2014 McKinney-Vento Shortfall</b>
Holyoke	39,880	0.61%	11.0%	191	6%	\$ 230,862	\$ 176,684
Danvers*	26,493	0.40%	9.9%	171	6%	206,688	88,809
Brockton	93,810	1.43%	9.4%	162	6%	195,809	596,823‡
Allston-Brighton	74,997†	1.15%	7.6%	131	6%	158,340	100,194§
Waltham	60,632	0.93%	6.2%	108	6%	130,540	154,287
Chicopee	55,298	0.84%	6.5%	112	4%	90,250	212,988
Greenfield	17,456	0.27%	4.3%	74	6%	89,444	40,851
Weymouth	53,743	0.82%	4.1%	71	4%	85,001	99,786
Malden	59,450	0.91%	5.3%	92	4%	74,134	172,189
Natick	33,006	0.50%	3.4%	59	6%	71,313	26,763
<b>Total</b>	<b>514,765</b>	<b>7.86%</b>	<b>67.7%</b>	<b>1,171</b>		<b>\$ 1,332,381</b>	<b>\$1,669,374</b>

\* The Town of Danvers performed its own analysis using slightly different assumptions, yielding an estimated annualized loss in excise revenue of \$216,366.

† This population figure refers to the 2010 population of the City of Boston’s Allston-Brighton Planning District.

‡ Because it did not submit its application before reimbursement funds were fully disbursed, Brockton did not receive any reimbursement funding for 2014. Brockton will, however, receive a FY 2016 reimbursement based on two prior years of costs.

§ This figure represents Allston-Brighton’s allocated share of Boston’s overall shortfall based on population.

### **Other Municipal Costs**

One additional category of cost derives from the increased use of local government services that results from the concentrated presence of homeless families assigned to hotel/motel shelter housing—but these costs are difficult to quantify and model across multiple communities.

DHCD already reimburses participating hotels and motels for the direct cost of police details and fire watch requirements associated with homeless family occupancy, but some municipal officials have also cited increases in police, fire, and medical emergency calls that they believe can be attributed directly to the homeless populations sheltered in these facilities. In addition, some local health departments and

31. See Appendix B for the full list of forgone excise taxes modeled for host communities included in the December 2, 2014 snapshot sample.

social service agencies report increased demand for their services that they say would not have occurred absent the placement of significant numbers of homeless families in specific communities.

In the past, municipal officials have generally not tracked these costs using accounting methods or financial analysis that allows them to attribute specific costs to homeless populations in hotel/motel shelters. Also, as these costs may vary widely from community to community, they are more difficult to model. This study therefore does not include these costs in its aggregate summary estimates of local financial impacts. Nonetheless, host communities included in the survey sample were given an opportunity to provide examples of unreimbursed costs directly attributable to these populations. Several municipalities elected to provide data on this topic; their information is summarized in Table 4, below.

<b>Community</b>	<b>H/Motel Families December 2, 2014</b>	<b>Police/Fire</b>	<b>Health Department</b>	<b>Social Services</b>	<b>Other</b>	<b>Total</b>
Bedford	24	\$33,054	\$431	\$1,293		\$34,778
Dartmouth	42	\$36,013		\$330		\$36,343
Lexington	13		\$1,440	\$4,800	\$1,400	\$7,640
Waltham	108	\$45,548				\$45,548

**Equity in the Allocation of the Homeless Population**

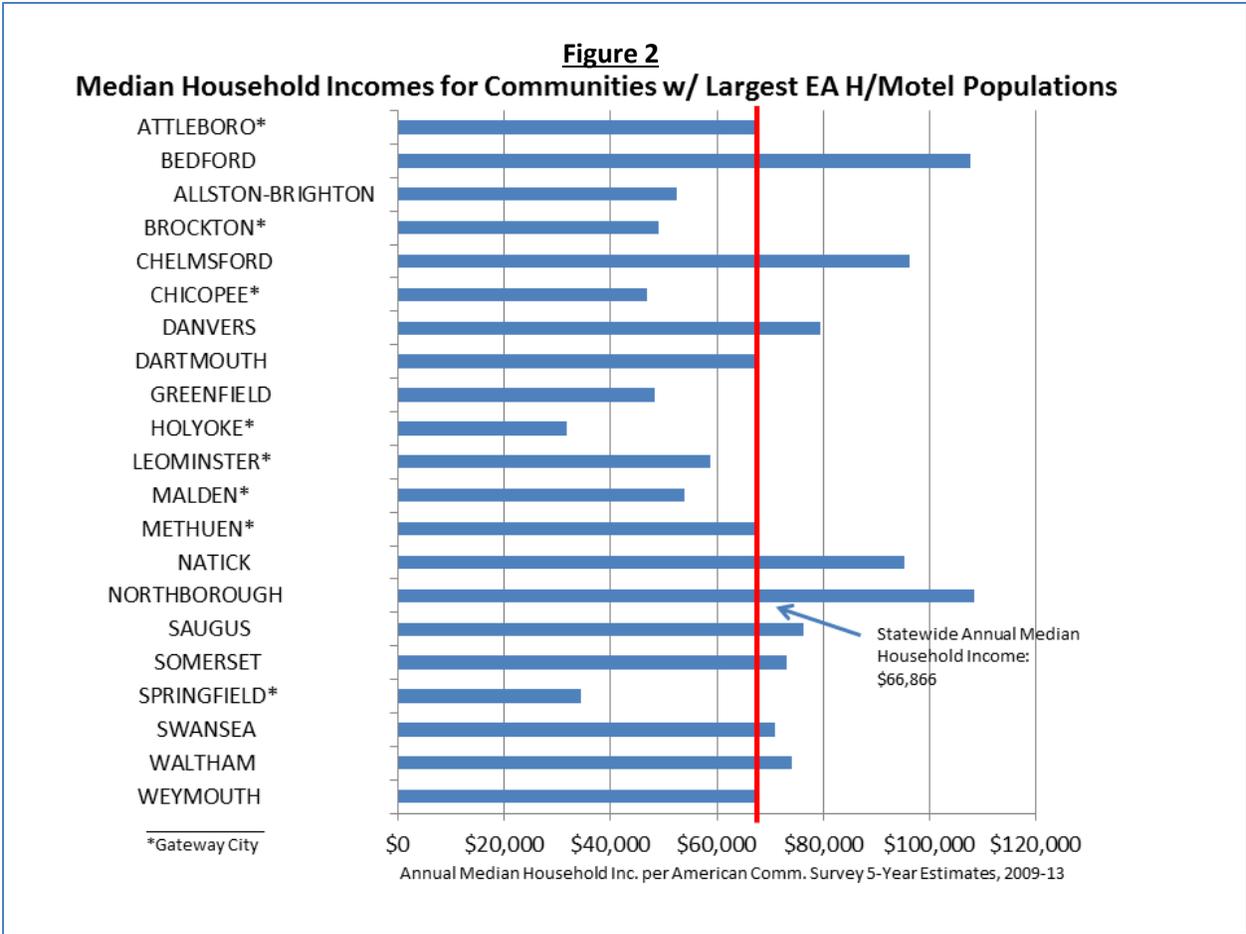
DHCD and its EA contractor can book rooms only in hotels and motels that have appropriate facilities and are willing to participate at the rates offered by DHCD. The net effect of this limitation is to concentrate the state’s homeless families in relatively few communities, which therefore carry a disproportionate burden of the local costs imposed by the EA and McKinney-Vento programs. (See Table 5, below.)

<b>Municipality</b>	<b>H/Motel Families December 2, 2014</b>	<b>Percentage of Homeless Population</b>	<b>2010 Population</b>	<b>Percentage of State Population</b>
Holyoke	191	11.04%	39,880	0.61%
Danvers	171	9.88%	26,495	0.40%
Brockton	162	9.36%	93,810	1.43%
Allston-Brighton	131	7.57%	74,997	1.15%
Chicopee	112	6.47%	55,298	0.84%
Waltham	108	6.24%	60,632	0.93%
Malden	92	5.32%	59,450	0.91%
Leominster	85	4.91%	40,759	0.62%
Greenfield	74	4.28%	17,456	0.27%
Weymouth	71	4.10%	53,743	0.82%
Natick	59	3.41%	33,006	0.50%
Chelmsford	57	3.29%	33,802	0.52%
Methuen	44	2.54%	47,255	0.72%

Municipality	H/Motel Families December 2, 2014	Percentage of Homeless Population	2010 Population	Percentage of State Population
Dartmouth	42	2.43%	34,032	0.52%
Attleboro	35	2.02%	43,593	0.67%
Somerset	35	2.02%	18,165	0.28%
Swansea	34	1.97%	15,865	0.24%
Springfield	33	1.91%	153,060	2.34%
<b>Total</b>	<b>1,536</b>	<b>88.76%</b>	<b>901,298</b>	<b>13.77%</b>

As this table demonstrates, of the host communities in the December 2, 2014 sample with 30 or more homeless families in hotel/motel shelters, Springfield was the only one whose percentage share of the homeless family population was smaller (1.9%) than its percentage of the total population of all Massachusetts residents (2.3%) as measured by the 2010 US Census. ***By contrast, the communities hosting the 10 highest percentages of homeless families in statewide hotel/motel shelters (Holyoke, Danvers, Brockton, Allston-Brighton, Chicopee, Waltham, Malden, Leominster, Greenfield, and Weymouth) collectively provided shelter to 69% of the state’s homeless families but had a combined population of just under 8% of the state’s 6.5 million residents.***

As can be seen in Figure 2, below, this concentration of costs also falls disproportionately on less affluent municipalities. Five of these 10 “high-concentration” municipalities are gateway municipalities (as defined in General Laws Chapter 23A, Section 3A) that the Commonwealth has designated for special assistance with local development and economic activity initiatives. Only 3 of the 10—Danvers, Waltham, and Weymouth—had median household incomes at or above the state average. Thus, the effect of underfunding McKinney-Vento transportation costs while maintaining the current pattern of providing shelter for homeless families in hotel and motel housing is to place disproportionate cost burdens on communities that can least afford them.



**FINDINGS AND POLICY RECOMMENDATIONS**

**On the McKinney-Vento Unfunded Mandate**

*Finding:* Since the Department of Elementary and Secondary Education regularly compiles data on the actual cost to local and regional school districts of McKinney-Vento transportation services for homeless students, this study has required no modeling or estimation to document the continued and significant underfunding of the McKinney-Vento unfunded mandate as an adverse cost impact on local education budgets that currently exceeds \$7 million per year.

*Recommendation:* **These transportation costs should not be imposed on communities trying to make the most of scarce local education dollars.** The Massachusetts Legislature and the state’s executive leadership should provide **100% reimbursement of the cost for this unfunded local mandate.**

**On Other Homeless-Related Local Education Costs**

*Finding:* The state’s policy of using hotels and motel rooms to provide shelter for homeless families has significant local cost impacts because it imposes requirements for additional local spending on Individualized Education Programs for special-needs homeless students. Even using the limited sample of 41 out of 351 Massachusetts communities, **this study was able to identify more than \$4.4 million in**

**local non-transportation costs relating to the provision of educational services under the state's McKinney-Vento and EA hotel-motel family shelter programs in 2014.** These costs included unreimbursed administrative costs, afterschool and summer programs, expansion of English Language Learning and liaison programs, and additional textbooks and materials. The single largest area of cost, totaling \$2.06 million, was for unreimbursed special education services (Individualized Education Programs) for special-needs homeless students placed in the district by the state or returning to a community of origin under the terms of McKinney-Vento.

*Recommendation:* The Massachusetts Legislature and Governor's Office should direct relevant executive agencies to collect and publish information from local and regional school districts that more fully and accurately assesses these non-transportation costs for educating homeless students living in shelters and/or receiving educations in communities where they do not reside. Since local governments would not incur these costs absent the McKinney-Vento requirements and the state's hotel/motel shelter programs, **the Commonwealth should consider providing reimbursements for these expenditures.**

### **On Local Option Room Excise Tax Payments**

#### *Findings*

1. **EA hotel/motel shelter rooms are subject to tax based on the Department of Revenue's (DOR's) 1986 "Letter Ruling 86-5" and are not subject to the criteria for the "90-day rule" under DOR's "Technical Information Release TIR 07-2: Lowney v. Commissioner of Revenue."** Rooms booked on a day-to-day basis with no terminal date and with no prior written agreement declaring an intent to stay beyond 90 days are subject to tax—even when booked by a state agency.
2. Because the Department of Housing and Community Development (DHCD), DOR, and municipal authorities cannot currently verify that taxes are being paid on shelter rooms, the possibility exists that **local option room excise revenue is not being collected for some—and perhaps all—of the hotel and motel rooms rented by the state under the EA program.** For communities hosting hotel and motel shelters in 2014, this study estimates potential forgone revenue that may exceed \$1.7 million per year.
3. Current state law and procedures for the collection of room excise taxes (both state and local) do not provide for the filing or publication of information concerning the rooms and rates on which excise tax is collected except that this information is required to be listed on the bill presented to the occupant (which the law specifically defines as the entity—including a corporation or public agency—paying for the room). **The invoices currently presented to DHCD for EA shelter rooms do not provide this information, since DHCD is invoiced for a previously negotiated, inclusive flat rate per room per night.**
4. Because of DOR privacy rules and the absence of this information on EA program invoices, municipalities have no way of knowing whether local option taxes are being collected for shelter rooms. In the case of local option room excise taxes, **cities and towns that have local laws (under the terms of General Laws Chapter 40, Section 57) providing for the suspension and/or revocation of licenses for the failure to pay local taxes therefore have no way to ensure that the requirements of these laws have been met.**

## *Recommendations*

1. To reduce any adverse impact of potentially forgone room excise tax revenue on local budgets, **DHCD should work with DOR to clarify that these taxes should be collected for all hotel and motel rooms rented under the EA homeless family shelter program under all circumstances and regardless of the length of stay for any individual family.** If DHCD and DOR disagree with this study's finding that tax is due on these rentals, then the Legislature should consider enacting new provisions to ensure that local option room excise taxes are collected for all hotel and motel room rentals other than those for federal employees traveling on official business, for active-duty US military personnel, or are rented at rates below fifteen dollars per day.
2. Working with its EA contractor, DHCD should establish written contracts with hotel and motel operators providing shelter rooms for homeless families. These contracts should, at a minimum, specify that local room excise taxes are being collected, and should indicate the base nightly taxable rate from which taxes have been calculated. In addition, the new contracts should mandate that hotel and motel operators submit monthly EA invoices to DHCD that list the base rates and taxes collected for all rooms rented for shelter purposes.
3. To assist local governments with revenue compliance and budget planning, DHCD should share the tax payment information collected through its monthly invoices with the chief executives of the municipalities in which EA hotels and motels are located.
4. To improve compliance and enforcement, DOR should amend its room excise tax reporting forms so that hotel and motel operators report aggregated data containing the same information on base rates and excise taxes charged that is required by law on hotel and motel bills.
5. DOR should also share data with each affected municipality on the collection of local option room excise tax revenue from hotels and motels within that municipality's boundaries. This data sharing should help to give cities and towns the information necessary to enforce ordinances that require suspension or revocation of operating licenses for local businesses that fail to pay local taxes. The arrangement would not require the release of personal or business income tax data, only business excise tax information. If this policy change requires new legislation, the Legislature should consider amending the law as necessary.

## *Agency Response*

The Department of Housing and Community Development has indicated in an April 9, 2015 letter to the Division of Local Mandates that it accepts and is fully implementing Recommendations 2 and 3 above.<sup>32</sup>

## **On Equity in the Distribution of Local Costs for the McKinney-Vento and EA Programs**

*Finding:* The current statewide hotel/motel shelter program disproportionately concentrates local education, transportation, and potentially forgone revenue costs in fewer than 50 of the state's 351

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32. See Appendix F for a copy of this letter. DHCD has also supplied a sample draft contract and sample invoice for hotel/motel operators participating in the EA shelter program.

cities and towns. Hotel and motel operators participating in the EA shelter program are now, and are likely to remain, located only in communities with clusters of lower-cost available rooms—and these communities include some of the Commonwealth’s least affluent communities: Brockton, Chicopee, Greenfield, Holyoke, Leominster, and Malden.

*Recommendation:* This finding underscores the overarching value of protecting municipalities from, and reimbursing them for, local cost impacts of state policies, both as a matter of equity and as sound fiscal practice. DHCD cannot create hotels or motels where none exist, nor can it compel participation by hotels or motels that do not wish to be EA contractors, but it can and should make a greater effort to understand, document, and mitigate costs to local budgets imposed by the EA program. All state agencies and branches of state government, including DOR and DHCD, should adopt a more proactive and systematic approach to understanding local costs of state policies. Where these costs fall disproportionately on a few communities, or on less affluent communities, the Commonwealth should consider mechanisms to distribute the costs more evenly and/or to reimburse the communities.

## **ENDNOTES**

- Sidebar, p. 1 Office of the State Auditor, “City of Waltham: Temporary Housing for Homeless Families and Children, Education Cost Impacts,” December 12, 2011, p. 4, <http://www.mass.gov/auditor/docs/dlm-mandate/2011/121211-waltham-homeless-busing.pdf>.
- Sidebar, p. 4 Wright & Potter Printing Co., *Debates in the Massachusetts Constitutional Convention, 1917-1918: 1917-18 Massachusetts*, 1919 (as Google eBook), pp. 739 and 793.
- Sidebar, p. 9 Letter from Roger H. Randall, Tax Counsel, Massachusetts Department of Revenue, to Vincent P. McCarthy, Director, Division of Local Mandates, Office of the State Auditor, March 19, 2015, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40/Section57>. See Appendix D.

# Appendix A

## EA Families in Hotels, 12.2.14 - by Community

Count of Client Name	
<b>Community of Placement</b>	<b>Total</b>
Allston	11
Attleboro	35
Bedford	22
Braintree	8
Brighton	120
Brockton	162
Burlington	3
Chelmsford	57
Chicopee	112
Danvers	171
Dartmouth	42
Greenfield	74
Haverhill	11
Holyoke	191
Leominster	85
Lexington	13
Malden	92
Marlborough	5
Methuen	44
Natick	59
North Attleboro	14
Northborough	22
Norwell	15
Plainville	12
Saugus	24
Somerset	35
Springfield	33
Swansea	34
Tewksbury	8
Waltham	108
Wareham	14
West Springfield	1
Westwood	18
Weymouth	71
Woburn	3
Worcester	1
(blank)	
<b>Grand Total</b>	<b>1730</b>

## EA Families in Hotels, 12.2.14 - by Community, Hotel

Count of Client Name		
Community of Placement	Hotel	Total
Allston	North Beacon Inn	11
<b>Allston Total</b>		<b>11</b>
Attleboro	Days Inn/Attleboro	35
<b>Attleboro Total</b>		<b>35</b>
Bedford	Bedford Plaza Hotel/Bedford	22
<b>Bedford Total</b>		<b>22</b>
Braintree	Extended Stay/Braintree	8
<b>Braintree Total</b>		<b>8</b>
Brighton	Charles River Hotel/Brighton	53
	Days Hotel/Brighton	67
<b>Brighton Total</b>		<b>120</b>
Brockton	Quality Inn/Brockton	61
	Super 8/Brockton	29
	Westgate/Brockton	72
<b>Brockton Total</b>		<b>162</b>
Burlington	Homestead Studio Suites/Burlington	3
<b>Burlington Total</b>		<b>3</b>
Chelmsford	Best Western/Chelmsford	44
	Hawthorne Suites/Chelmsford	13
<b>Chelmsford Total</b>		<b>57</b>
Chicopee	Days Inn/Chicopee	12
	Econo Lodge/Chicopee	43
	Quality Inn/Chicopee	57
<b>Chicopee Total</b>		<b>112</b>
Danvers	Econo Lodge/Danvers	76
	Extended Stay/Danvers	92
	Motel 6/Danvers	3
<b>Danvers Total</b>		<b>171</b>
Dartmouth	Dartmouth Motor Inn	42
<b>Dartmouth Total</b>		<b>42</b>
Greenfield	Days Inn/Greenfield	43
	Quality Inn/Greenfield	31
<b>Greenfield Total</b>		<b>74</b>
Haverhill	Best Western/Haverhill	11
<b>Haverhill Total</b>		<b>11</b>
Holyoke	Days Inn/Holyoke	44
	Holiday Inn/Holyoke	139
	Valley Opportunity Inn/Holyoke	8
<b>Holyoke Total</b>		<b>191</b>
Leominster	Motel 6/Leominster	4
	Super 8/Leominster	81
<b>Leominster Total</b>		<b>85</b>
Lexington	Quality Inn/Lexington	13
<b>Lexington Total</b>		<b>13</b>
Malden	New Englander Motor Court	18
	Town Line/Malden	74
<b>Malden Total</b>		<b>92</b>
Marlborough	Best Western/Marlborough	5
<b>Marlborough Total</b>		<b>5</b>
Methuen	Days Hotel/Methuen	44

<b>Methuen Total</b>		<b>44</b>
Natick	Travel Lodge/Natick	59
<b>Natick Total</b>		<b>59</b>
North Attleboro	Super 8/North Attleboro	14
<b>North Attleboro Total</b>		<b>14</b>
Northborough	Econo Lodge/Northborough	22
<b>Northborough Total</b>		<b>22</b>
Norwell	Parkview Inn/Norwell	15
<b>Norwell Total</b>		<b>15</b>
Plainville	Best Stay Inn/Plainville	12
<b>Plainville Total</b>		<b>12</b>
Saugus	Colonial Traveler/Saugus	24
<b>Saugus Total</b>		<b>24</b>
Somerset	Super 8/Somerset	35
<b>Somerset Total</b>		<b>35</b>
Springfield	Howard Johnsons/Springfield	33
<b>Springfield Total</b>		<b>33</b>
Swansea	Swansea Motor Inn/Swansea	34
<b>Swansea Total</b>		<b>34</b>
Tewksbury	Extended Stay/Tewksbury	8
<b>Tewksbury Total</b>		<b>8</b>
Waltham	Home Suites/Waltham	108
<b>Waltham Total</b>		<b>108</b>
Wareham	Atlantic Motel/Wareham	14
<b>Wareham Total</b>		<b>14</b>
West Springfield	Quality Inn/West Springfield	1
<b>West Springfield Total</b>		<b>1</b>
Westwood	Budget Inn/Westwood	2
	Westwood Budget Inn	16
<b>Westwood Total</b>		<b>18</b>
Weymouth	Super 8/Weymouth	71
<b>Weymouth Total</b>		<b>71</b>
Woburn	Best Western/Woburn	3
<b>Woburn Total</b>		<b>3</b>
Worcester	Quality Inn & Suites/Worcester	1
<b>Worcester Total</b>		<b>1</b>
(blank)	(blank)	
<b>(blank) Total</b>		
<b>Grand Total</b>		<b>1730</b>

## EA Families in Hotels, 12.2.14 - by Community, Children

Community of Placement	Data	Total
Allston	# of Families	11
	# of Pregnant Women	
	# school aged children (5-18)	4
	# non-school aged children	9
	Sum of Total # of Children	26
Attleboro	# of Families	35
	# of Pregnant Women	5
	# school aged children (5-18)	28
	# non-school aged children	25
	Sum of Total # of Children	98
Bedford	# of Families	22
	# of Pregnant Women	1
	# school aged children (5-18)	37
	# non-school aged children	11
	Sum of Total # of Children	81
Braintree	# of Families	8
	# of Pregnant Women	
	# school aged children (5-18)	7
	# non-school aged children	4
	Sum of Total # of Children	23
Brighton	# of Families	120
	# of Pregnant Women	6
	# school aged children (5-18)	152
	# non-school aged children	79
	Sum of Total # of Children	392
Brockton	# of Families	162
	# of Pregnant Women	21
	# school aged children (5-18)	149
	# non-school aged children	102
	Sum of Total # of Children	473
Burlington	# of Families	3
	# of Pregnant Women	
	# school aged children (5-18)	4
	# non-school aged children	1
	Sum of Total # of Children	10
Chelmsford	# of Families	57
	# of Pregnant Women	1
	# school aged children (5-18)	53
	# non-school aged children	60
	Sum of Total # of Children	167
Chicopee	# of Families	112
	# of Pregnant Women	18
	# school aged children (5-18)	123
	# non-school aged children	131
	Sum of Total # of Children	347
Danvers	# of Families	171
	# of Pregnant Women	12
	# school aged children (5-18)	170
	# non-school aged children	155
	Sum of Total # of Children	512
Dartmouth	# of Families	42
	# of Pregnant Women	2
	# school aged children (5-18)	34
	# non-school aged children	46
	Sum of Total # of Children	118
Greenfield	# of Families	74
	# of Pregnant Women	4
	# school aged children (5-18)	119
	# non-school aged children	78
	Sum of Total # of Children	267
Haverhill	# of Families	11
	# of Pregnant Women	
	# school aged children (5-18)	17
	# non-school aged children	11
	Sum of Total # of Children	39
Holyoke	# of Families	191
	# of Pregnant Women	10
	# school aged children (5-18)	230
	# non-school aged children	200

Holyoke	Sum of Total # of Children	612
Leominster	# of Families	85
	# of Pregnant Women	4
	# school aged children (5-18)	121
	# non-school aged children	86
	Sum of Total # of Children	291
Lexington	# of Families	13
	# of Pregnant Women	1
	# school aged children (5-18)	8
	# non-school aged children	8
	Sum of Total # of Children	34
Malden	# of Families	92
	# of Pregnant Women	10
	# school aged children (5-18)	100
	# non-school aged children	85
	Sum of Total # of Children	284
Marlborough	# of Families	5
	# of Pregnant Women	
	# school aged children (5-18)	14
	# non-school aged children	3
	Sum of Total # of Children	24
Methuen	# of Families	44
	# of Pregnant Women	1
	# school aged children (5-18)	50
	# non-school aged children	44
	Sum of Total # of Children	138
Natick	# of Families	59
	# of Pregnant Women	6
	# school aged children (5-18)	55
	# non-school aged children	57
	Sum of Total # of Children	173
North Attleboro	# of Families	14
	# of Pregnant Women	1
	# school aged children (5-18)	15
	# non-school aged children	7
	Sum of Total # of Children	43
Northborough	# of Families	22
	# of Pregnant Women	3
	# school aged children (5-18)	26
	# non-school aged children	25
	Sum of Total # of Children	70
Norwell	# of Families	15
	# of Pregnant Women	
	# school aged children (5-18)	16
	# non-school aged children	11
	Sum of Total # of Children	46
Plainville	# of Families	12
	# of Pregnant Women	3
	# school aged children (5-18)	8
	# non-school aged children	13
	Sum of Total # of Children	32
Saugus	# of Families	24
	# of Pregnant Women	1
	# school aged children (5-18)	22
	# non-school aged children	43
	Sum of Total # of Children	70
Somerset	# of Families	35
	# of Pregnant Women	4
	# school aged children (5-18)	43
	# non-school aged children	21
	Sum of Total # of Children	113
Springfield	# of Families	33
	# of Pregnant Women	6
	# school aged children (5-18)	58
	# non-school aged children	16
	Sum of Total # of Children	124
Swansea	# of Families	34
	# of Pregnant Women	2
	# school aged children (5-18)	54
	# non-school aged children	26
	Sum of Total # of Children	122
Tewksbury	# of Families	8

Tewksbury	# of Pregnant Women	2
	# school aged children (5-18)	3
	# non-school aged children	14
	Sum of Total # of Children	19
Waltham	# of Families	108
	# of Pregnant Women	7
	# school aged children (5-18)	122
	# non-school aged children	88
	Sum of Total # of Children	338
Wareham	# of Families	14
	# of Pregnant Women	3
	# school aged children (5-18)	9
	# non-school aged children	13
	Sum of Total # of Children	37
West Springfield	# of Families	1
	# of Pregnant Women	
	# school aged children (5-18)	2
	# non-school aged children	2
	Sum of Total # of Children	4
Westwood	# of Families	18
	# of Pregnant Women	1
	# school aged children (5-18)	5
	# non-school aged children	16
	Sum of Total # of Children	41
Weymouth	# of Families	71
	# of Pregnant Women	5
	# school aged children (5-18)	69
	# non-school aged children	51
	Sum of Total # of Children	211
Woburn	# of Families	3
	# of Pregnant Women	
	# school aged children (5-18)	2
	# non-school aged children	2
	Sum of Total # of Children	8
Worcester	# of Families	1
	# of Pregnant Women	
	# school aged children (5-18)	8
	# non-school aged children	3
	Sum of Total # of Children	10
(blank)	# of Families	
	# of Pregnant Women	
	# school aged children (5-18)	
	# non-school aged children	
	Sum of Total # of Children	
<b>Total # of Families</b>		<b>1730</b>
<b>Total # of Pregnant Women</b>		<b>140</b>
<b>Total # school aged children (5-18)</b>		<b>1937</b>
<b>Total # non-school aged children</b>		<b>1546</b>
<b>Total Sum of Total # of Children</b>		<b>5397</b>

## EA Families in Hotels, 12.2.14 - by Community, Hotel, Children

Community of Placement	Hotel	Data	Total
Allston	North Beacon Inn	# school aged children (5-18)	4
		# non-school aged children	9
		Total # of Children	26
		# of Families	11
Allston # school aged children (5-18)			4
Allston # non-school aged children			9
Allston Total # of Children			26
<b>Allston # of Families</b>			<b>11</b>
Attleboro	Days Inn/Attleboro	# school aged children (5-18)	28
		# non-school aged children	25
		Total # of Children	98
		# of Families	35
Attleboro # school aged children (5-18)			28
Attleboro # non-school aged children			25
Attleboro Total # of Children			98
<b>Attleboro # of Families</b>			<b>35</b>
Bedford	Bedford Plaza Hotel/Bedford	# school aged children (5-18)	37
		# non-school aged children	11
		Total # of Children	81
		# of Families	22
Bedford # school aged children (5-18)			37
Bedford # non-school aged children			11
Bedford Total # of Children			81
<b>Bedford # of Families</b>			<b>22</b>
Braintree	Extended Stay/Braintree	# school aged children (5-18)	7
		# non-school aged children	4
		Total # of Children	23
		# of Families	8
Braintree # school aged children (5-18)			7
Braintree # non-school aged children			4
Braintree Total # of Children			23
<b>Braintree # of Families</b>			<b>8</b>
Brighton	Charles River Hotel/Brighton	# school aged children (5-18)	77
		# non-school aged children	30
		Total # of Children	183
		# of Families	53
	Days Hotel/Brighton	# school aged children (5-18)	75
		# non-school aged children	49
		Total # of Children	209
		# of Families	67
Brighton # school aged children (5-18)			152
Brighton # non-school aged children			79
Brighton Total # of Children			392
<b>Brighton # of Families</b>			<b>120</b>
Brockton	Quality Inn/Brockton	# school aged children (5-18)	59
		# non-school aged children	39
		Total # of Children	181
		# of Families	61
	Super 8/Brockton	# school aged children (5-18)	24
		# non-school aged children	19
		Total # of Children	82
	# of Families		29
		Westgate/Brockton	# school aged children (5-18)
# non-school aged children	44		
Total # of Children	210		
# of Families	72		
Brockton # school aged children (5-18)			149
Brockton # non-school aged children			102
Brockton Total # of Children			473
<b>Brockton # of Families</b>			<b>162</b>
Burlington	Homestead Studio Suites/Burlington	# school aged children (5-18)	4
		# non-school aged children	1
		Total # of Children	10
		# of Families	3
Burlington # school aged children (5-18)			4
Burlington # non-school aged children			1
Burlington Total # of Children			10
<b>Burlington # of Families</b>			<b>3</b>
Chelmsford	Best Western/Chelmsford	# school aged children (5-18)	41

Chelmsford	Best Western/Chelmsford	# non-school aged children	47
		Total # of Children	129
		# of Families	44
	Hawthorne Suites/Chelmsford	# school aged children (5-18)	12
		# non-school aged children	13
		Total # of Children	38
		# of Families	13
Chelmsford # school aged children (5-18)			53
Chelmsford # non-school aged children			60
Chelmsford Total # of Children			167
<b>Chelmsford # of Families</b>			<b>57</b>
Chicopee	Days Inn/Chicopee	# school aged children (5-18)	1
		# non-school aged children	12
		Total # of Children	25
		# of Families	12
	Econo Lodge/Chicopee	# school aged children (5-18)	60
		# non-school aged children	63
		Total # of Children	146
		# of Families	43
	Quality Inn/Chicopee	# school aged children (5-18)	62
# non-school aged children		56	
Total # of Children		176	
# of Families		57	
Chicopee # school aged children (5-18)			123
Chicopee # non-school aged children			131
Chicopee Total # of Children			347
<b>Chicopee # of Families</b>			<b>112</b>
Danvers	Extended Stay/Danvers	# school aged children (5-18)	67
		# non-school aged children	89
		Total # of Children	251
		# of Families	92
	Motel 6/Danvers	# school aged children (5-18)	5
		# non-school aged children	11
		# of Families	3
	Econo Lodge/Danvers	# school aged children (5-18)	98
		# non-school aged children	66
		Total # of Children	250
		# of Families	76
	Danvers # school aged children (5-18)		
Danvers # non-school aged children			155
Danvers Total # of Children			512
<b>Danvers # of Families</b>			<b>171</b>
Dartmouth	Dartmouth Motor Inn	# school aged children (5-18)	34
		# non-school aged children	46
		Total # of Children	118
		# of Families	42
Dartmouth # school aged children (5-18)			34
Dartmouth # non-school aged children			46
Dartmouth Total # of Children			118
<b>Dartmouth # of Families</b>			<b>42</b>
Greenfield	Days Inn/Greenfield	# school aged children (5-18)	74
		# non-school aged children	43
		Total # of Children	160
		# of Families	43
	Quality Inn/Greenfield	# school aged children (5-18)	45
		# non-school aged children	35
	Total # of Children	107	
	# of Families	31	
Greenfield # school aged children (5-18)			119
Greenfield # non-school aged children			78
Greenfield Total # of Children			267
<b>Greenfield # of Families</b>			<b>74</b>
Haverhill	Best Western/Haverhill	# school aged children (5-18)	17
		# non-school aged children	11
		Total # of Children	39
		# of Families	11
Haverhill # school aged children (5-18)			17
Haverhill # non-school aged children			11
Haverhill Total # of Children			39
<b>Haverhill # of Families</b>			<b>11</b>
Holyoke	Valley Opportunity Inn/Holyoke	# school aged children (5-18)	2

Holyoke	Valley Opportunity Inn/Holyoke	# non-school aged children	7
		Total # of Children	18
		# of Families	8
	Days Inn/Holyoke	# school aged children (5-18)	74
		# non-school aged children	49
		Total # of Children	162
		# of Families	44
	Holiday Inn/Holyoke	# school aged children (5-18)	154
		# non-school aged children	144
Total # of Children		432	
# of Families		139	
Holyoke # school aged children (5-18)			230
Holyoke # non-school aged children			200
Holyoke Total # of Children			612
<b>Holyoke # of Families</b>			<b>191</b>
Leominster	Super 8/Leominster	# school aged children (5-18)	115
		# non-school aged children	82
		Total # of Children	277
		# of Families	81
	Motel 6/Leominster	# school aged children (5-18)	6
		# non-school aged children	4
Leominster # school aged children (5-18)			121
Leominster # non-school aged children			86
Leominster Total # of Children			291
<b>Leominster # of Families</b>			<b>85</b>
Lexington	Quality Inn/Lexington	# school aged children (5-18)	8
		# non-school aged children	8
		Total # of Children	34
		# of Families	13
Lexington # school aged children (5-18)			8
Lexington # non-school aged children			8
Lexington Total # of Children			34
<b>Lexington # of Families</b>			<b>13</b>
Malden	New Englander Motor Court	# school aged children (5-18)	12
		# non-school aged children	14
		Total # of Children	48
		# of Families	18
	Town Line/Malden	# school aged children (5-18)	88
		# non-school aged children	71
Malden # school aged children (5-18)			100
Malden # non-school aged children			85
Malden Total # of Children			284
<b>Malden # of Families</b>			<b>92</b>
Marlborough	Best Western/Marlborough	# school aged children (5-18)	14
		# non-school aged children	3
		Total # of Children	24
		# of Families	5
Marlborough # school aged children (5-18)			14
Marlborough # non-school aged children			3
Marlborough Total # of Children			24
<b>Marlborough # of Families</b>			<b>5</b>
Methuen	Days Hotel/Methuen	# school aged children (5-18)	50
		# non-school aged children	44
		Total # of Children	138
		# of Families	44
Methuen # school aged children (5-18)			50
Methuen # non-school aged children			44
Methuen Total # of Children			138
<b>Methuen # of Families</b>			<b>44</b>
Natick	Travel Lodge/Natick	# school aged children (5-18)	55
		# non-school aged children	57
		Total # of Children	173
		# of Families	59
Natick # school aged children (5-18)			55
Natick # non-school aged children			57
Natick Total # of Children			173
<b>Natick # of Families</b>			<b>59</b>
North Attleboro	Super 8/North Attleboro	# school aged children (5-18)	15

North Attleboro	Super 8/North Attleboro	# non-school aged children	7
		Total # of Children	43
		# of Families	14
North Attleboro # school aged children (5-18)			15
North Attleboro # non-school aged children			7
North Attleboro Total # of Children			43
<b>North Attleboro # of Families</b>			<b>14</b>
Northborough	Econo Lodge/Northborough	# school aged children (5-18)	26
		# non-school aged children	25
		Total # of Children	70
		# of Families	22
Northborough # school aged children (5-18)			26
Northborough # non-school aged children			25
Northborough Total # of Children			70
<b>Northborough # of Families</b>			<b>22</b>
Norwell	Parkview Inn/Norwell	# school aged children (5-18)	16
		# non-school aged children	11
		Total # of Children	46
		# of Families	15
Norwell # school aged children (5-18)			16
Norwell # non-school aged children			11
Norwell Total # of Children			46
<b>Norwell # of Families</b>			<b>15</b>
Plainville	Best Stay Inn/Plainville	# school aged children (5-18)	8
		# non-school aged children	13
		Total # of Children	32
		# of Families	12
Plainville # school aged children (5-18)			8
Plainville # non-school aged children			13
Plainville Total # of Children			32
<b>Plainville # of Families</b>			<b>12</b>
Saugus	Colonial Traveler/Saugus	# school aged children (5-18)	22
		# non-school aged children	43
		Total # of Children	70
		# of Families	24
Saugus # school aged children (5-18)			22
Saugus # non-school aged children			43
Saugus Total # of Children			70
<b>Saugus # of Families</b>			<b>24</b>
Somerset	Super 8/Somerset	# school aged children (5-18)	43
		# non-school aged children	21
		Total # of Children	113
		# of Families	35
Somerset # school aged children (5-18)			43
Somerset # non-school aged children			21
Somerset Total # of Children			113
<b>Somerset # of Families</b>			<b>35</b>
Springfield	Howard Johnsons/Springfield	# school aged children (5-18)	58
		# non-school aged children	16
		Total # of Children	124
		# of Families	33
Springfield # school aged children (5-18)			58
Springfield # non-school aged children			16
Springfield Total # of Children			124
<b>Springfield # of Families</b>			<b>33</b>
Swansea	Swansea Motor Inn/Swansea	# school aged children (5-18)	54
		# non-school aged children	26
		Total # of Children	122
		# of Families	34
Swansea # school aged children (5-18)			54
Swansea # non-school aged children			26
Swansea Total # of Children			122
<b>Swansea # of Families</b>			<b>34</b>
Tewksbury	Extended Stay/Tewksbury	# school aged children (5-18)	3
		# non-school aged children	14
		Total # of Children	19
		# of Families	8
Tewksbury # school aged children (5-18)			3
Tewksbury # non-school aged children			14
Tewksbury Total # of Children			19
<b>Tewksbury # of Families</b>			<b>8</b>
Waltham	Home Suites/Waltham	# school aged children (5-18)	122

Waltham	Home Suites/Waltham	# non-school aged children	88
		Total # of Children	338
		# of Families	108
Waltham # school aged children (5-18)			122
Waltham # non-school aged children			88
Waltham Total # of Children			338
<b>Waltham # of Families</b>			<b>108</b>
Wareham	Atlantic Motel/Wareham	# school aged children (5-18)	9
		# non-school aged children	13
		Total # of Children	37
		# of Families	14
Wareham # school aged children (5-18)			9
Wareham # non-school aged children			13
Wareham Total # of Children			37
<b>Wareham # of Families</b>			<b>14</b>
West Springfield	Quality Inn/West Springfield	# school aged children (5-18)	2
		# non-school aged children	2
		Total # of Children	4
		# of Families	1
West Springfield # school aged children (5-18)			2
West Springfield # non-school aged children			2
West Springfield Total # of Children			4
<b>West Springfield # of Families</b>			<b>1</b>
Westwood	Westwood Budget Inn	# school aged children (5-18)	5
		# non-school aged children	14
		Total # of Children	37
		# of Families	16
	Budget Inn/Westwood	# school aged children (5-18)	2
		# non-school aged children	2
		Total # of Children	4
		# of Families	2
Westwood # school aged children (5-18)			5
Westwood # non-school aged children			16
Westwood Total # of Children			41
<b>Westwood # of Families</b>			<b>18</b>
Weymouth	Super 8/Weymouth	# school aged children (5-18)	69
		# non-school aged children	51
		Total # of Children	211
		# of Families	71
Weymouth # school aged children (5-18)			69
Weymouth # non-school aged children			51
Weymouth Total # of Children			211
<b>Weymouth # of Families</b>			<b>71</b>
Woburn	Best Western/Woburn	# school aged children (5-18)	2
		# non-school aged children	2
		Total # of Children	8
		# of Families	3
Woburn # school aged children (5-18)			2
Woburn # non-school aged children			2
Woburn Total # of Children			8
<b>Woburn # of Families</b>			<b>3</b>
Worcester	Quality Inn & Suites/Worcester	# school aged children (5-18)	8
		# non-school aged children	3
		Total # of Children	10
		# of Families	1
Worcester # school aged children (5-18)			8
Worcester # non-school aged children			3
Worcester Total # of Children			10
<b>Worcester # of Families</b>			<b>1</b>
(blank)	(blank)	# school aged children (5-18)	
		# non-school aged children	
		Total # of Children	
		# of Families	
(blank) # school aged children (5-18)			
(blank) # non-school aged children			
(blank) Total # of Children			
<b>(blank) # of Families</b>			
<b>Total # school aged children (5-18)</b>			<b>1937</b>
<b>Total # non-school aged children</b>			<b>1546</b>
<b>Total Total # of Children</b>			<b>5397</b>
<b>Total # of Families</b>			<b>1730</b>

## EA Families in Hotels, 12.2.14 - by Hotel

# of Families	
Hotel	Total
Atlantic Motel/Wareham	14
Bedford Plaza Hotel/Bedford	22
Best Stay Inn/Plainville	12
Best Western/Chelmsford	44
Best Western/Haverhill	11
Best Western/Marlborough	5
Best Western/Woburn	3
Budget Inn/Westwood	2
Charles River Hotel/Brighton	53
Colonial Traveler/Saugus	24
Dartmouth Motor Inn	42
Days Hotel/Brighton	67
Days Hotel/Methuen	44
Days Inn/Attleboro	35
Days Inn/Chicopee	12
Days Inn/Greenfield	43
Days Inn/Holyoke	44
Econo Lodge/Chicopee	43
Econo Lodge/Danvers	76
Econo Lodge/Northborough	22
Extended Stay/Braintree	8
Extended Stay/Danvers	92
Extended Stay/Tewksbury	8
Hawthorne Suites/Chelmsford	13
Holiday Inn/Holyoke	139
Home Suites/Waltham	108
Homestead Studio Suites/Burlington	3
Howard Johnsons/Springfield	33
Motel 6/Danvers	3
Motel 6/Leominster	4
New Englander Motor Court	18
North Beacon Inn	11
Parkview Inn/Norwell	15
Quality Inn & Suites/Worcester	1
Quality Inn/Brockton	61
Quality Inn/Chicopee	57
Quality Inn/Greenfield	31
Quality Inn/Lexington	13
Quality Inn/West Springfield	1
Super 8/Brockton	29
Super 8/Leominster	81
Super 8/North Attleboro	14
Super 8/Somerset	35
Super 8/Weymouth	71
Swansea Motor Inn/Swansea	34
Town Line/Malden	74
Travel Lodge/Natick	59
Valley Opportunity Inn/Holyoke	8
Westgate/Brockton	72
Westwood Budget Inn	16
(blank)	
<b>Grand Total</b>	<b>1730</b>

## **Appendix B**



# The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

DIVISION OF LOCAL MANDATES

SUZANNE M. BUMP, ESQ.  
AUDITOR

ONE WINTER STREET, 9<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02108

TEL (617) 727-0980  
TEL (800) 462-COST  
FAX (617) 727-0984

## Special Survey of School Districts Hosting Students in H/Motel Homeless Housing

Please answer all questions in text boxes provided and save completed document in Word format using a filename that includes your school district name.		
Requested Information	Responses	
Name of School District		
Name, title, email address and telephone number of contact official for this survey:	Name:	
	Title:	
	Email:	
	Phone:	
Title and annual cost of district official responsible for compiling McKinney-Vento (M-V) Entitlement information PLUS percentage of this person's time devoted to M-V and related program administration:	Position title:	
	Annual cost (position salary and benefits):	\$
	Percentage of position time devoted to M-V and related program admin:	
Total current district student population:		
Total current number of homeless students educated within district:		
Total current number of homeless students transported to other districts for educational services:		
<b>Other <u>unreimbursed</u> homeless student-related costs for FY 14 or most recent year available (include all that apply – add additional categories as needed)</b>		
	Title of employee and Number in that position	Annual Cost by position
Personnel (Please specify each category/type of worker by position title and annual cost)		\$
	Total Annual Personnel Cost:	\$
After-school or enrichment programs designed for, or expanded to include, homeless students (Briefly describe)	Type of Expense	Unreimbursed Annual Cost Attributable to Homeless Students
Textbooks and materials		\$
Individual Education Plans <i>not</i> reimbursed by the state		\$
Other Special Education /Accommodation programs <i>not</i> reimbursed by the state (list as many qualified expenses as may apply to your district)		\$



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## Special Survey of School Districts Serving Non-Resident Homeless Students

Please answer all questions in text boxes provided and save completed document in Word format using a filename that includes your school district name.

Requested Information	Responses	
Name of School District		
Name, title, email address and telephone number of contact official for this survey:	Name:	
	Title:	
	Email:	
	Phone:	
Title and annual cost of district official responsible for compiling McKinney-Vento (M-V) Entitlement information PLUS percentage of this person's time devoted to M-V and related program administration:	Position title:	
	Annual cost (position salary and benefits):	\$
	Percentage of position time devoted to M-V and related program admin:	
Total current district student population:		
Total current number of <b>non-resident</b> homeless students educated within district:		
<b>Other <u>unreimbursed</u> homeless student-related costs for FY 14 or most recent year available (include all that apply – add additional categories as needed)</b>		
	Title of employee and Number in that position	Annual Cost by position
Personnel (Please specify each category/type of worker by position title and annual cost)		\$
	Total Annual Personnel Cost:	\$
After-school or enrichment programs designed, or expanded for, <b>non-resident</b> homeless students (Briefly describe)	Type of Expense	Annual Cost
		\$
Textbooks and materials		\$
Individual Education Plans <i>not</i> reimbursed by the state		\$
Other Special Education /Accommodation programs <i>not</i> reimbursed by the state (list as many qualified expenses as may apply to your district)		\$



# The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

DIVISION OF LOCAL MANDATES

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AUDITOR

ONE WINTER STREET, 9<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02108

TEL (617) 727-0980  
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FAX (617) 727-0984

## Special Survey of Municipalities Hosting K-12 Students in H/Motel Homeless Housing

Please answer all questions in text boxes provided and save completed document in Word format using a filename that includes your city's or town's name.

GENERAL	Requested Information		Responses	
	Name of City or Town			
GENERAL	Name, title, email address and telephone number of contact official for this survey:	Name:		
		Title:		
		Email:		
		Phone:		
LOCAL OPTION ROOM TAX INFO	1. Does your community have a local-option room occupancy tax? (Yes or No)			
	a. If "yes," what is the add-on percentage in your community?			
	b. If "yes," what was your community's total revenue from this source in FY14?		\$	
	2. Do you track local room occupancy rates in your community? (Yes or No)			
OTHER DIRECT COSTS	a. If "yes," what is the most recent annual occupancy percentage rate you have for hotels and motels in your community?			
	<b>OTHER UNREIMBURSED, NON-EDUCATION MUNICIPAL COSTS <i>WHOLLY AND DIRECTLY ATTRIBUTABLE</i> TO HOSTING OF HOMELESS POPULATIONS IN H/MOTELS (Please list all that apply; add additional rows if needed)</b>			
	Department	Nature of Expense		Cost in FY14
				\$
				\$
			\$	
			\$	

Host Communities	Gateway City Y/N	FY14 M-V Entitlement	Reimbursement @ 50.83%	EA H/Motel Families @12/2/14	MV Administrator Expense	Other Personnel	Unreimbursed IEP	Materials and supplies	Other	Total
ATTLEBORO	Y	114,440	58,178	35					\$60,000	\$60,000
BEDFORD		162,941	82,834	24						\$0
BOSTON		1,698,338	863,382	131	\$121,271	\$108,384				\$229,655
BRAINTREE		68,645	34,897	8	\$12,500	\$5,000				\$17,500
BROCKTON	Y	596,823	303,365	162	\$72,334	\$78,836				\$151,170
CHELMSFORD		95,987	48,797	57						\$0
CHICOPEE	Y	433,227	220,239	112						\$0
DANVER		180,641	91,832	171						\$0
DARTMOUTH		24,670	12,541	42	\$12,500		\$74,003	\$500	\$9,500	\$96,503
GREENFIELD		83,093	42,242	74						\$0
HAVERTHILL	Y	166,007	84,393	11						\$0
HOLYOKE	Y	359,384	182,700	191	\$27,334				\$4,724	\$32,058
LEOMINSTER	Y	57,079	29,017	85						\$0
LEXINGTON		73,686	37,460	13						\$0
MALDEN	Y	350,240	178,051	92						\$0
MARLBOROUGH		222,389	113,056	5	\$11,982	\$17,857	\$450,893		\$45,500	\$526,232
NATICK		54,437	27,674	59				\$14,514	\$40,000	\$54,514
NORTH ATTLEBOROUGH		32,806	16,678	14	\$6,680	\$6,600				\$13,280
NORTHBOROUGH		19,103	9,711	22	\$967	\$30,560	\$9,702			\$41,229
NORWELL		23,576	11,985	15	\$32,400	\$14,000				\$46,400
SAUGUS		94,572	48,077	24				\$2,100		\$2,100
SOMERSET		38,326	19,484	35	\$2,000					\$2,000
SPRINGFIELD	Y	585,949	297,878	33						\$0
SWANSEA		-	-	34	\$12,189	\$4,844	\$174,706			\$191,739
TEWKSBURY		68,175	34,658	8						\$0
WALTHAM		313,827	159,540	108					\$425	\$425
WAREHAM		164,242	83,496	14						\$0
WEST SPRINGFIELD		121,757	61,897	1						\$0
WEYMOUTH		202,969	103,183	71						\$0
WOBURN*		91,849	46,693	3	\$3,179					\$3,179
WORCESTER	Y	439,707	223,533	1						\$0
		6,938,885	3,527,472	1655			\$709,304			

(55Communities)	Gateway City Y/N	FY14 M-V Entitlement	Reimbursement @ 50.83%	EA H/Motel Families @12/2/14	MV Administrator Expense	Other Personnel	IEP	Materials and supplies	Other	Origin/Rtn Total
ARLINGTON		113,757	57,831		\$35,031					\$35,031
ATTLEBORO	Y	114,440	58,178	35	\$25,200	\$32,400	\$160,000			\$217,600
BARNSTABLE	Y	42,606	21,660		\$10,820		\$112,500			\$123,320
BEDFORD		162,941	82,834	24	\$7,500					\$7,500
BOSTON		1,698,338	863,382	131						\$0
BRAINTREE		68,645	34,897	8						\$0
BROCKTON	Y	596,823	303,365	162					\$2,400	\$2,400
CAMBRIDGE		354,951	180,446		\$22,421		\$18,535			\$40,956
CHELMSFORD		95,987	48,797	57	\$6,750		\$45,000		\$11,000	\$62,750
CHELSEA	Y	228,924	116,378		\$8,000	\$70,796		\$23,320		\$102,116
CHICOPEE	Y	433,227	220,239	112						\$0
DANVERS		180,641	91,832	171	\$14,952		\$60,937		\$6,195	\$82,084
DARTMOUTH		24,670	12,541	42						\$0
EVERETT	Y	324,124	164,775							\$0
FALL RIVER	Y	340,860	173,283							\$0
FITCHBURG	Y	91,752	46,644							\$0
FRAMINGHAM		129,510	65,839		\$30,130					\$30,130
FREETOWN LAKEVILLE		114,615	58,267		\$3,802		\$45,669			\$49,471
GREENFIELD		83,093	42,242	74	\$15,750	\$88,714	\$60,000	\$5,000	\$10,000	\$179,464
HAVERTHILL	Y	166,007	84,393	11	\$8,600	\$9,000	\$160,000	\$2,000		\$179,600
HOLYOKE	Y	359,384	182,700	191	\$27,334					\$27,334
LAWRENCE	Y	310,324	157,759							\$0
LEOMINSTER	Y	57,079	29,017	85						\$0
LEXINGTON		73,686	37,460	13	\$31,000		\$33,624		\$149	\$64,773
LOWELL	Y	98,744	50,198							\$0
LYNN	Y	302,013	153,534		\$87,275	\$6,000				\$93,275
MALDEN	Y	350,240	178,051	92						\$0
MARLBOROUGH		222,389	113,056	5	\$11,700	\$714	\$112,723			\$125,137
METHUEN	Y	108,231	55,021	44						\$0
MIDDLEBOROUGH		81,180	41,269							\$0
NATICK		54,437	27,674	59	\$14,000	\$60,560	\$20,000	\$5,664		\$100,224
NEW BEDFORD	Y	355,721	180,837		\$24,337					\$24,337
NORTH ATTLEBOROUGH		32,806	16,678	14						\$0
NORTHBOROUGH		19,103	9,711	22						\$0
NORWELL		23,576	11,985	15						\$0
PLYMOUTH		198,149	100,733		\$10,710	\$17,895				\$28,605
QUINCY	Y	196,703	99,998		\$55,157		\$103,447			\$158,604
RANDOLPH		204,004	103,709							\$0
REVERE	Y	306,591	155,861		\$35,145	\$71,189	\$131,566			\$237,900
SALEM	Y	78,072	39,689		\$31,616	\$20,800				\$52,416
SAUGUS		94,572	48,077	24	\$17,850	\$4,200	\$38,500	\$1,200	\$2,000	\$63,750
SOMERSET		38,326	19,484	35	\$4,000					\$4,000
SOMERVILLE		124,384	63,233		\$30,105	\$21,717	\$61,578		\$83,825	\$197,225
SPRINGFIELD	Y	585,949	297,878	33						\$0
STOUGHTON		133,378	67,805							\$0
SWANSEA		-	-	34	\$7,313	\$144,271	\$149,748			\$301,332
TAUNTON	Y	182,007	92,527		\$64,415	\$3,000				\$67,415
TEWKSBURY		68,175	34,658	8	\$3,825		\$32,220		\$11,345	\$47,390
WALTHAM		313,827	159,540	108	\$10,125	\$75,000				\$85,125
WAREHAM		164,242	83,496	14						\$0
WEST SPRINGFIELD		121,757	61,897	1	\$8,000					\$8,000
WESTFIELD	Y	133,000	67,613							\$0
WEYMOUTH		202,969	103,183	71						\$0
WOBBURN*		91,849	46,693	3	\$3,179					\$3,179
WORCESTER	Y	439,707	223,533	1	\$11,700	\$119,000				\$130,700
		11,492,485	5,842,380	1699			\$1,346,047			\$2,933,143

	Gateway City Y/N	FY14 M-V Entitlement	Reimbursement @ 50.83%	EA H/Motel Families @12/2/14	MV Administrator Expense	Other Personnel	IEP	Materials and supplies	Other	Origin/Rtn Total	Host Data TotalTotal	Combined School related Impact 2014	Forgone Excise Rev	Total w/Excise	2014 MV Underpayment	Total w/Excise and MV Underpayment
ARLINGTON		113,757	57,831		\$35,031					\$35,031	\$0	\$35,031		\$35,031	\$55,926	\$90,957
ATTLEBORO	Y	114,440	58,178	35	\$25,200	\$32,400	\$160,000			\$217,600	\$60,000	\$277,600	*	\$277,600	\$56,262	\$333,862
BARNSTABLE	Y	42,606	21,660		\$10,820		\$112,500			\$123,320	\$0	\$123,320		\$123,320	\$20,946	\$144,266
BEDFORD		162,941	82,834	24	\$7,500					\$7,500	\$0	\$7,500	\$26,591	\$34,091	\$80,107	\$114,198
BOSTON		1,698,338	863,382	131						\$0	\$229,655	\$229,655	\$158,340	\$387,995	\$834,956	\$1,222,951
BRAINTREE		68,645	34,897	8						\$0	\$17,500	\$17,500	\$9,670	\$27,170	\$33,748	\$60,918
BROCKTON	Y	596,823	303,365	162					\$2,400	\$2,400	\$151,170	\$153,570	\$195,809	\$349,379	\$293,458	\$642,837
CAMBRIDGE		354,951	180,446		\$22,421		\$18,535			\$40,956	\$0	\$40,956		\$40,956	\$174,505	\$215,461
CHELMSFORD		95,987	48,797	57	\$6,750		\$45,000		\$11,000	\$62,750	\$0	\$62,750	\$68,896	\$131,646	\$47,190	\$178,836
CHELSEA	Y	228,924	116,378		\$8,000	\$70,796		\$23,320		\$102,116	\$0	\$102,116		\$102,116	\$112,546	\$214,662
CHICOPEE	Y	433,227	220,239	112						\$0	\$0	\$0	\$90,250	\$90,250	\$212,988	\$303,238
DANVERS		180,641	91,832	171	\$14,952		\$60,937		\$6,195	\$82,084	\$0	\$82,084	\$206,688	\$288,772	\$88,809	\$377,581
DARTMOUTH		24,670	12,541	42						\$0	\$96,503	\$96,503	\$50,765	\$147,268	\$12,129	\$159,397
EVERETT	Y	324,124	164,775							\$0	\$0	\$0		\$0	\$159,349	\$159,349
FALL RIVER	Y	340,860	173,283							\$0	\$0	\$0		\$0	\$167,577	\$167,577
FITCHBURG	Y	91,752	46,644							\$0	\$0	\$0		\$0	\$45,108	\$45,108
FRAMINGHAM		129,510	65,839		\$30,130					\$30,130	\$0	\$30,130		\$30,130	\$63,671	\$93,801
FREETOWN LAKEVILLE		114,615	58,267		\$3,802		\$45,669			\$49,471	\$0	\$49,471		\$49,471	\$56,348	\$105,819
GREENFIELD		83,093	42,242	74	\$15,750	\$88,714	\$60,000	\$5,000	\$10,000	\$179,464	\$0	\$179,464	\$89,444	\$268,908	\$40,851	\$309,759
HAVERTHILL	Y	166,007	84,393	11	\$8,600	\$9,000	\$160,000	\$2,000		\$179,600	\$0	\$179,600	\$13,296	\$192,896	\$81,614	\$274,510
HOLYOKE	Y	359,384	182,700	191	\$27,334					\$27,334	\$32,058	\$59,392	\$230,862	\$290,254	\$176,684	\$466,938
LAWRENCE	Y	310,324	157,759							\$0	\$0	\$0		\$0	\$152,565	\$152,565
LEOMINSTER	Y	57,079	29,017	85						\$0	\$0	\$0	\$68,493	\$68,493	\$28,062	\$96,555
LEXINGTON		73,686	37,460	13	\$31,000		\$33,624		\$149	\$64,773	\$0	\$64,773	\$15,713	\$80,486	\$36,226	\$116,712
LOWELL	Y	98,744	50,198							\$0	\$0	\$0		\$0	\$48,546	\$48,546
LYNN	Y	302,013	153,534		\$87,275	\$6,000				\$93,275	\$0	\$93,275		\$93,275	\$148,479	\$241,754
MALDEN	Y	350,240	178,051	92						\$0	\$0	\$0	\$74,134	\$74,134	\$172,189	\$246,323
MARLBOROUGH		222,389	113,056	5	\$11,700	\$714	\$112,723			\$125,137	\$526,232	\$651,369	\$6,044	\$657,413	\$109,333	\$766,746
METHUEN	Y	108,231	55,021	44						\$0	\$27,250	\$27,250	\$35,455	\$62,705	\$53,210	\$115,915
MIDDLEBOROUGH		81,180	41,269							\$0	\$0	\$0		\$0	\$39,911	\$39,911
NATICK		54,437	27,674	59	\$14,000	\$60,560	\$20,000	\$5,664		\$100,224	\$54,514	\$154,738	\$71,313	\$226,051	\$26,763	\$252,814
NEW BEDFORD	Y	355,721	180,837		\$24,337					\$24,337	\$0	\$24,337		\$24,337	\$174,884	\$199,221
NORTH ATTLEBOROUGH		32,806	16,678	14						\$0	\$13,280	\$13,280	\$16,922	\$30,202	\$16,129	\$46,331
NORTHBOROUGH		19,103	9,711	22						\$0	\$41,229	\$41,229	\$26,951	\$68,180	\$9,391	\$77,571
NORWELL		23,576	11,985	15						\$0	\$46,400	\$46,400		\$46,400	\$11,591	\$57,991
PLYMOUTH		198,149	100,733		\$10,710	\$17,895				\$28,605	\$0	\$28,605		\$28,605	\$97,416	\$126,021
QUINCY	Y	196,703	99,998		\$55,157		\$103,447			\$158,604	\$0	\$158,604		\$158,604	\$96,705	\$255,309
RANDOLPH		204,004	103,709							\$0	\$0	\$0		\$0	\$100,295	\$100,295
REVERE	Y	306,591	155,861		\$35,145	\$71,189	\$131,566			\$237,900	\$0	\$237,900		\$237,900	\$150,730	\$388,630
SALEM	Y	78,072	39,689		\$31,616	\$20,800				\$52,416	\$0	\$52,416		\$52,416	\$38,383	\$90,799
SAUGUS		94,572	48,077	24	\$17,850	\$4,200	\$38,500	\$1,200	\$2,000	\$63,750	\$2,100	\$65,850	\$29,009	\$94,859	\$46,495	\$141,354
SOMERSET		38,326	19,484	35	\$4,000					\$4,000	\$2,000	\$6,000	\$42,305	\$48,305	\$18,842	\$67,147
SOMERVILLE		124,384	63,233		\$30,105	\$21,717	\$61,578		\$83,825	\$197,225	\$0	\$197,225		\$197,225	\$61,151	\$258,376
SPRINGFIELD	Y	585,949	297,878	33						\$0	\$0	\$0	\$33,239	\$33,239	\$288,071	\$321,310
STOUGHTON		133,378	67,805							\$0	\$14,400	\$14,400		\$14,400	\$65,573	\$79,973
SWANSEA		-	-	34	\$7,313	\$144,271	\$149,748			\$301,332	\$191,739	\$493,071	\$40,705	\$533,776	\$0	\$533,776
TAUNTON	Y	182,007	92,527		\$64,415	\$3,000				\$67,415	\$0	\$67,415		\$67,415	\$89,480	\$156,895
TEWKSBURY		68,175	34,658	8	\$3,825		\$32,220		\$11,345	\$47,390	\$0	\$47,390	\$9,670	\$57,060	\$33,517	\$90,577
WALTHAM		313,827	159,540	108	\$10,125	\$75,000				\$85,125	\$425	\$85,550	\$130,540	\$216,090	\$154,287	\$370,377
WAREHAM		164,242	83,496	14						\$0	\$0	\$0	\$16,922	\$16,922	\$80,746	\$97,668
WEST SPRINGFIELD		121,757	61,897	1	\$8,000					\$8,000	\$0	\$8,000	\$806	\$8,806	\$59,860	\$68,666
WESTFIELD	Y	133,000	67,613							\$0	\$0	\$0		\$0	\$65,387	\$65,387
WEYMOUTH		202,969	103,183	71						\$0	\$0	\$0	\$85,001	\$85,001	\$99,786	\$184,787
WOBURN*		91,849	46,693	3	\$3,179					\$3,179	\$3,179	\$6,358	\$3,636	\$9,994	\$45,156	\$55,150
WORCESTER	Y	439,707	223,533	1	\$11,700	\$119,000				\$130,700	\$0	\$130,700	\$1,209	\$131,909	\$216,174	\$348,083
		11,492,485	5,842,380	1699			\$1,346,047			\$2,933,143	\$1,509,634	\$4,442,777	\$1,848,678	\$6,291,455	\$5,650,105	\$11,941,560

## **Appendix C**

R0-2

**RM**

**MASSACHUSETTS DEPARTMENT OF REVENUE  
MONTHLY ROOM OCCUPANCY RETURN  
YOU SHOULD FILE THIS FORM EVEN THOUGH NO TAX MAY BE DUE.**

CITY/TOWN NAME:

FEDERAL IDENTIFICATION NUMBER		BE SURE THIS RETURN COVERS THE CORRECT PERIOD <input type="checkbox"/> Check here if EFT payment.		FOR MONTH	CITY/TOWN CODE	1. TOTAL RENTS	1.		
<b>IF ANY INFOR- MATION IS INCORRECT, SEE INSTRUC- TIONS.</b>  <input type="checkbox"/> Check if final return and you wish to close your room tax account.						2. TAXABLE RENTS	2.		
								a. State	b. Local
						3a. STATE TAX DUE (line 2 x .057)	3a.		
						3b. LOCAL TAX DUE (line 2 x .0 )		3b.	
						4. PENALTY	4a.	4b.	
						5. INTEREST	5a.	5b.	
						6. SUBTOTAL (add lines 3 through 5)	6a.	6b.	
Return is due with payment on or before the 20th day of the month following the month indicated above. Make check payable to Commonwealth of Massachusetts. Mail to: <b>Mass. Dept. of Revenue, PO Box 7041, Boston, MA 02204-7041.</b>						7. TOTAL AMOUNT DUE WITH THIS RETURN (add lines 6a and 6b)	7.		
I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.									
Signature		Title		Date					

**R0-2CF**  
**RC**

**MASSACHUSETTS DEPARTMENT OF REVENUE**  
**MONTHLY ROOM OCCUPANCY RETURN FOR BOSTON, CAMBRIDGE,**  
**CHICOPEE, SPRINGFIELD, WEST SPRINGFIELD AND WORCESTER**  
**YOU MUST FILE THIS FORM EVEN THOUGH NO TAX MAY BE DUE.**

CITY/TOWN NAME:

FEDERAL IDENTIFICATION NUMBER		BE SURE THIS RETURN COVERS THE CORRECT PERIOD <input type="checkbox"/> Check here if EFT payment.		FOR MONTH	CITY/TOWN CODE	1. TOTAL RENTS	1.		
<b>IF ANY INFORMATION IS INCORRECT, SEE INSTRUCTIONS.</b> <input type="checkbox"/> Check if final return and you wish to close your room tax account.						2. TAXABLE RENTS	2.		
						STATE (a)		LOCAL (b)	CCF (c)
						3A. STATE TAX DUE (LINE 2 X .057)	3a.		
						3B. LOCAL TAX DUE (LINE 2 X .0 )		3b.	
						3C. CCF FEE DUE (LINE 2 X .0275)			3c.
						4. PENALTY	4a.	4b.	4c.
						5. INTEREST	5a.	5b.	5c.
						6. AMOUNT DUE (ADD LINES 3, 4 & 5)	6a.	6b.	6c.
Return is due with payment on or before the 20th day of the month following the month indicated above. Make check payable to Commonwealth of Mass. Mail to: <b>Massachusetts Department of Revenue, PO Box 7041, Boston, MA 02204-7041.</b>						7. TOTAL AMOUNT DUE (ADD LINES 6A, 6B & 6C)		7.	
I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.									
Signature		Title		Date					

## **Appendix D**



AMY A. PITTER  
COMMISSIONER

KEVIN W. BROWN  
GENERAL COUNSEL

*The Commonwealth of Massachusetts*

*Department of Revenue*

*Legal Division – Litigation Bureau*

*100 Cambridge Street, 7<sup>th</sup> Floor*

*P.O. Box 9565*

*Boston, MA 02114-9565*

March 19, 2015.

Mr. Vincent P. McCarthy, Director  
Division of Local Mandates  
Office of the State Auditor  
One Winter Street, 9th Floor  
Boston, Massachusetts 02108

Dear Mr. McCarthy:

Thank you for your inquiry. As I understand the background information that you provide, the Commonwealth (the Department of Transitional Assistance or the DHED) negotiates contracts with many hotels to temporarily house people who would otherwise be homeless. Some of the cities where this is occurring (Boston, Danvers, Holyoke, Chicopee, inter alia) had adopted the local-option occupancy tax, G.L. c. 64G, § 3A, but you indicate that the Commonwealth (in the course of paying for the hotel rooms) has not been paying this tax to the hotels, and the hotels in turn have not been remitting it to the Department of Revenue. (By definition of Occupancy, G.L. c. 64G, § 1(g), the tax does not apply where the right to the use or possession is greater than 90 consecutive days.) You are concerned that the practice that you describe has translated into a loss of revenue for these cities, which have approached the State Auditor's Office on the subject.

You asked specifically for any details of what you were informed were two hotel tax enforcement actions of some sort involving two hotels, one in the Fenway and one in Revere or possibly East Boston near Logan Airport about five or so years ago. In general, the Department is unable to disclose information about audits of particular taxpayers. Appeals of DOR assessments to the Appellate Tax Board are public record, however. There is one pending ATB case involving this issue brought by Motel Realty Co., Inc., relating to its hotel property at 735 Broadway in Malden. The ATB docket number is C-321855. Apart from this ATB matter, there has been at least one other enforcement case, but all other cases have concluded at the Office of Appeals, and so have not reached the ATB. Therefore there is no public record that I could disclose. There may have been other instances with uncontested audit adjustments, but we would not have records of those.

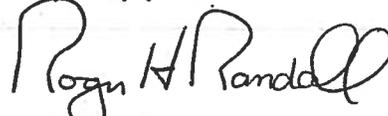
You also asked what systemic monitoring and/or enforcement procedures exist to deter and prevent non-compliance with the state and local hotel excise tax statutes. About nine years ago the Department issued Letter Ruling 86-5, which concludes that even when the Department of Public Welfare [predecessor of Department of Transitional Assistance] is paying for the hotel rooms, the occupancy tax still must be paid by the hotel owner. A copy of LR 86-5 is attached for your reference. I can assure you that the local-option occupancy tax is part of a rooms-tax audit in the normal course; the DOR hotel auditors look at whether the hotel is correctly calculating the state and local-option occupancy tax, and therefore they would pick up any non-compliance with G.L. c. 64G, §§ 3 and 3A.

You also asked a disclosure question, about getting access to the tax returns of each hotel in certain cities, to see if that hotel is collecting the occupancy tax including the local option portion when the Commonwealth is paying for the hotel rooms. This information is part of a tax return; G.L. c. 62C, § 21(a), forbids us from disclosing individual taxpayer's payments or other content of any tax return or other document filed with the commissioner without the taxpayer's consent.

There is an exception to the general non-disclosure rule in General Laws c. 62C, § 21(b)(25), however, which allows "disclosure of information necessary for the administration of the local option tax imposed pursuant to section 3A of chapter 64G." We interpret that clause to apply specifically to either disclosure to the relevant taxpayer or a disclosure to a municipality of the total sum received by the commissioner under section 3A from hotels located within that municipality, to be distributed at least quarterly as provided in the fourth sentence of section 3A. If you are working with a particular municipality, you might see if that city or town could request the appropriate return information under this statutory authority in order to confirm compliance with the local option by hotels or motels within that jurisdiction.

I hope that this letter answers your questions and assists you.

Very truly yours,

A handwritten signature in black ink that reads "Roger H. Randall". The signature is written in a cursive style with a large initial "R".

Roger H. Randall  
Tax Counsel

proof. G.L. c. 64H, §§ 1(12)(a), 7, 8(a), (b), (c). The "good faith" requirement means that the vendor must have no reason to believe that the contractor purchased the property from the vendor for any purpose other than resale or rental in the regular course of business. Cf., Letter Ruling 83-34.

A properly executed resale certificate is signed by the purchaser, bears the purchaser's name, address and registration number, and indicates the general character of the property which is sold or rented by the purchaser in the regular course of business. G.L. c. 64H, §§ 1(12)(a), 8(a). Thus, if the Company, as vendor of the construction equipment, accepts a properly executed resale certificate from the Contractor in lieu of sales tax, under the circumstances outlined in Section 8 of Chapter 64H, set forth above, and the Company has no reason to believe that the Contractor is purchasing the equipment for any purpose other than resale or rental in the regular course of business, the Company's gross receipts from such sale are not subject to tax.

The law provides that where a purchaser, who gives a resale certificate, in lieu of paying sales tax on its purchase, makes any use of the property purchased, other than retention, demonstration or display while holding it for resale or rental in the regular course of business, the use of the property is considered a retail sale by the purchaser as of the time the property is first used by him, and the purchaser would be liable for sales tax on his cost. G.L. c. 64H, § 8(d). Thus, a contractor which gives the Company a resale certificate and makes any use of the property other than retention, demonstration or display while holding it for rental in the regular course of business, is obligated to pay sales tax on the cost of the property to the contractor.

April 15, 1986

/s/ Ira A. Jackson

LR 86-4

Commissioner of Revenue

### **86-5. Rooms Rented to the Department of Public Welfare**

You ask whether operators of hotels, motels, and lodging houses located in the Commonwealth are required to collect the state and local room occupancy excises imposed by G.L. c. 64G when rooms are rented to the Department of Public Welfare (DPW) under the Commonwealth's Emergency Assistance Program. G.L. c. 18, § 2(D). Under the Emergency Assistance Program the DPW provides temporary shelter for certain needy families for periods not to exceed 90 days. G.L. c. 18, § 2(D); 106 CMR 309.040(B)(5)(d). Once an eligible recipient is identified, the DPW arranges for specific services for that client in a hotel or motel. After the hotel or motel operator provides the authorized services to the client and submits the appropriate claim form, the DPW makes payment to the operator for services performed.

For the following reasons, we conclude that operators of hotels, motels and lodging houses located in the Commonwealth are required to collect the state and local room occupancy excises imposed by G.L. c. 64G upon the rental of rooms to the DPW or its clients under the Emergency Assistance Program. For the purposes of this ruling we assume without deciding that the DPW rents the rooms.

PWS-928

1. *The DPW is an "occ from whom the operator m*

General Laws Chapter who, for a consideration, room or rooms under any agreement" (emphasis ad purposes, includes "an i without transferable sha organization, institution, other person acting in a f by a court or otherwise, G.L. c. 64G, § 1(g).

Although general wor construed to include the situations the meaning broadly to include gover 379, 383-84 (1937) (fed Communications Act of (1948) ("whoever," whic § 7, Twenty-third, inclu St.1911, c. 291); See c Docket No. 99814 (3/10 of the excise on special standing alone may no subject to taxation unc government agencies c; even though governmen of that statute.

This position receive occupancy excise statu guage in the sales tax differently in each sta individual, partnership Under the room occup trust, association, etc. difference in the lang sales tax, the use of "I be limited only to the *Pacific Indemnity Co.* 1985); *People v. Weste*

Even more signific under which sales to c. 64H, § 6(d). Sale state agencies fall out but rather because th "the commonwealth § 6(d). There is no and it is reasonable t

1. *The DPW is an "occupant," as that term is defined in G.L. c. 64G, § 1(f), from whom the operator must collect the room occupancy excises.*

General Laws Chapter 64G, Section 1(f), defines "occupant" as "a person who, for a consideration, uses, possesses or has a right to use or possess any room or rooms under any lease, concession, permit, right of access, license or agreement" (emphasis added). The word "person," for room occupancy excise purposes, includes "an individual, partnership, trust or association with or without transferable shares, joint stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit." G.L. c. 64G, § 1(g).

Although general words in a statute such as "person" are not ordinarily construed to include the Commonwealth or its political subdivisions, in some situations the meaning of such general words has been interpreted more broadly to include governmental agencies. *Nardone v. United States*, 302 U.S. 379, 383-84 (1937) (federal officers are "persons" within the meaning of the Communications Act of 1934); *Attorney General v. Woburn*, 322 Mass. 634, 637 (1948) ("whoever," which has the same definition as "person" under G.L. c. 4, § 7, Twenty-third, includes municipalities, at least as to certain provisions of St.1911, c. 291); *See also, Town of Hadley v. Department of Revenue*, ATB Docket No. 99814 (3/10/81) (the Town of Hadley was a "person" for purposes of the excise on special fuels imposed by G.L. c. 64E). While these decisions standing alone may not compel the conclusion that the DPW is a "person" subject to taxation under G.L. c. 64G, they do support the proposition that government agencies can be "person(s)" within the meaning of Chapter 64G, even though government agencies are not expressly mentioned in the wording of that statute.

This position receives further support in other language used in the room occupancy excise statute, particularly in comparison with corresponding language in the sales tax statute, G.L. c. 64H. The word "person" is defined differently in each statute. Under the sales tax "person" is defined as "an individual, partnership, trust, association, etc. ..." G.L. c. 64H, § 1(7). Under the room occupancy excises "person includes an individual, partnership, trust, association, etc. ..." G.L. c. 64G, § 1(g) (emphasis added). This slight difference in the language is significant. It suggests that, unlike its use in the sales tax, the use of "person" in the room occupancy statute is not intended to be limited only to those particular entities listed in the definition. *See, e.g., Pacific Indemnity Co. v. Interstate Fire and Casualty Co.*, 488 A.2d 486 (Md. 1985); *People v. Western Airlines, Inc.*, 268 P.2d 723 (Cal.1985).

Even more significantly, the sales tax statute contains an express provision under which sales to Massachusetts agencies are excluded from taxation. G.L. c. 64H, § 6(d). Sales to state agencies are exempt from the tax not because state agencies fall outside the definition of "person" under G.L. c. 64H, § 1(7), but rather because the Legislature enacted an exemption specifically directed at "the commonwealth ... its subdivisions ... and agencies. ..." G.L. c. 64H, § 6(d). There is no corresponding exemption in the room occupancy statute, and it is reasonable to assume that the more inclusive definition of "person" in

the room occupancy excises, coupled with the absence of an exemption in that statute for government agencies, reflects a deliberate legislative intent to bring government agencies within the scope of the statute. This conclusion seems inescapable when one considers that both statutes were a part of the same tax legislation originally enacted by the General Court in 1966. (The sales tax originated as a temporary act in St.1966, c. 14, § 1; and the room occupancy excise was enacted by St.1966, c. 14, § 25.)

In view of the conclusion that the DPW is a "person" within the meaning of G.L. c. 64G, § 1(g), it follows that the DPW is an "occupant" under the definition of that term in G.L. c. 64G, § 1(f). Unless otherwise exempt, the DPW is obligated to reimburse the operator of the hotel, motel or lodging house for the tax. G.L. c. 64G, § 4.

2. *General Laws Chapter 64G does not provide an exclusion for the rental of rooms in a hotel, motel, or lodging house by the DPW for its clients under the Commonwealth's Emergency Assistance Program.*

There are five specific exclusions from the room occupancy excises in G.L. c. 64G, § 2. From the plain language of Section 2 it is clear that none of these exclusions applies to the transfer of occupancy, to DPW or its clients, or a room in an ordinary hotel, motel, or lodging house. A public hotel, motel, or lodging house is simply not a lodging accommodation at a "... state ... institution" (G.L. c. 64G, § 2(a)) or at a "religious, charitable, educational or philanthropic institution" (G.L. c. 64G, § 2(b)). Similarly, a public hotel, motel or lodging house is neither a "private convalescent home" (G.L. c. 64G, § 2(c)) nor a religious or charitable home (G.L. c. 64G, § 2(d)) for the aged, infirm, indigent or chronically ill. Finally, a hotel, motel or lodging house is obviously not a "summer camp for children ..." (G.L. c. 64G, § 2(e)). It must be presumed that in excluding only these particular types of entities from the room occupancy excises, the Legislature intended to impose the tax on those organizations or entities not enumerated. *See, Supreme Council of the Royal Arcanum v. State Tax Commission*, 353 Mass. 111, 114 (1970).

Moreover, as the Supreme Judicial Court has stated, an exemption from taxation is a privilege, and will not be recognized unless it is shown that the exemption is conferred either by the express words or by the necessary implication of the statute. *First Agricultural National Bank v. State Tax Commission*, 353 Mass. 172 (1967), rev'd on other grounds, 392 U.S. 339 (1968). *See, e.g., Town of Milton v. Ladd*, 348 Mass. 762 (1965) (a statute granting exemption from taxation must be strictly construed). In the sales tax area the Court has said that if the exemption is explicitly defined and restricted, it cannot be revised. *S.J. Groves & Sons Co. v. State Tax Commission*, 372 Mass. 140, 145 (1977).

The exclusions set out in G.L. c. 64G, § 2, are not uncertain or vague. *Cf. Ace Heating Service, Inc. v. State Tax Commission*, 371 Mass. 254, 255 (1976) (uncertain sales tax exemption need not be interpreted narrowly); *Courier Citizen Co. v. Commission of Corporations and Taxation*, 358 Mass. 563, 569 (1971) (an ambiguous exemption does not require special burden of proof by a taxpayer). To the contrary, they are explicitly defined and restricted. *See, S.J. Groves and Sons Co., supra*. They do not reach and may not be stretched to

reach the rent clients under t

3. *Neither powers provis Department fr*

Massachusetts legislation is, *Savings Bank* addressing a presumption beyond a ratio 237 Mass. 52 legislative br 4 of the Co Legislature, 1 (1900). Alth other courts the Common taxation. *Se Ct., Equity 1 Hadley v. De* In addition, sets Consti Massachuset

However, Court to in would never under the c occupancy ( hotels, mote Massachuset responsible *supra*, 358 Commission

<sup>1</sup> In *First Ag* not avail itsel Constitution 1 incidence of ( The Court re: only where th 353 Mass. 17 vendor's and

The United the Massachu the U.S. Sup federal immu resolve state authority in *Agricultural . Arcanum, su*

reach the rental of rooms in a hotel, motel or lodging house by the DPW for its clients under the Commonwealth's Emergency Assistance Program.

3. *Neither the taxing provision (Pt. 2, C. 1, § 1, Art. 4) nor the separation of powers provision (Pt. 1, Art. 30) of the Massachusetts Constitution exempts the Department from the room occupancy excises.*

Massachusetts courts have consistently stated the general rule that state tax legislation is entitled to the benefit of every constitutional doubt. *Andover Savings Bank v. Commissioner of Revenue*, 387 Mass. 229, 235 (1982). ("In addressing a constitutional challenge to a tax . . . the tax is endowed with a presumption of validity and is not — void unless its invalidity is established beyond a rational doubt.") See also, *Eaton, Crane & Pike Co. v. Commonwealth*, 237 Mass. 523, 527 (1921). The authority to tax is a fundamental power of the legislative branch, explicitly vested in the General Court by Pt. 2, C. 1, § 1, Art. 4 of the Constitution. This provision is a broad grant of authority to the Legislature, rather than a limitation on the Legislature's powers. 2 OP Ag 161 (1900). Although the Supreme Judicial Court has never ruled on the issue, other courts have held that this provision of the Constitution does not prohibit the Commonwealth from subjecting its own agencies and subdivisions to taxation. See, *Massachusetts Turnpike Authority v. Metaxas*, Suffolk Superior Ct., Equity No. 98079 (1/9/75) (gasoline and special fuels excises); *Town of Hadley v. Department of Revenue*, ATB No. 99814 (3/10/81) (special fuels excise). In addition, we find no specific authority for the proposition that the Massachusetts Constitution demands a blanket exemption from taxation owing to all Massachusetts government agencies.

However, even if the Massachusetts Constitution did not permit the General Court to impose a tax directly on the DPW, the Commissioner of Revenue would nevertheless not be excused from collecting the room occupancy excises under the circumstances which are described here. This is because the room occupancy excises imposed by G.L. c. 64G are imposed only upon operators of hotels, motels, and lodging houses. The statute does not tax occupants. Under Massachusetts law the legal incidence of a tax is upon the party ultimately responsible to the taxing authority. *Supreme Council of the Royal Arcanum*, *supra*, 358 Mass. 111, at 113; *First Agricultural National Bank v. State Tax Commissioner*, *supra*, 353 Mass. at 177.<sup>1</sup>

<sup>1</sup> In *First Agricultural National Bank* the Supreme Judicial Court ruled that a national bank could not avail itself of an exemption from sales tax which was based in part upon the United States Constitution because the bank was a "purchaser" under G.L. c. 64H, and because the legal incidence of our sales tax is on the "vendor" rather than the "purchaser." 353 Mass. 180-181. The Court reasoned that the United States Constitution provides federal immunity from taxation only where the legal incidence of the tax falls upon the party claiming the constitutional immunity. 353 Mass. 177-180. Since the Court held that the ultimate responsibility for the sales tax was the vendor's and not the purchaser's, the Court denied the exemption to the bank.

The United States Supreme Court reversed the Supreme Judicial Court and held that incidence of the Massachusetts sales tax was on the purchaser and not the vendor. 392 U.S. at 348. However, the U.S. Supreme Court deliberately limited its opinion to questions which have an impact on federal immunity. Thus, by its own terms, the reversing decision does not purport to address or resolve state constitutional issues. As to such matters the Supreme Judicial Court is the final authority in Massachusetts. The reasoning and the rule of the Supreme Judicial Court in *First Agricultural National Bank* are still the law of this Commonwealth. *Supreme Council of the Royal Arcanum*, *supra*, ("we see no reason, however, for changing our conclusion [in *First Agricultural*

In the case of the room occupancy excises, the responsible party is the operator. G.L. c. 64G, § 3. The operator is required to make the return. G.L. c. 62C, § 16(g). The assessment and collection through criminal and civil remedies may be made only against the operator. G.L. c. 64G, § 7B. The tax abatement procedures are applicable only to operators. G.L. c. 64G, § 7A. Finally, there is no provision permitting the Commonwealth to enforce payment of the excises against an occupant; and, as long as the operator pays the excises to the Commonwealth, there are no sanctions imposed if the operator chooses not to charge the room occupancy excises to an occupant.

Under the principles discussed in *First Agricultural National Bank*, the excises imposed by Chapter 64G are taxes upon the operators of the hotels, motels and lodging houses with which DPW or its clients contracts. They are not imposed upon the DPW. Since these taxes fall on the operators, the Constitution is not offended even if the economic burden of payment may be passed on to the DPW. *First Agricultural National Bank, supra*, at 177.

Finally, requiring operators of hotels, motels and lodging houses to collect the room occupancy excises upon the rental of rooms to the DPW under the Emergency Assistance Program does not violate the separation of powers provision found in Article 30 of the Declaration of Rights of the Constitution of Massachusetts. The Supreme Judicial Court has recognized that separation of powers does not require "watertight compartments" within the government, and that one branch may assume certain functions which do not "unduly restrict" the endeavors of another branch. *Opinion of the Justices*, 372 Mass. 883, 892 (1977). The collection of taxes under these circumstances does not "unduly restrict" the functions of the executive branch of the Commonwealth.

#### Conclusion

In arriving at our decision in this matter, we are not unmindful of the DPW's responsibilities under the Emergency Assistance Program, nor do we view lightly your concerns about a system of taxation in which private and public entities are required to share equally in the costs of state government. On the other hand, whatever the benefits of an administrative decision excusing the DPW from the excises imposed by Chapter 64G, the Commissioner of Revenue lacks authority to make such a decision.

May 8, 1986

/s/ Ira A. Jackson

LR 86-5

Commissioner of Revenue

#### 86-7. Lodge with Dormitories and Private Rooms

You manage the \_\_\_\_\_ ("Lodge"). As you describe it, the Lodge rents overnight accommodations "by the individual rather than by the room." Most rooms are dormitory style, and the charge is \$12.00 per adult and \$6.00 per child. The Lodge does not guarantee private accommodations in dormitory rooms unless a guest rents all the beds in a particular room at the \$12.00 rate.

*National Bank*] on the incidence of the sales tax in a situation where federal immunity ... is not involved.") 358 Mass. at 113.

PWS-932

In addition to the do with one double bed. charge is \$12.00; if two private room with dou when accommodations the private room in ord

You ask how the 19 application of the roo general, Massachusetts room or rooms in a ho 5.7 percent of the tota St.1969, c. 546, § 22. the total amount of re St.1984, c. 358, § 2. rent charged was less under G.L. c. 64G, § . accepts the provisions four percent on the t within the city or to Occupancy Excise."

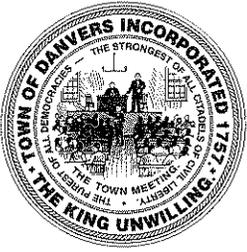
The term "occupan right to the use or po or motel ... or the services and accomm room or rooms ... " ation received for oc

A guest seeking ove typically rents a room or right to use or pos regardless of the nun occupancy excise is lodging house charg room, the total charg occupancy of a bed v levied on the amount for such occupancy i:

The specific transa as follows. When a room, the tax is levic Since the Lodge cha If a guest seeks to g all beds at the \$12.C on the entire amount

To guarantee rese pays the \$24.00 rate The rate for the priv is levied on the ent

# Appendix E



## *Town of Danvers Board of Selectmen*

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January 6, 2015

Representative Theodore C. Speliotis  
The State House, Room 20  
Boston, MA 02133

Dear Representative Speliotis:

On behalf of the Town of Danvers, we write to ask for your assistance on two fronts, both related to the ongoing issue of placing homeless families in local motels: first, to seek reimbursement for the growing transportation costs incurred and motel revenue lost as a result of these long-term placements; and, second, to work with your colleagues, the Governor, and the Department of Housing and Community Development (DHCD) toward a permanent, legislative solution to this systemic problem.

Since the practice of housing displaced families in motels began to expand post-recession, the Town of Danvers and its schools, non-profits, and business community have gone the extra mile to ensure that families living "temporarily" in local motels were made to feel welcome and supported, including the award winning Project Sunshine, a collaboration between Danvers Recreation, the schools, and local businesses to provide children and families with summer recreational opportunities. Businesses have provided Thanksgiving dinners to displaced families. A church has hosted weekly dinners provided by various organizations. The local food pantry has provided supplemental nutrition assistance to countless families. Our schools have welcomed displaced students through the doors and provided safe and supportive learning environments. The Town also has an impressive record on the affordable housing front. In addition to inclusionary zoning and an Affordable Housing Trust, the Town has in excess of 1,100 affordable housing units, including 18 group homes, not counting State-owned group homes. Although this exceeds our 10% requirement, we continue to permit additional units. In short, Danvers has endeavored always to support families in difficult circumstances.

The Commonwealth made a commitment going into FY 12 to reimburse communities for 100% of the cost to transport displaced students to school (either locally or to the student's originating school district). Between FY 09 and FY 14, the Town of Danvers incurred transportation costs totaling \$771,855 to bus displaced students. In the current year (FY 15), expenditure trends indicate that transportation costs may exceed \$300,000. Reimbursements, to date, total just \$251,000. This is a real cost that the local school budget has been forced to absorb. On the revenue side, we estimate lost room-tax revenue of up to \$200,000 per year, based on historic occupancy rates and revenue trends combined with actual displaced family data over the past four fiscal years. The annual budget process has been challenging for all Massachusetts' municipalities in recent years, due to reduced State aid and continued economic uncertainty; in Danvers, the combination of increased transportation costs and decreased room-tax revenue has only exacerbated an already difficult fiscal situation.

In addition to these quantifiable costs, the Town of Danvers has experienced increased demand for services in recreation, fire, police, public health, and social services. Furthermore, the DOE certified 2013 per-pupil cost to educate a student in Danvers was \$13,232 and, as of October 2014, there were

Representative Theodore C. Speliotis  
Page 2  
January 6, 2015

77 displaced students enrolled in Danvers' schools. The result, which is difficult to quantify, has a substantial impact on our educational budgets and creates issues with good budget planning.

More broadly, at \$83.50/room/night, this program costs Massachusetts' taxpayers roughly \$2,500/family/month in Danvers (or \$30,000/family/year), which is 40% higher than the market-rate rent in Danvers for a 2BR apartment (\$1,800/month) and 7.5x more costly than the \$4,000/year for a family to participate in HomeBASE, the homeless prevention program administered by DHCD. As of December 9, 2014, there were 174 families living in Danvers motels at an annualized cost to the Commonwealth of \$5.22 million. The families in Danvers represent 10% of the total number of displaced families living in motels in Massachusetts, which puts the annual cost at roughly \$52 million.

During the past five years, there have been various attempts to wind down a program that everyone involved agrees is broken; but, no one has, as yet, been able to make good on the promise to replace it with a common-sense alternative. On the campaign trail, the Governor Elect indicated that resolving this issue would be a priority during his first year in office. Again, we ask that you work with your colleagues, the Governor, and DHCD to make good on this promise and to provide financial relief to those communities, like Danvers, most impacted by the unintended and unfunded costs associated with the program. We stand ready to assist you and the Governor in whatever capacity we can.

In closing, we are proud of our community for rising to the challenge to support neighbors in need. We recognize that the affected families, and especially the children, are stuck in limbo until a legislative solution is achieved; but, we are also concerned, because the lack of a solution to this costly program will continue to absorb more and more of our budget until the program is, mercifully, ended.

Please do not hesitate to contact Town Manager Steve Bartha by phone, at 978-777-0001 x3069, or by email, at [sbartha@mail.danvers-ma.org](mailto:sbartha@mail.danvers-ma.org), if you should need any additional information.

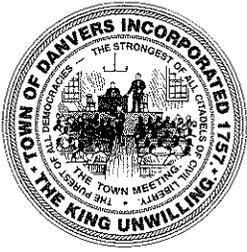
Sincerely,



William H. Clark, Jr., Chairman, on behalf of,  
Daniel C. Bennett  
Diane M. Langlais  
David A. Mills  
Gardner S. Trask, III

cc: Governor Charles Baker  
Sen. Joan B. Lovely  
Jay Ash, Secretary, EOHED  
Steve Bartha, Town Manager

Attorney General Maura Healey  
Kristen Lepore, Secretary, Admin. & Finance  
Geoff Beckwith, Exec. Dir., MMMA  
Lisa Dana, Superintendent of Schools



## *Town of Danvers Board of Selectmen*

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January 6, 2015

Senator Joan B. Lovely  
The State House, Room 215  
Boston, MA 02133

Dear Senator Lovely:

On behalf of the Town of Danvers, we write to ask for your assistance on two fronts, both related to the ongoing issue of placing homeless families in local motels: first, to seek reimbursement for the growing transportation costs incurred and motel revenue lost as a result of these long-term placements; and, second, to work with your colleagues, the Governor, and the Department of Housing and Community Development (DHCD) toward a permanent, legislative solution to this systemic problem.

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Senator Joan B. Lovely  
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Sincerely,



William H. Clark, Jr., Chairman, on behalf of,  
Daniel C. Bennett  
Diane M. Langlais  
David A. Mills  
Gardner S. Trask, III

cc: Governor Charles Baker  
Rep. Theodore C. Speliotis  
Jay Ash, Secretary, EOHED  
Steve Bartha, Town Manager

Attorney General Maura Healey  
Kristen Lepore, Secretary, Admin. & Finance  
Geoff Beckwith, Exec. Dir., MMMA  
Lisa Dana, Superintendent of Schools

## **Appendix F**



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Komegay, Undersecretary

April 9, 2015

Vincent P. McCarthy  
Director, Division of Local Mandates  
Office of State Auditor Suzanne M. Bump  
One Winter Street - 9th Floor  
Boston, MA 02108

Dear Mr. McCarthy:

On behalf of the Department of Housing and Community Development (DHCD), I wanted to take this opportunity to follow up on our recent conversations concerning the Division of Local Mandates' (DLM) forthcoming Municipal Impact Study on local costs associated with state homeless policies.

DHCD has reviewed the suggestions DLM has made to change procedures and policies concerning payment of local room excise taxes by hotel and motel operators providing rooms under the Commonwealth's Emergency Assistance (EA) shelter program.

On the basis of that review, DHCD is amending our procedures as follows:

1. Going forward, the contracting entity that manages the program on behalf of DHCD will require written agreements with participating hotel and motel operators. Among other provisions, the contract will contain a written requirement that all applicable taxes be collected and paid on rooms paid for by DHCD for shelter or related purposes. For your records, we are enclosing a sample, draft contract that may be subject to change before it is adopted for general use.
2. The new standard agreement for hotel and motel operators providing rooms under the EA program will stipulate that they submit monthly invoices that offer a line-item breakout, and a total amount, for each tax included in the per room/per night amount charged to DHCD. For your records, we are enclosing a sample/specimen invoice that we plan to provide to participating hotel and motel operators.
3. On a quarterly basis, DHCD will provide to each municipality within which hotel/motel rooms have been rented pursuant to the EA shelter program a report of the total amount of local option room excise taxes collected on EA rooms by each hotel/motel in that municipality as set forth in the invoices submitted to DHCD's contracting entity for the preceding quarter.

Thank you for the opportunity to comment on this DLM study.

Sincerely,

A handwritten signature in blue ink that reads "Rose Evans".

Rose Evans  
Deputy Undersecretary



## Contract between Community Service Network and Hotel/Motel Operator

This contract is between Community Service Network (CSN) and \_\_\_\_\_, hotel/motel contractor, hereinafter "contractor."

This contract is intended to standardize and codify the relationship between Community Service Network and the Hotel and Motel contractors who provide rooms as placements for the Emergency Assistance (EA) shelter program.

This contract shall begin on \_\_\_\_\_ [date] and shall remain in full force and effect for so long as the contractor has EA families placed at its hotel/motel. The parties agree as follows:

### CONTRACTOR RESPONSIBILITIES

1. The contractor has agreed to provide hotel/motel rooms to families who are receiving Emergency Assistance (EA) Homeless benefits. The address of the hotel/motel where rooms will be provided is:  
\_\_\_\_\_
2. Contractor shall ensure that all rooms, buildings and grounds comply with all relevant building and sanitary codes for the particular location, for the term of this contract.
3. Contractor shall ensure that each room/placement contains a functional refrigerator and microwave, and contractor shall ensure that each appliance remains in good working order for the term of this contract.
4. Contractor shall ensure that the hotel/motel is properly licensed and permitted to conduct business in their particular location. Contractor shall ensure all licenses and permits remain current and valid for the term of this contract.
5. Contractor shall have in place a method for cataloging and tracking the resolution of any and all complaints of the EA families placed in the hotel/motel regarding the rooms, facilities, staff or other items.
6. Contractor shall ensure that any and all complaints it receives shall be dealt with in a timely and competent manner and, to the best of their abilities brought to resolution that is mutually satisfactory to the complainant and contractor.
7. Contractor shall ensure that CSN receives regular, timely, reports, including reports of complaints and how they were resolved, reports of families that have violated the rules, and reports of families that have abandoned their placement (commonly known as "lock-out" reports).
8. Contractor shall prepare and regularly submit to CSN invoices for the number of rooms utilized as placements, and the nightly room rate of all such rooms.
9. Contractor will collect all applicable taxes on rooms paid for by the EA program for shelter or related purposes.
10. Nothing in this contract shall be seen to override or make void any provisions contained in the attached scope of services.

**CSN RESPONSIBILITIES**

1. CSN will refer EA eligible families to Contractor’s hotel/motel.
2. CSN will notify Contractor of the rules and regulations for EA eligible families.

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3. CSN will have staff available, as needed, to help resolve questions or issues with EA families as they arise.
4. CSN will be provide payment to the Contractor.

**CONTRACT TERMINATION OR SUSPENSION**

CSN may terminate this Contract at any time without cause and without penalty, or may terminate or suspend this Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract. Further, this contract may be terminated if funds are not appropriated by the Legislature for the EA program.

**CONSEQUENCES FOR BREACH OF CONTRACT**

Any actions arising out of this contract, including but not limited to an alleged breach of contract by either party, shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof.

Contractor’s Signature \_\_\_\_\_, Date \_\_\_\_\_

Printed name \_\_\_\_\_,

Title \_\_\_\_\_

CSN’s Signature \_\_\_\_\_, Date \_\_\_\_\_

Printed name \_\_\_\_\_,

Title \_\_\_\_\_