

760 CMR 49.00: MASSACHUSETTS RENTAL VOUCHER PROGRAM

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49.01: Application and Effective Date

760 CMR 49.00 was originally promulgated on September 4, 1992, was amended on September 18, 1992, and was effective October 23, 1992. Further permanent amendments to 760 CMR 49.00 were effective on September 1, 1998 and November 13, 1998. Additional permanent amendments were effective on _____, 2016. Waivers to 760 CMR 49.00 in effect at an ~~LHA~~Administering Agency immediately prior to the effective date of 760 CMR 49.00 shall remain in effect unless and until revoked by the Department.

760 CMR 49.00 is applicable to all persons applying for or participating in the Massachusetts Rental Voucher Program (MRVP) pursuant to St. 1992, c. 133, § 21.

49.02:— Definitions

Definitions in 760 CMR 4.00: ~~General Administration of Local Housing Authorities,~~ 760 CMR 5.00: ~~Eligibility and Selection Criteria,~~ and 760 CMR 6.00: ~~Occupancy Standards and Tenant Participation for State-aided Housing~~ shall apply in 760 CMR 49.00. The following definitions shall also apply:

Administering Agency – a Local Housing Authority (LHA), a public body politic and corporate created pursuant to M.G.L. c. 121B, § 3 or similar provisions of earlier general laws or of special laws, or a Regional Administering Agency (RAA), a regional non-profit corporation or other entity, under contract with the Department to administer the MRVP.

Appropriate Unit Size – the size of a unit is appropriate for a household if the unit meets all the following criteria:

- (1) Household members of the opposite sex, excepting husband and wife (or those in a similar living arrangement), do not have to share a bedroom, provided that children of the opposite sex under the age of eight shall share a bedroom and provided that other household members of the opposite sex may elect to share a bedroom.
- (2) Persons of the same sex shall share a bedroom, provided that a household member, age 21 or over, may elect not to share a bedroom with his or her child, grandchild, or legal ward and provided that a household member does not have to share a bedroom if a consequence of sharing is or would be a severe adverse impact on his or her mental or physical health and if the Administering Agency receives reliable medical documentation as to such impact of sharing.
- (3) Each bedroom shall contain at least 50 square feet of floor space for each occupant and a minimum of 70 square feet and shall meet all other applicable requirements of the State Sanitary Code (105 CMR 410.00) for a room occupied for sleeping

purposes. No bedroom shall be shared by more persons than the number permissible under this definition.

(4) In calculating the appropriate unit size, only bedrooms may be considered available to be used for sleeping purposes by household members; the living room, kitchen, bathroom and hallways shall not be deemed available for sleeping purposes by any household member.

Contract Rent - the total monthly rent specified in the lease, ~~the Request for Program Payment~~ and Voucher Payment Contract for a Contract Unit occupied by a Participant. The Contract Rent includes the ~~value~~amount of the Voucher Payment paid by the ~~LHA~~Administering Agency and the amount of the Participant's share of rent- determined in accordance with 760 CMR 49.05. Contract Rent does not include payments made by the Participant separately to utility providers for the cost of heat, cooking fuel, and/or electricity.

Contract Unit - a unit occupied by a Participant for which the Participant submits a Request for Program Payment, enters into a lease with the Owner, and for which the Owner ~~or Owner's Agent~~ and ~~LHA~~the Administering Agency sign a Voucher Payment Contract.

~~Cooperative - a limited equity housing corporation as defined by M.G.L. c. 157B, § 4. Participants who are members of such a Cooperative may receive MRVP rental assistance, but they cannot accumulate equity resulting from the MRVP subsidy funds paid to the Cooperative on their behalf.~~

~~Low income Set Aside Units - designated Low income Set Aside Units are units in developments which have been constructed with the assistance of certain state or federal programs, in conjunction with private developers. These programs include, but are not limited to, RDAL, SHARP, TELLER, and Low income Housing Tax credit. These Contract Units are reserved for low income eligible Participants in accordance with the program requirements.~~

Department - the Massachusetts Department of Housing and Community Development or successor agency.

Full-Time Student - a household member between the ages of 18 and 25, who is the dependent of another household member and who is enrolled in and attending an

accredited educational or vocational institution and is carrying a course load that is considered full-time for day students under the standards and practices of the institution. Full-time student status shall remain in effect as long as the individual carries a full-time student course load in pursuit of a bachelor's degree, an associate's degree, a master's degree, or a diploma from an accredited educational institution or a certificate from an accredited vocational program (excluding apprenticeship programs).

Grievant – any Participant who files a written grievance with an Administering Agency in accordance with the Administering Agency's grievance procedure. A grievant shall also include any person about whom the Administering Agency holds data (data subject) who also pursues an appeal pursuant to 760 CMR 8.00.

Guest – a person temporarily staying in the MRVP Contract Unit with the consent of a member of the household who has the express or implied authority to so consent. The stay of any one guest sleeping in the MRVP Contract Unit shall be limited to no more than a total of 30 days during any 12 month period unless the Administering Agency for good cause otherwise consents to a longer period in writing prior to the expiration of 30 days or such longer period as may have been authorized. Children who are subject to a joint custody arrangement or for whom a family has visitation privileges that are not included as a family because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of a guest as described elsewhere in this regulation.

Head of Household – the adult member of the family who is considered to be the head of household for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under MRVP. The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. If the head of household is a student, he or she shall not be considered a full-time student pursuant to the definition above for purposes of calculating exclusions from household income under 760 CMR 49.05.

Hearing Officer - an impartial person who conducts hearings on grievances (grievance hearings) in accordance with the grievance procedure and renders written decisions based on the material facts and applicable law.

Hearing Panel - a group of impartial persons who conduct hearings on grievances (grievance hearings) in accordance with the grievance procedure and render written decisions based on the material facts and applicable law.

Homeless Applicant – an applicant who:

(1) is without a place to live or is in a living situation in which there is a significant, immediate and direct threat to the life or safety of the applicant or a household member which situation would be alleviated by placement in a unit of Appropriate Unit Size;

(2) has made reasonable efforts to locate alternative housing;

(3) has not caused or substantially contributed to the safety threatening or life threatening situation; and

(4) has pursued available ways to prevent or avoid the safety threatening or life threatening situation by seeking assistance through the courts or appropriate administrative or enforcement agencies; and

(5) has been or is about to be displaced from a primary residence; or

(6) otherwise meets the definition of homelessness under any legislative language directly governing the Department's administration of the MRVP.

Household (Family) - a household or family consists of:

(1) two or more persons who live or will live regularly in a unit as their only residence whose income and resources are available to meet the household's needs;
or

(2) one person.

A temporarily absent family member shall be deemed to be a household member. The Department may issue guidance with regard to temporarily absent family members. A child who is subject to a joint custody arrangement and resides in the unit more than 50 percent of the time shall be deemed a household member.

A full-time, live-in personal care attendant, as defined elsewhere in this regulation, whether or not a household member for purposes of rent determination, if determined by the Administering Agency to be qualified, shall be deemed a household member for purposes of determining the appropriate Voucher size and be granted one additional bedroom.

Housing Quality Standards (HQS) – the Housing Quality Standards established by HUD for purposes of determining eligibility of a housing unit for assistance under the Federal Housing Choice Voucher Program.

HUD – the United States Department of Housing and Urban Development (HUD).

Income Limit – initially, 50 percent of the area median income, subject to change from year to year in accordance with the then-current MRVP Budget Line Item. In each fiscal year, the Department will notify the Administering Agencies through written guidance of the income eligibility for that year.

Local Resident – a person who has a sole residence or has a place of employment or has a child meeting the definition of household member and enrolled in school in a city or town at the time of application to a LHA in that city or town and at the time of final determination of eligibility and qualification. Temporary residence with relatives or friends in the city or town is not sufficient unless the person’s last residence and domicile was in the city or town. In the case of an applicant determined by the LHA to be homeless, the applicant may select one community for local preference, either the community from which he or she was displaced through no fault of his or her own, or the community in which he or she is temporarily housed. In the event that the applicant is employed in more than one city or town, the applicant may select one community for local preference on the basis of employment.

Mobile Voucher – a Voucher issued to a Voucher Holder for use in any Suitable Unit, pursuant to which the Voucher Holder may receive assistance after vacating the initial Contract Unit so long as the Voucher Holder moves to a new Suitable Unit and remains eligible for assistance under the MRVP.

MRVP Budget Line Item – Massachusetts Budget Line Item: 7004-9024 or any other line item in the Commonwealth of Massachusetts annual budget governing administration of the MRVP. Substantive provisions of the language of the MRVP Budget Line Item shall take precedence over any contrary provisions of this regulation or any administrative guidance issued by the Department with respect to the fiscal year covered by the applicable MRVP Budget Line Item language.

Owner - a person (including a corporation or other entity) who has legal title to property. An Owner may designate an agent to act on its behalf with respect to management and rental of a Contract Unit, including execution of a Voucher Payment Contract on the Owner’s behalf, collection of Voucher Payments and tenant-paid rent, and lease enforcement, but the Owner shall remain responsible for its obligations as Owner under the Voucher Payment Contract and the MRVP.

Owner's Agent – a person who is legally authorized to act in the place of the Owner for the purpose of transacting business.

~~49.02: continued~~

~~Participant - one or more persons who are authorized to reside together as a single Household in one Contract Unit which is his/her and to receive assistance under either a Mobile Voucher or their Primary Residence a Project Based Voucher.~~

~~Personal Care Attendant (PCA) - a person who resides with a household member with a disability and who (a) provides necessary assistance in activities of daily living to such household member insofar as he or she requires such assistance on account of his or her disability; (b) is not obligated for support of the household member; (c) is paid for the fair value of such assistance; (d) would not be residing in the unit except to provide such necessary assistance to the household member; and (e) is not a family member of the person with a disability.~~

~~Project Based Units - Units which are authorized by the Department ~~approved contracts~~ to receive rental assistance ~~pursuant to the following programs: SHARP, TELLER, Low income Housing Tax Credit, RDAL, MHFA Section 13A and Section 236, Moderate Rehabilitation, Core Focus, MHP, DPH, Transitional Housing Services, RRHP, SRO and other programs which may from time to time be approved by the Director of the Department. The rental assistance that is attached to the unit (or project) and not to the person who occupies the unit. -When the unit is vacated, the rental assistance remains with the unit (or project).-The programs are more specifically defined below:~~~~

~~(Project Based Voucher – a) Core Focus – Voucher attached to a program which, Contract Unit in conjunction with DHCD Mod Rehab rental subsidies, provides Massachusetts Community Development Block Grant Program funds to local communities pursuant to 42 U.S.C. § 5301 and 24 CFR Part 570 for private mixed-use a particular housing/commercial development projects.~~

~~(b) DPH (Department of Public Health) – a DHCD program which awards project based rental assistance funds, and not to the Participant occupying the Contract Unit, which terminates (as to specific projects which house clients receiving support services through DPH.~~

~~(c) Low Income Housing Tax Credit Program – a DHCD program which permits private or non-profit developers to develop low-income housing assisted by a system of Federal tax credits in accordance with Section 42 of the United States Internal Revenue Code of 1986 as amended. A minimum of 20% of the units must be set aside and marketed to households (particular Participant) at 50% of the area wide median income; if 40% of time the units are set aside for low income~~

~~households then Participant vacates the units may be marketed to households at 60% of median income.~~

~~(d) MHFA (Massachusetts Housing Finance Agency) Section 13A Interest Subsidy Program and the MHFA Section 236 Mortgage Subsidy Program – these programs provide state funded interest subsidies pursuant to St. 1970 c. 855, § 10 (M.G.L. c. 23A App., § 1-13A) as amended, and federal mortgage subsidies pursuant to Section 236 of the National Housing Act of 1968 codified as amended at 12 U.S.C. §1715/(d)(3), z-1(1994), in order to provide low-interest mortgages to private developers for the development of affordable housing for low and moderate income tenants.~~

~~(e) MHP (Massachusetts Housing Partnership) – a body politic and corporate established pursuant to St. 1985 c. 405, § 35 as amended by St. 1990 c. 102, §§ 34 through 37 which provides, through a variety of programs, state housing resources to private developers for affordable housing projects that are consistent with local development initiatives.~~

~~(f) Moderate Rehabilitation (Mod Rehab) – a DHCD program which involves rehabilitation of property. Such rehabilitation involves physical repair or replacement which is not ordinary maintenance and costs \$5,000 or more per unit (or \$1,000 or more per Single Room Occupancy Unit), and which is necessary to:~~

- ~~1. bring the unit or property into compliance with the State Sanitary Code and any other applicable law; or~~
- ~~2. repair or replace a major system or component in danger of failure. When repairs have been completed, pursuant to Moderate Rehabilitation contracts, the subsidy is attached to the housing units, not the tenants occupying the units.~~

~~(g) RDAL (Rental Development Action Loan Program) – a program to encourage the development of mixed income rental housing and cooperatives pursuant to St. 1987 c. 226, § 3, line item, 3722-8878 as amended.~~

~~(h) RRHP (Rural Rental Housing Program) formerly known as FmHA (Farmers Home Administration) – a program which provides funds to private developers to develop units under Section 5154 of Title V of the United States Housing Act of 1949 as amended.~~

~~(i) SHARP (State Housing Assistance for Rental Production) – a program which includes low income housing within private developments by providing permanent financing to reduce the cost of interest payments and rental subsidies to encourage rental of low income units. Developers participating in the SHARP program agree to set aside no less than 25% of all units within a complex for state~~

~~and federal rental assistance Participants. The program is authorized by M.G.L. c. 23B, §§ 25 through 27.~~

~~(j) Single Room Occupancy (SRO) Unit as defined below.~~

~~49.02: continued~~

~~(k) TELLER Program (Tax-Exempt Local Loans to Encourage Rental Housing) — a program which allows LHAs the option of issuing tax exempt bonds to finance privately owned, mixed income rental housing pursuant to M.G.L. c.121B, § 26(m) and 760 CMR 21.00 *et seq.*. Developments financed with TELLER bonds must have a minimum of 20% of the units set aside for households earning less than 50% of the area wide median income; if 40% of the units are set aside the household income level can be at 60% of area wide median income.~~

~~(l) Transitional Housing Services Program (THSP) — a DHCD program of social services and temporary housing to enable an eligible household to locate and live successfully in permanent housing.~~

~~1. Service Provider (SP) — a social services agency under contract to another federal or state agency to provide supportive services to THSP Eligible Households as defined below. The SP is the MRVP Project Based Voucher Holder and leases units to be occupied by THSP Eligible Households.~~

~~2. THSP Eligible Households — A household eligible to occupy a Transitional Housing Contract Unit provided the household is:~~

~~a. income eligible pursuant to 760 CMR 49.03. All income of the applicant head of household shall be included for eligibility purposes, notwithstanding the age of the applicant.~~

~~b. receiving Transitional Housing Services from a SP participating in the Program.~~

~~3. Selection of THSP Eligible Households and Continuation of Assistance~~

~~a. The SP is responsible for the selection and termination of THSP Eligible Households, in accordance with the SP's contractual obligations with the agency that provides the SP with funding for the provision of services.~~

~~b. The LHA is responsible for determining the financial eligibility of households selected for participation by the SP.~~

~~c. THSP Eligible Households participating in a Transitional Housing Program funded under the MRVP are not eligible for transfer to another State-Aided Unit under 760 CMR 5.00.~~

Project Based Waiting List - the applicant list which the LHA Administering Agency or project Owner has established, with prior Department approval, for the purpose of offering

units specifically funded by project based subsidy, ~~including, but not limited to, units in MHFA Section 13A and Section 236, Mod Rehab, SHARP and TELLER projects.~~

Request for Program Payment – as defined in 760 CMR 49.09.

Single Room Occupancy Unit

~~(a) a single room in an (SRO) Eligible Property as defined below occupied by a Participant household consisting of not more than one individual person which:~~

- ~~1. shall be leased with furnishings provided by the Owner of a bed, bureau, lamp or light fixture, and closet or wardrobe, all in good condition, unless tenant provides such furnishings; and~~
- ~~2. does not have sanitary or food preparation facilities within the room, unless supplied by the Owner pursuant to M.G.L. c. 140, § 22A; and~~
- ~~3. is in compliance with the applicable requirements of the State Sanitary Code and any other applicable State statute, regulation or local ordinance.~~

~~(b) SROs may be leased in an SRO Eligible Property. An SRO Eligible Property is a rooming, lodging or boarding house, hotel, inn or private residence which is:~~

- ~~1. (a) Licensed for such operation by the appropriate authority;~~

~~2. and~~

~~(b) Certified by the appropriate agency as in compliance with applicable Building, Sanitary and Fire Codes, including without limitation the State Sanitary Code, 105 CMR 410.100.~~

~~(c) A unit in a student dormitory, residence of a religious order, facility providing continuous psychiatric, medical, or nursing services, or private club is shall not eligible as constitute an SRO unit. Eligible Property.~~

Single Room Occupancy (SRO) Unit - a room intended for occupancy by a single individual in an SRO Eligible Property.

Suitable Unit - a dwelling unit for which a Voucher Payment Contract is to be executed. -The unit must:

~~(a)~~

(1) be intended solely for occupancy by the Participant and as the Participant's ~~Primary Residence~~;

~~(b)~~ ~~sole~~ residence;

(2) be of an ~~appropriate unit size~~ Appropriate Unit Size for the Participant household;

~~49.02: continued~~

~~(c)~~

~~(3) comply with Article II of the State Sanitary Code (including lead paint laws, whenever the household includes a child under the age of six years), State Building Code and other applicable laws~~
~~(6 years), State Building Code and other applicable laws;~~

~~(4) Contain, or if an SRO Unit, have access to, kitchen facilities as defined in 105 CMR 410.100. Kitchen facilities must include, or have space and proper facilities for the installation of, a refrigerator that is at least 7.5 cubic feet with a separate freezer compartment, conventional oven that is non-portable and must be installed, and cooktop with at least two burners;~~

~~(d) 5) if a single room, meet the definition of a Single Room Occupancy an SRO Unit above;~~

~~(e) if a unit in a cooperative in which the Participant is a member, meet the definition of Cooperative above; and~~

~~Transitional Housing Units - Units which are intended to be temporary housing for selected Eligible Households during participation in a Transitional Housing Service Program as these terms are defined above.~~

Utilities – any or all of the following: Electricity and any other fuels for heat, hot water, and cooking.

Voucher - a contract document between the ~~LHA~~Administering Agency and a Voucher Holder which certifies program eligibility and sets forth program requirements, guidelines and benefits for applicants who have been determined eligible for assistance pursuant to Department regulations. ~~There are two types of Vouchers: Mobile Vouchers and Project Based Vouchers. Mobile Voucher assistance is available to the person holding the Voucher, whether or not the person moves, provided he or she remains eligible. Project Based Voucher assistance is attached to a particular housing unit or development, and assistance to a Participant terminates when the Participant moves from that housing unit or development.~~

Voucher Holder - a household which has been accepted into the ~~Massachusetts Rental Voucher Program~~MRVP and to which either a Mobile or Project Based Voucher has been issued. ~~for use in a Suitable Unit. When the household locates to a Suitable Unit, executes a lease, the Administering Agency and the LHA Owner enter into a Voucher Payment~~

Contract, and the Administering Agency begins making Voucher Payments, the Voucher Holder becomes a Participant.

Voucher Payment - ~~For a Mobile Voucher Holder,~~ an amount paid by an LHA Administering Agency to an Owner ~~or Owner's Agent~~ under a Voucher Payment Contract in accordance with ~~a Value of the~~ Voucher Schedule Payment Contract and guidelines established by the Department, taking into consideration a Participant's income, household size, Contract Unit size and ~~geographic location of the Contract Unit.~~ ~~For a Project Based Voucher Holder, an amount paid by an LHA to an Owner or Owner's Agent on behalf of a Participant in accordance with the Voucher Payment Contract.~~ /or geographic location.

Voucher Search Period – the period of time following the issuance or reissuance of a Voucher within which a Voucher Holder must submit a Request for Program Payment for a proposed Contract Unit that is determined by the Administering Agency to be a Suitable Unit. The Voucher Search Period initially shall be 120 days from the date of issuance, subject to modification pursuant to administrative guidance issued by the Department.

49.03:– Eligibility for Program Participation

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(1)– Income and Asset Limits for Admission and Continued Eligibility.

(a)– For admission into the MRVP, a Participant's the net income, as calculated pursuant to 760 CMR 49.05(7), shall be no more than 200% of the Federal Poverty Level Standard, as promulgated by the U.S. Department of Health and Human Services. LHAs must adopt revised income limits as often as necessary to be consistent with changes in the Federal Poverty Level Standard. The Department of eligible households shall advise each LHA which administers the MRVP of these standards.

not exceed the Income Limit then in effect.

(b)– ~~Participants are~~ A Participant shall remain eligible for assistance until such time as the six months after the first date on which both of the following conditions are met:

1. The Participant's net income, as defined in 760 CMR 49.05(7),02, exceeds 200% of the Federal Poverty Level Standard in effect at the time, or at any time the Participant fails to meet

~~the additional eligibility requirements set out at 760 CMR 49.03 (the then-applicable Income Limit; and~~

~~2) and (4).~~

~~(c) A Participant shall retain a Voucher, but receive no financial housing assistance, for a period of 90 days after such time as the LHA has certified the Participant's net income, as defined in 760 CMR 49.05(7), to be. The tenant's share of the rent is equal to, or greater than 200% of the Federal Poverty Level Standard. At the expiration of the 90 day period, if such net income still exceeds 200% of the Federal Poverty Level Standard, the Participant is no longer eligible for MRVP participation.~~

~~(d) , the Contract Rent.~~

~~(c) For the purposes of initial eligibility an applicant household's total assets may not exceed one and one half times the gross household income of the applicant or \$15,000.00, whichever is greater. There is no asset limitation for purposes of continued The following assets are exempt from this initial eligibility. An "asset" includes but is not limited to the following:~~

~~1. The amount of all cash, savings, checking, money market or similar account, including the amount held in an calculation: Individual Retirement Account, 401 (k) pension, or similar retirement account subject to IRS regulation, and the value of any interest in a special needs trust, as defined by state and federal law. For these assets, there is no limitation. There is no asset limitation for purposes of continued eligibility. An "asset" includes but is not limited to the following:~~

~~49.03: continued~~

~~2.-1. The amount of all cash, savings, checking, money market or similar account,~~

~~2. The market value of equity in real property, stocks, bonds or other form of capital investment, whether personal or business, except the value of an applicant's shares in Cooperative as defined in 760-CMR 49.02.~~

~~:~~

~~3.- The value of equity in such personal property as boats, recreational vehicles, luxury goods. -Value is determined by taking the higher of the insured value or appraised market value.~~

~~4.- Payment received or to be received in settlement of personal or property loss; money at interest and debts due applicant by any person(s), or the value of cash surrender insurance policies.~~

~~5.- The value of any business or personal asset disposed of by any household member (including a disposition in trust) for less than fair market value during the two years prior to the determination of eligibility pursuant to 760 CMR 49.03 to the extent of the difference between the fair market value and the consideration received.~~

~~6. The value of any interest in a trust fund benefiting any adult household member.~~

~~6. The value of any interest in a trust fund benefiting any adult household member.~~

~~(2)- To be otherwise eligible for the MRVP, an applicant or Participant must meet any applicable requirements pursuant to 760-CMR 49.09 and including all Household members must not:~~

(a) ~~_~~ Owe back rent to an LHA Administering Agency or Owner, for which ~~he/she~~ the Head of Household has not entered into a repayment agreement, or have failed to stay current with a repayment agreement, or

(b) ~~_~~ Owe damages or vacancy loss payments to an LHA Administering Agency or Owner for a prior rental unit for which ~~he/she~~ the Head of Household has not entered into a repayment agreement, or have failed to stay current with a repayment agreement, or

~~(c) have been terminated from any previous subsidized housing program for cause, defined as any housing in which the tenant rent share is adjusted based on income, or~~

(c) Have failed to comply with all the terms of any repayment agreement, including repeated late payments or partial payments without prior LHA Administering Agency approval, or

(d) ~~_~~ Have misrepresented or falsified any information required to be submitted as part of the ~~applicant's~~ application process, or a prior application within three years, and the ~~applicant~~ Head of Household fails to establish that the misrepresentation or falsification was unintentional, or

(e) ~~_~~ Have had a judgment for possession of premises leased from an LHA Administering Agency or from an Owner under a State funded housing program entered against him/her by a court for good cause, or

(f) ~~_~~ ~~Have, and the members of the applicant's household must not have,~~ engaged in criminal activity, ~~or activity in violation of M.G.L.c. 151B, § 4,~~ which would interfere with or threaten the rights of other tenants or LHA Administering Agency employees to be secure in their persons or in their property or with the rights of other tenants to peaceful enjoyment of their units and the common areas, or

(g) ~~_~~ Have failed to comply with the terms of an MRVP Voucher, or

(h) ~~Have, and the members of the applicant's household must not have,~~ directed abusive or threatening behavior which was unreasonable and unwarranted toward an ~~LHA~~Administering Agency employee during the application process or any prior application process within three years, or

(i) ~~Have failed to provide information reasonably necessary for the~~ LHAAdministering Agency to process the applicant's application; or

(j) ~~Intend to live somewhere other than a Contract Unit as his/her~~ Primary Residence.

sole residence (with the exception of minor children subject to joint custody arrangements); or

(k) ~~Be a current illegal user of one or more controlled substances as defined in M.G.L. c. 94C, § 1, or have a household member who is engaged in such activity.~~ A person's illegal use of a controlled substance within the preceding 12 months shall create a presumption that such person is a current illegal user of a controlled substance, but the presumption may be overcome by a convincing showing that the person has permanently ceased all illegal use of controlled substances. ~~This disqualification of current illegal users of controlled substances shall not apply to applicants for housing provided through a treatment program for illegal users of controlled substances.~~ or

~~(3) Remaining members of Participant households are eligible for continued occupancy under the same conditions set out in the definition of Family (Household) at 760 CMR 5.03, except that the remaining members must meet the MRVP eligibility criteria and not the public housing criteria.~~

~~(4) (l) Have ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine; or~~

~~(m) Be proven to have caused intentional damage to the rental unit in an amount exceeding two months of rent during any one year period; or~~

(n) Violate any other eligibility requirements set forth in the MRVP Budget Line Item as in effect from time to time or in administrative guidance issued by the Department.

(3) Requirements for Continued Program Participation. -A Participant in the MRVP remains eligible for program assistance provided that all members of the Participant ~~remains~~Household then occupying the Contract Unit remain eligible in accordance with 760 CMR 49.03~~(1) and (2),~~ the terms of the executed Voucher document, and any other program documents.

49.04:— Participant Selection

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~~(1) LHAs(1) Each Administering Agency shall continue to select eligible Participants from its Project Based and Mobile Voucher waiting lists in the order established by 760 CMR 5.00: Eligibility and Selection Criteria, unless otherwise provided pursuant to 760 CMR 49.00. The following sections of 760 CMR 5.00 shall not apply to administration of the Massachusetts Rental Voucher Program: 5.06, 5.08(1), 5.10(1), (2), and 5.12(2) herein, unless otherwise provided in administrative guidance issued by the Department or in a Department-approved Tenant Selection Plan.~~

(2) Selection Categories

(a) Priority Categories. The Administering Agency shall use the following priority categories in descending order in determining the order of tenant selection:

1. 1st Priority - Homeless due to Displacement by Natural Forces an applicant, otherwise eligible and qualified, who has been displaced by:

a. fire not due to the negligence or intentional act of applicant or a household member;

b.

~~(2) In the event of a vacancy in a Low Income Set Aside Unit, unless otherwise provided pursuant to 760 CMR 49.00, there shall be a marketing effort by the Owner or the Owner's Agent to attract MRVP Voucher Holders and holders of federal Section 8 subsidies to fill the vacancy. Written notification of the vacancy shall be given by the Owner to regional LHAs as a part of such marketing effort.~~

(3) earthquake, flood or other natural cause; or

c. a disaster declared or otherwise formally recognized under disaster relief laws.

2. 2nd Priority - Homeless due to Displacement by Public Action (Urban Renewal) an applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:

a. any low rent housing project as defined in M.G.L. c. 121B, § 1, or

b. a public slum clearance or urban renewal project initiated after January 1, 1947, or

c. other public improvement.

3. 3rd Priority - Homeless due to Displacement by Public Action (Sanitary Code Violations) an applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by the State Sanitary Code (105 CMR 410.000) or local ordinances, provided that:

a. neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings, and

b. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

4. 4th Priority - Emergency Case under the Emergency Case Plan established by the Department pursuant to 760 CMR 5.11 or other notice or guidance.

5. 5th Priority - Standard Applicant an applicant, otherwise eligible and qualified, who does not fit within any of the previous priority categories.

(3) Preference Category. The Administering Agency shall apply the following preference in determining the order of Participant selection:

(a) Local Resident. Any Local Resident applying at an LHA for MRVP receives this preference.

(4) Participant selection for Vouchers that serve targeted populations may be exempt from 760-CMR 49.04(1) if approved by the Department.

(5) Every applicant shall use the application forms approved by the Department. The application forms shall be available at all Administering Agencies' central offices, or upon request, by mail. The Administering Agencies shall provide reasonable assistance to applicants in completing the application forms. When an applicant submits an application form to an Administering Agency, the Administering Agency shall accept the application.

(6) Determinations of priority, preference, eligibility, and qualification.

(1) When an applicant approaches the top of an open waiting list for an Administering Agency program to which the applicant has applied, the Administering Agency shall make a final determination of the applicant's priority, preference, eligibility, and qualification. The applicant shall update the application and provide any additional information or

verification reasonably required by the Administering Agency. The Administering Agency must only accept applications if the waiting list is open.

(2) If the Administering Agency determines that an applicant is not eligible for a claimed priority or preference or is ineligible or unqualified for housing, it shall send written notification to the applicant of:

(a) the determination;

(b) the reason(s) for the determination detailing the material facts; and

(c) the right to request a private conference to determine the applicant's priority, preference, eligibility, and/or qualification pursuant to 760 CMR 49.00.

After a final determination of priority, preference, eligibility, and/or qualification has been made by the Administering Agency, that determination will govern the application.

(7) Offers to Applicants

An applicant offered a Mobile Voucher shall make a diligent search to locate an apartment within the Voucher Search Period. An applicant who is unsuccessful in locating a unit within such time periods shall lose the Voucher, and the Administering Agency shall remove the applicant from the waiting list.

(8) Review of Denial of Eligibility, Qualification, Priority Status, or Preference Status.

(a) The Private Conference between Applicant and Administering Agency. Applicants who are determined ineligible for the program or ineligible for a priority or preference are entitled to request a private conference with the Administering Agency in accordance with the procedures set out in administrative guidance by the Department.

(b) The Administering Agency's Decision Following a Private Conference. The Administering Agency must issue a decision following a private conference, and the applicant may request reconsideration and Department review of the decision of the Administering Agency, in accordance with the procedures set out in administrative guidance by the Department.

(9) In determining qualification, the Administering Agency shall check Criminal Offender Record Information (CORI) and Sex Offender Registry Information (SORI) and may also check: public records; other sources of public information; credit reports; and other reliable sources. The Administering Agency may also make a home visit, which shall be scheduled reasonably in advance. Observations by the person making such a visit shall be promptly reduced to writing and placed in the applicant's file.

49.05:-- Determination of the ~~Value of the Voucher Payment~~

~~(1) In determining the value of the Mobile Voucher for each Participant in the MRVP, the LHA(1) The Administering Agency shall establish each Participant's net income as defined in 760 CMR 49.05(7).--A. The amount of a Participant's Mobile Voucher value shall be established in accordance with a schedule published from time to time by the Department. This schedule shall set out various categories of Voucher amount based upon considerations of income, household size and composition, and geographic location of the Contract Unit. The Department may also establish a minimum amount for a Mobile Voucher. Payment shall be established in administrative guidance published by the Department. Appropriate unit size Unit Size shall be determined on the basis of the size and composition of the Participant's household in accordance with the definition in 760 CMR 5.03.~~

~~(2) For the purpose of determining the value of the Mobile Voucher, the Commonwealth shall be divided into various geographical regions which shall be determined by the Department. The value of a Participant's Voucher may vary from region to region.~~

~~(3) There shall be no maximum percentage applicable to the amount of income paid for rent by each 49.02.~~

~~(2) Each MRVP Participant holding a Mobile Voucher. Such a Participant shall pay a minimum of 30% of net household income toward rent.~~

~~(4) When the value of the Mobile Voucher or such greater or lesser percentage as may be required pursuant to the MRVP Budget Line Item governing program administration in any fiscal year. The Department may, and to the extent required by the then-current MRVP Budget Line Item shall, issue administrative guidance setting a maximum percentage of net household income that may be applied toward rent.~~

~~(3) When the amount of the Voucher Payment for a Mobile Voucher has been determined in accordance with 760 CMR 49.05(1), a Voucher Payment will be sent each month to the Owner of the Contract Unit in which the Participant lives, or to the Owner's Agent, and the remainder of the Contract Rent shall be paid to the Owner or the Owner's Agent by the Participant.~~

~~(5) Participants residing in~~

~~(4) The amount of the Voucher Payment for a Project Based Units shall have their net income determined in accordance with 760 CMR 49.05(7). LHAs shall determine the value of the Project Based Voucher by subtracting from Unit shall equal the monthly Contract Rent, minus the Participant's Participant's share of rent which, for a Participant who pays separately for the cost of heat, shall be a minimum of 30% of Participant's net income, and for a Participant who does not pay separately for the cost of heat, shall be a minimum of 35% of Participant's net income.~~

~~(6) calculated in accordance with 760 CMR 49.05(2).~~

~~(5) For the purpose of determining the value amount of a Mobile or Project Based Voucher Payment, a Participant's net income shall be determined as follows, unless otherwise required by the MRVP Budget Line Item Language governing program administration in any fiscal year:~~

~~(a) Gross Income. A Participant's gross income means the income from all sources of the head Head of the household and co-head, Household and each additional member of the household who is at least 21 years of age Household, which is anticipated to be received during the 12 months following admission or redetermination of household income.~~

~~(b) Inclusions in Gross Household Income. Gross household income shall be the total of the following items:~~

~~1. One half of the earned income of household member who is the dependent of another Household member and who is age 18, 19 or 20 shall be included in a Participant's gross income.~~

~~2. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.~~

~~3. Income from the operation of a business or profession by each self-employed household member after deduction for the ordinary and necessary expenses of the business or profession. The deductible expenses of the business or profession shall not exceed 85% of the gross receipts of the business or profession. Deductible expenses of the business or profession shall not include rent or utilities paid for the tenant's unit if the business or profession is located in the tenant's unit.~~

~~4. Income of any kind from real or personal property including rent, dividends, and interest. Amortization of capital indebtedness and depreciation shall not be deducted in computing net income. Any realization of taxable capital gain on sale or transfer of an investment or other real or personal property shall be included in income. If the household has marketable real or personal property with a fair market value exceeding \$5,000.00 (excluding any automobile used as the primary means of transportation by one or more household members), gross household income shall include actual income derived from any such property.~~

5. Periodic payments received from Social Security, annuities, retirement funds, and pensions, individual retirement accounts, and other similar types of periodic payments of retirement benefits, excluding non-taxable amounts which constitute return of capital and are specifically identified as such by payer.

6. Payments in lieu of earnings, such as unemployment compensation; Supplemental Security Income (SSI); Social Security Disability Income (SSDI); and benefits in lieu of earnings under disability insurance, health and accident insurance or workers' compensation. An unallocated lump sum settlement or similar payment all or partly on account of lost wages resulting from an injury shall be equitably allocated to reflect a monthly payment on account of lost wages for the period during which the recipient is likely to be disabled from the injury and the recipient will be deemed to receive such a monthly payment each month during the continuance of his or her disability until the allocated funds are deemed exhausted. Payments from the government, subsequently reimbursed to the government, are not to be included as income.

7. Regularly recurring contributions or gifts received from non-household members; to be regularly recurring a contribution or gift must occur at least twice a year for two or more years, provided that a contribution or gift in excess of \$2,000.00 which occurs once a year from year to year for two or more years shall also be deemed to be regularly recurring.

8. Regular payments of public assistance, excluding food stamps.

9. Payments received for the support of a minor, such as payments for child support, foster care, social security, or public assistance, including payments nominally made to a minor for his or her support but controlled for his or her benefit by a household member who is responsible for his or her support.

10. Lottery winnings, gambling winnings and similar receipts.

11. Receipts of principal and income from the trustee of a trust, and receipts of income from the executor or administrator of an estate or from some other fiduciary.

12. Alimony or payment for separate support.

13. Any other source of income not explicitly excluded under 760 CMR 49.05(5)(c).

(c) Exclusions from Gross Household Income. Gross household income shall not include any of the following items:

1. Earned income of a working child under the age of 18 shall not be included in a Participant's gross income. ~~One half of the income of a working child, age 18, 19 and 20 shall be included in a Participant's gross income. Income of Full-time Students, as defined in 760-CMR 6.03, shall not be counted.~~

~~1. Items~~ 2. Gifts which are not regularly recurring.

3. Amounts (including lump-sums), which are specifically received for the cost of medical care, or which are made to ~~be included in gross~~ compensate for personal injury or damage to

or loss of property under health, accident or liability insurance, workers' compensation, judgments or settlements of claims, insofar as these payments do not compensate for loss of income are set out for a period when the recipient was or would be a tenant.

4. Amounts of educational scholarships or stipends for a student at an educational institution, including amounts paid for these purposes to part-time students, whether paid directly to the student or the educational institution, and amounts paid by the United States Government to a veteran for use in paying tuition, fees, or the cost of books, to the extent that such payments are so used.

5. The special pay to a member of the armed forces on account of service in 760-CMR a war zone.

6.05(2). Relocation payments made pursuant to state or federal law.

2. Items which are to be excluded from gross income are set out in 760-CMR 6.05(3).

(7. Payments received from the Social Security Administration program known as the Plan to Attain Self Sufficiency (PASS), provided that recipient fulfills all PASS program requirements.

8. The value of food stamps.

9. Funds and payments received by participants or volunteers in programs pursuant to AmeriCorps, City Year, the Segal AmeriCorps Education Award, and the Domestic Volunteer Service Act of 1973 or similar programs approved by the Department.

10. The increased amount of income earned from employment by one or more household members if the increase in earned income otherwise would result in a rent increase provided that:

a. The household's income has been derived, at least in part, from Transitional Aid to Families with Dependent Children (TAFDC), Emergency Assistance to the Elderly, Disabled and Children (TAFDC), SSI, SSDI or successor program for each of the previous 12 months;

b)–. The household's increased earned income has been accompanied by a decrease in the amount of TAFDC, EAEDC, SSI, SSDI, or public assistance from a successor program; and

c. At the commencement of this exclusion the recipient of such public assistance would have remained eligible for such assistance if the income had not been earned. This earned income exclusion shall be in effect for one continuous 12 month period, regardless of any changes or gaps in employment during that period. This exclusion may be exercised by the tenant when a household member has procured either full or part-time employment. It shall be within the tenant's sole discretion whether or not to exercise this one-time income exclusion.

11. Payments for a household member in association with participation in a bona fide program providing training for employment, approved by the Department or sponsored or administered by a government agency.

12. Wages and/or salary earned by a full-time student, as defined herein, or by an unemancipated minor.

13. Income of a live-in PCA, who is not a family member, who is paid for the fair value of his or her services to a household member with a disability and whose income is not available for the needs of any household member, provided that the PCA shall be required to substantiate that he or she receives wages for the fair value of his or her services and that such income is not available for the needs of any household member.

14. Inheritances and life insurance proceeds. This exclusion does not apply to post-death interest paid on inheritances or insurance proceeds.

15. In the discretion of the Administering Agency, with respect to unemployable disabled veterans receiving vouchers through that Administering Agency, whose disabilities occurred in connection with military service, all but \$1,800.00 of the annual amount received by such unemployable disabled veterans from the United States Government on account of such disability; if the Administering Agency in its discretion excludes all but \$1,800.00 of such amount for unemployable disabled veterans, no deductions shall be applied against that \$1,800.00.

16. A return of capital on sale or transfer of an investment or of other real or personal property.

17. Wages and/or salary earned by a tenant age 62 or older, or other household member, age 62 or older, not to exceed the total amount which would have been earned by a person working 20 hours per week at the minimum wage specified in M.G.L. c. 151 §1.

(d) Net Income. -A Participant's net income is gross income less the ~~items set out in 760 CMR 6.05(4)~~, except that following deductions up to, but not exceeding, an aggregate amount equal to the Participant's net income. In no event shall Participant's net income be less than zero:

~~1. There shall be no \$300 or \$400 flat deductions from income as contained in 760 CMR 6.05(4)(a) through (c).~~

~~2. There shall there be no deduction for heat as described in 760 CMR 6.05(4)(d).~~

~~49.05: continued~~

~~3. There shall be a deduction~~

1. A deduction of 5% of the gross income of a Participant household whose head ~~or co-head~~ is at least 60 years of age or where the head of household, ~~co-head~~, or a household member is ~~handicapped~~ disabled.

~~4. There shall be no income imputed to assets as described in 760 CMR 6.05(2)(c); however, actual income derived from assets shall be included as described therein.~~

~~(7)-~~ 2. For a Mobile Voucher Participant responsible for the cost of heat separate from rent, a deduction for heat calculated in accordance with administrative guidance published by the Department.

3. Payments for necessary medical expenses (including co-payment amounts) which are not covered by insurance or otherwise reimbursed, provided that such expenses are in excess of 3% of annual gross household income and are paid by household members. Payments for medical health insurance are considered medical expenses.

4. Payments for the care of child(ren) or of a sick or incapacitated household member provided that the Administering Agency shall have determined the payments to be necessary for the employment of another household member who would otherwise have provided such care.

5. Child support, separate support, and/or alimony paid under court order or court ordered agreement by a household member for the support of a minor child, spouse, or ex-spouse, not residing with the household.

6. Non-reimbursable payments of tuition and fees of vocationally related post-secondary education of a household member who is not a full-time student.

7. Non-reimbursable payments for reasonable and necessary housekeeping or personal care services for a household member with a disability who as a result of the disability is physically unable to perform the housekeeping or personal care services provided that no household member is reasonably available to perform these services.

8. Travel expense, in excess of the cost of the least expensive available transportation, for a household member with a disability who as a result of the disability is unable to use the least expensive available transportation and who uses the least expensive transportation practical in connection with necessary activities which cannot be performed by another household member.

(6) In no event shall the ~~value amount~~ of the ~~Mobile or Project Based~~ Voucher Payment exceed the Contract Rent.

~~(8)~~(7) Redetermination for Continued Program Participation

:

(a) ~~—~~ Determination of ~~Value of~~ Voucher Payment on Annual Basis. ~~At least once in every 12 month period, each Participant shall complete and file with the LHA an occupancy form providing provide complete and accurate information about income and composition of the household. This form must be returned to the LHA within 45 days of the date of the request. The LHA~~ The Administering Agency shall require the Participant to provide reliable third party verification of all necessary information. ~~The LHA~~ Administering Agency may find any household which fails to provide such information ineligible for continued participation. ~~Upon receipt of the Participant's completed occupancy form, the LHA~~ The Administering Agency shall ~~then~~ determine whether the Participant's Voucher ~~value~~ Payment and share of rent should be adjusted, whether a Participant's unit size is still appropriate for Participant's needs, and whether the Participant is eligible for continued program participation. ~~If the Participant's share of the rent is adjusted, the value amount of the Voucher~~ Payment shall be adjusted accordingly.

(b) Changes in Voucher Payment Between Regular Redetermination Dates.~~(b) Changes in Voucher Value Between Regular Redetermination Dates.~~

1. ~~—~~ When monthly income of the Participant household decreases, an increase in the ~~value amount~~ of the Voucher Payment shall be made when requested by the Participant. ~~The changed Voucher value~~ Payment will be effective on the next regular payment date following the report to the ~~LHA~~ Administering Agency and verification of the lower income.

2. ~~—~~ Participants shall inform the ~~LHA~~ Administering Agency of all increases in monthly income of the household of 10% or more, ~~other than due to a change in household composition,~~ within 30 days of such increases. ~~If A decrease in the Participant's Voucher value decreases because of Payment resulting from the increased earned income, the changed Voucher value not due to a change in household composition, shall be effective on the first payment date of the second month following submission of the new not take effect until income information. A Participant's failure to report an increase in gross income shall be grounds for termination of the Participant from the program if such increase, if reported,~~

~~would have resulted in a decreased Voucher value. In the event that LHA does not terminate the Participant's participation in the program, the Voucher value shall be adjusted retroactive to the date such change would have taken effect is again redetermined at the next scheduled annual recertification, unless the increase in income occurs within 90 days of a reported decrease in Participant income that had the increase been properly reported, and the LHA may enter into a repayment agreement with the Participant for the difference.~~

resulted in a prior increase in the Voucher Payment.

~~3.—Participants shall inform the LHA of all changes in Changes in household size and/or composition must be reported to the Administering Agency within 30 days of such changes. The addition of any household member other than through birth or adoption or court-awarded custody shall be subject to prior approval by the Administering Agency. At the time that the size of the household is reported, the net income and Voucher ~~value~~Payment shall be reviewed and revised. If the Participant's net income has decreased due to a change in household size or composition, the Voucher ~~value~~Payment shall be changed effective the first payment date following the report and verification of the change in household size ~~or composition~~. If the Participant's net income has increased due to a change in household size or composition, the Voucher ~~value~~Payment shall be changed effective on the first payment date of the second month following the report of change in household, unless such change was not reported with~~within~~ the required 30 days. ~~A Participant's failure to report the change shall be grounds for termination of the Participant from the Program if the change would have resulted, if reported, in a decreased Voucher value. In the event that the LHA does not terminate the Participant's participation in the program, the Voucher value shall be adjusted retroactive to the date such change would have taken effect had the household change been properly reported, and the LHA may enter into a repayment agreement with the Participant for the difference.~~~~

~~4.—If a Participant with a Mobile Voucher relocates, the Participant's continued eligibility, share of rent and ~~appropriate unit size~~ Appropriate Unit Size shall be fully redetermined at that time.~~

~~5.—Voucher ~~values~~ Payments shall be adjusted whenever necessary to comply with 760 CMR 49.~~0005~~, other regulations, or applicable law.~~

6. A Participant's failure to report either an increase in household income or a change in household size or composition shall be grounds for termination of the Participant from the program if such increase or change, if reported, would have resulted in a decreased Voucher Payment. In the event that the Administering Agency does not terminate the Participant's participation in the program, the Voucher Payment shall be adjusted retroactive to the date such change would have taken effect had the household change been properly reported, and the Administering Agency shall enter into a repayment agreement with the Participant for the difference. In determining whether to terminate a Participant or enter into a repayment agreement, the Administering Agency shall act in accordance with any administrative guidance that may be issued by the Department.

7. In the event that a Participant files a grievance as to the amount of a redetermined rent share within 14 calendar days of the ~~LHA's~~Administering Agency's notice of the redetermined rent, the Participant shall ~~continue to pay the rent share in effect instead of the redetermined rent (unless the redetermined rent is lower)~~ until disposition of the grievance. —Following disposition of the grievance, the ~~Participant~~Administering Agency shall

~~49.05: continued~~

~~forthwith~~ pay the Owner any ~~additional~~ amounts paid but determined not to have been due ~~but not paid since~~ by the Participant. In turn, the effective date set out in the notice of redetermined rent Owner shall reimburse or credit the Participant. If the LHA shall Owner fails to so reimburse or credit the Participant ~~with any amounts paid but determined not to have been due,~~ the Administering Agency may suspend the Owner's future payments until the Owner reimburses or credits the Participant. In the absence of a grievance, the redetermined rent shall be paid beginning on its effective date.

49.06: Project Based Vouchers

(1) ~~From time to time when~~ When an applicant is determined eligible for a Project Based Unit pursuant to 760 CMR 49.03, the ~~LHA~~ Administering Agency, which makes the determination of eligibility, shall issue a Project Based Voucher to that applicant who then shall become a Participant. - An applicant offered a Project Based unit must accept the owner's offer within seven days of the date of the written offer. - An applicant for a Project Based unit is entitled to only one offer of a unit of ~~appropriate unit size~~ Appropriate Unit Size provided the applicant may be entitled to another unit offer when the applicant provides reliable documentation establishing that the unit offered is inappropriate and would cause severe and unreasonable hardship. - An applicant, who fails to accept the offer of a unit within seven days or to provide such documentation within that period, shall be removed from the waiting list. - After being removed from the waiting list, if the applicant files a new application with the ~~LHA~~ Administering Agency, the applicant shall not be entitled to any priority or preference received on the prior application(s) for a period of three years.

(2) ~~The Voucher Holder,~~ ~~Owner,~~ ~~or the Owner's Agent~~ must supply the ~~LHA~~ Administering Agency with a certification from the local Board of Health or other local code enforcement entity or other certified inspector such as an inspector qualified to complete HQS inspections, that the Contract Unit is in compliance with Article II of the State Sanitary Code, and (if applicable) a certification from a Certified Lead Inspector that the Contract Unit is in

compliance with applicable lead paint law. ~~-Any cost(s) incurred as a result of this requirement shall be borne by the Owner or Owner's Agent.~~

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(3) ~~-~~ The LHA Administering Agency shall then enter into or amend a Project Based Voucher Payment Contract with the Owner of the Project Based Unit ~~or the Owner's Agent~~ on behalf of the Participant.

(4) ~~-~~ When a Project Based Voucher Payment Contract with the Owner ~~or Owner's Agent~~ has been executed or amended, the terms and conditions of the Participant's Voucher remain in effect for the period of time that the Participant occupies the Project Based Unit. ~~-~~ When a Participant chooses or is required to move, the Voucher will terminate and the Participant shall not be entitled to any MRVP benefits.

(5) ~~-~~ If a Participant residing in a Project Based Unit is no longer residing in an appropriate sized unit due to a change in household composition, the Participant must move to the next available state-aided housing unit of appropriate size which the LHA Administering Agency shall offer in accordance with ~~the Administrative Transfer procedures contained in~~ 760 CMR 549.00. ~~-~~ If the Participant refuses the LHA's Administering Agency's offer of a housing unit, the Participant's participation in MRVP shall be terminated.

(6) ~~-~~ ~~Monthly Contract Rents for Project Based Units shall not exceed the Contract Rent levels in effect on October 31, 1992, or as subsequently determined by the Department.~~

(7) ~~-~~ Voucher Payments shall be paid by the LHA Administering Agency directly to the Owner ~~or the Owner's Agent~~. Payments shall be made only for those eligible Participants during the actual period of occupancy in a Project Based

Unit. -In no event shall payments be made by the ~~LHA~~Administering Agency pursuant to this program for vacancy losses, damage claims, Participant's share of rent arrearage, or any other fee or charge owed by the Participant.

~~(8)~~

~~(7)~~ Each Project Based Owner ~~or Owner's Agent~~ is required to use best efforts to refinance outstanding debt obligations in order to reduce the Owner's ~~or Owner's Agent's~~ expense obligations and to permit reduced Contract Rents.

~~49.07: Low Income Set Aside Units~~

~~(1) Designated Low income Set Aside Units must first be marketed to Participants in federal rental assistance programs and Mobile Voucher Holders participating in the MRVP as described in 760 CMR 5.04(2). If no eligible Participants are located through this effort, a request may be forwarded through the LHA to the Department and MHFA (where applicable), for their approval for the assignment of Project Based rental subsidy for the Low Income Set Aside Unit.~~

49.07: continued

~~(2) A Mobile Voucher Holder residing in a Low Income Set Aside Unit may choose to relinquish his or her Mobile Voucher at any time. In no event can the Mobile Voucher be reissued after it has been relinquished by the Participant. Provided the Participant who held the Mobile Voucher remains eligible for the MRVP, a Project Based Voucher will be issued by the LHA and the Voucher value will be calculated in accordance with 760 CMR 49.05(5).~~

~~(3) Monthly Contract Rents for Low income Set Aside Units shall not exceed Contract Rent levels in effect on October 31, 1992, or as subsequently determined by the Department.~~

49.08: Mobile Vouchers

~~(1) After an MRVP applicant who has reached the top of the waiting list is determined eligible and qualified by an LHA Administering Agency, the LHA Administering Agency shall immediately issue a Voucher, if a Voucher is available, to that applicant who then shall become a Voucher Holder. The Voucher shall be valid for a period of 120 days from the date of issuance. The 120 day time period may be suspended for one time period of 30 days or less if the Voucher Holder, for reasons of hardship, is unable to search for suitable housing. Evidence of hardship must be submitted by the Voucher Holder to the LHA to be considered for this time suspension.~~

~~(2) Within 120 days of issuance/reissuance of a the Voucher Search Period, a Voucher Holder shall submit a Request for Program Payment for a proposed Contract Unit to the administering LHA. The Voucher Holder or Administering Agency. Upon submission of a Request for Program Payment, the Voucher Search Period shall be suspended until the Administering Agency processes the request. If the Administering Agency deems the unit unacceptable, the Voucher Search Period will resume, and any subsequent Request for Program Payment must be submitted prior to the expiration of the balance of the Voucher Search Period. The Owner or Owner's Agent must also supply the LHA Administering Agency with a certification from the local Board of Health or other local code enforcement entity or certified inspector that the unit is in compliance with Article II of the State Sanitary Code or HUD Housing Quality Standards and (if~~

applicable) a certification from a Certified Lead Inspector that the proposed Contract Unit is in compliance with applicable lead paint law. ~~Any cost(s) incurred as a result of this requirement shall be borne by the Owner or Owner's Agent.~~

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(3) ~~Upon receipt of the necessary documentation, the LHA Administering Agency shall enter into a Voucher Payment Contract with the Owner of the Contract Unit, or the Owner's Agent, on behalf of the Voucher Holder (later referred to as the Participant.)~~

(4) ~~While a Voucher Payment Contract is in effect, the terms and conditions of the Participant's Voucher remain in effect for the period of time that the Participant occupies the Contract Unit or until otherwise terminated. When a Participant chooses or is required to move, the Participant shall give one calendar month's written notice to in accordance with the LHA and to provisions of the Owner or Owner's Agent Voucher. If a Participant moves and remains eligible, move is approved by the LHA Administering Agency, the Administering Agency shall issue a new Voucher, and the Participant shall have 120 days to locate a Suitable Unit.~~

(5) If the Participant does not locate a Suitable Unit within 120 days (or more, if extensions were approved), the Voucher will expire, and the Participant shall not be entitled to further benefits.

(6) LHAs may administer Mobile Vouchers within a region, as defined in guidance provided by the Department. A Mobile Voucher Holder may move anywhere in the state without jeopardizing program eligibility. When a Participant relocates from one Administering Agency's jurisdiction to another, the Voucher will be administered by the Administering Agency in the city or town where the Participant takes up residence and the amount of the Voucher Payment will be determined by the receiving Administering Agency, pursuant to the specifications in 760 CMR 49.04(1).

49.08: Additional Vouchers

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~~(5) If the Participant does not locate a Suitable Unit within 120 days, the Voucher will expire, and the Participant shall not be entitled to further benefits.~~

~~(6) A Mobile Voucher Holder may move anywhere in the state without jeopardizing program eligibility except as noted in 760 CMR 49.08(7). When a Participant relocates from one LHA's jurisdiction to another, the Voucher will be administered by the LHA in the city or town where the Participant takes up residence and the value of the Voucher will be determined by the receiving LHA.~~

~~(7) When Mobile Voucher Participants relocate from one municipality to another, Voucher assistance will not be payable to a Participant who relocates into Federal Census tract where, according to the most recent decennial Federal Census data, at least 40% of the residents have incomes at or below the then current Federal Poverty Level Standard.~~

~~(8) In areas where an LHA does not exist, or elects not to participate in the program, the Voucher will be administered by a Regional Non-profit Housing Agency, or other entity approved by the Department.~~

49.09: Additional Vouchers

The Department may set aside or otherwise target additional Vouchers with funding authorization ~~as of July 1, 2012 to extremely low to particular~~ income eligible populations and may modify requirements, including eligibility, selection, and participation requirements, for such Vouchers. The Department may solicit proposals for such uses. No Voucher program may be based on utilization of Vouchers for a term of less than six months per Voucher.

49.10: 09: Required Documents

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Documents required in the administration of the MRVP shall include, but are not limited to:

(1) ~~Annual Contributions Contract. (ACC).~~— An ACC setting out the duties and obligations of the Department and the ~~LHA~~ Administering Agency must be signed by authorized representatives of both parties.

(2) ~~Voucher Payment Contract.~~— A contract provided by the Department must be signed by the Owner of a Contract Unit ~~or the Owner's Agent~~ and an ~~LHA~~.

Administering Agency.

(3) ~~Lease Addendum.~~— All MRVP Participants and Owners ~~or Owner's Agents~~ are required to execute either an MRVP Lease or an MRVP Lease Addendum to the Owner's form of lease, in either case in the form prescribed by the Department.— This document insures that a Participant is not bound by a lease that unfairly waives certain legal rights.

(4) ~~__~~ Voucher. —All ~~—~~MRVP Participants and authorized ~~LHA~~Administering Agency representatives must sign a Voucher in a form provided by the Department which shall set out the rights, duties and obligations of the Participant. ~~The~~ Voucher shall constitute a contract between the Participant and the ~~LHA~~.

Administering Agency.

(5) ~~_~~Request for Program Payment. ~~-~~When a Mobile Voucher Holder locates a Suitable Unit, the Voucher Holder shall submit to the ~~LHA~~Administering Agency a Request for Program Payment, on a form prescribed by the Department which shall set out the address of the proposed Contract Unit, the number of bedrooms, the party responsible for payment of utilities, the name and address of the Owner ~~or the Owner's Agent~~, and the proposed Contract Rent.

49.11: ~~Grievance Procedure~~

~~Grievances as defined in 760 CMR 6.03 may be filed by Participants. Grievances so filed shall be processed in accordance with 760 CMR 6.08, or as otherwise approved by the Department.~~

49.12: ~~Waiver Provision~~

~~Provisions of 760 CMR 49.00 may be waived in writing by the Director of the Department of Housing and Community Development if requested by an LHA in writing for a good reason.~~

(6) From time to time, the Department may develop and issue guidelines and/or standard forms to be used by the Administering Agency in connection with 760 CMR 49.00 and with reports and actions required by the Department. It is the

responsibility of each Administering Agency to administer the program in accordance with the current guidelines and the current forms.

49.10: Grievance Procedure

(1) Requirements for Grievance Procedures. An Administering Agency's grievance procedure shall provide for the following:

(a) A grievance regarding whether participation in the MRVP should be terminated shall be initiated by a Participant in writing and shall be mailed or delivered to the Administering Agency at its main office within 14 calendar days after a notice of program termination has been given to the Participant by the Administering Agency.

A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed or delivered to the Administering Agency at its main office, or at a development office, if so specified, no more than 14 calendar days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided that the Administering Agency shall have discretion to permit a grievance to be initiated late.

The Administering Agency shall permit additional time for initiation of a grievance if the Administering Agency shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the Administering Agency.

(b) Informal Settlement Conference. Promptly after the initiation of a grievance, unless otherwise provided, the Administering Agency shall give the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The Administering Agency shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the Administering Agency. If a matter is not resolved at the informal settlement conference, a grievance hearing shall be held. Failure to attend an informal settlement conference shall not affect a grievant's right to a grievance hearing.

(c) Hearing Date and Notice of Hearing. A grievance hearing regarding whether good cause exists for terminating a Voucher shall be scheduled within 14 calendar days or as soon as reasonably practical after the date on which the Administering Agency receives the grievance. A hearing of a grievance regarding some other issue, shall be scheduled as soon as reasonably convenient following receipt of the grievance. Two or more Administering Agencies may share staffing responsibilities to conduct such hearings.

The Administering Agency shall give reasonable advance written notice of the time and place of the hearing to the grievant and to his or her representative (if any). The Administering Agency, the hearing panel, or the hearing officer may reschedule a hearing by agreement or upon a showing by grievant or by the Administering Agency that rescheduling is reasonably necessary.

(d) Pre-Hearing Examination of Relevant Documents. Prior to a grievance hearing the Administering Agency shall give the grievant or his or her representative a reasonable opportunity to examine Administering Agency documents which are directly relevant to the grievance. Following a timely request, the Administering Agency shall provide copies of such documents to grievant and, for good cause (including financial hardship), may waive the charge for the copies.

(e) Persons Entitled to be Present. At the hearing the Administering Agency and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly manner or he or she shall be excluded. If the grievant misbehaves at the hearing, the hearing panel or hearing officer may take other appropriate measures to deal with the misbehavior, including dismissing the grievance.

(f) Procedure at Grievance Hearings. The hearing panel or the hearing officer shall conduct the grievance hearing in a fair manner without undue delay. The hearing panel or the hearing officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the Administering Agency shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape-recorded. The members of the hearing panel or the hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and Administering Agency rules and policies. The panel members or the hearing officer may request the Administering Agency or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information.

(g) Written Decision; Effect of Decision. Within 14 calendar days following the hearing or as soon thereafter as reasonably possible the hearing panel or the hearing officer shall provide the Administering Agency with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the evidence at the grievance hearing and such additional information as may have been requested by the panel members or the hearing officer. The Administering Agency shall forthwith mail or otherwise deliver a copy of the decision to the

grievant and his or her representative. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the Administering Agency and shall be open to public inspection.

(h) Review by the Administering Agency's Board or other equivalent body, as designated by the Administering Agency. The grievant or the Administering Agency may request review of the decision by the Administering Agency's Board or other equivalent body, as designated by the Administering Agency. The Board or other equivalent body shall promptly decide whether to uphold, set aside or modify the decision after permitting the Administering Agency and grievant to make oral presentations and submit documentation. The Board or other equivalent body may also permit the hearing officer or hearing panel to make a presentation. The decision of the Board or other equivalent body shall be in writing and shall explain its reasoning. If a written decision is not rendered within 45 calendar days from the date a review is requested, the decision of the Board or other equivalent body, when rendered, shall specify a reason showing that there has been no undue delay.

(i) Review by the Department. In the event that the Administering Agency's Board or other equivalent body shall make a material change in a decision of the hearing panel or the hearing officer, upon written request of the Administering Agency or the grievant within 14 calendar days of mailing or other delivery of the decision, the Department shall review the decision of the Board or other equivalent body. The Department may request written documentation from the parties. The Department will review all submitted materials and will render a written decision after consideration of the facts presented upholding, setting aside or modifying the decision of the Board or other equivalent body.

(j) Effect of a Decision on a Grievance. The last rendered decision on a grievance shall be binding between the Administering Agency and the grievant with respect to the particular circumstances involved in the grievance, provided that a Participant must exhaust all administrative remedies prior to seeking review in court. If a Participant does not timely pursue the appropriate administrative remedy in accordance with the grievance process and timeframes specified in 760 CMR 49.00, that level of review shall be deemed to be waived. If a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. As between the Administering Agency and any person who was not a grievant, the decision on a grievance shall have no binding effect.

(k) The Administering Agency shall continue to pay the MRVP subsidy amount to the Owner on behalf of the MRVP Participant, until the MRVP Participant's Voucher has been terminated, the MRVP Participant has ceased to pursue the grievance process in accordance with the requirements of 760 CMR 49.00, or a

court of competent jurisdiction declares that the MRVP Participant is no longer a valid tenant in the Contract Unit.

49.11: Waiver Provision

Any provision of 760 CMR 49.00 may be waived in writing by the Undersecretary of the Department or his or her designee, in his or her discretion, based on a determination that the change is reasonable and will be consistent with the purposes of the MRVP.

49.12 Conflicts of Interest

No member, officer, agent or employee of the Administering Agency shall participate in a decision relating to the units under the Administering Agency's contract with the Department to administer the MRVP which affect his/her personal interest or the interest of a corporation, partnership or project in which he/she is directly or indirectly interested. No member, officer, agent or employee of the Administering Agency shall have an interest, direct or indirect in the contract for property, materials or services in connection with units covered by the contract to administer the MRVP Voucher(s). The Department may waive conflicts of interest, if requested in writing for a good cause and if permitted under federal and state law.

49.13 Wage Matching

The Department may implement the provisions of M.G.L. c. 62E (the Commonwealth's Wage Reporting and Financial Institution Match System Statute), and any successor guidance that may be issued or amended, to verify the wages and financial eligibility of applicants or participants in MRVP.

REGULATORY AUTHORITY

760 CMR 49.00:—M.G.L. c. 23B; c.121B, § 29.

(PAGES 465 THROUGH 480 ARE RESERVED FOR FUTURE USE.)

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