

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

Deval L. Patrick, Governor ♦ Timothy P. Murray, Lt. Governor ♦ Tina Brooks, Undersecretary

Public Housing Notice 2009-14

To: Local Housing Authorities
From: Laura A. Taylor, Director, Bureau of Housing Management *flu*
Re: Revised C. 689/167 Contract Documents for Provider Operated and State Operated Developments
Date: August 14, 2009

There are some basic changes and improvements being made to the operation of the Chapter 689/167 program. These changes are the result of a wide variety of stakeholders working together. This program provides nearly 2,000 units of state-aided housing for individuals with disabilities through a partnership among state agencies, provider communities and local housing authorities, which established a valuable and affordable resource. Originally designed to be largely financially self-sufficient, the program and its housing stock face many budgetary and operational issues while capital and deferred maintenance demands continue to grow. In addition, the state's current financial crisis has imposed additional restrictions and challenges to the efforts made to preserve this valuable program in a climate of limited resources. The modifications to the contract, rent /payment structure and communication patterns cannot fully solve these problems. That said, I hope that these modifications will be a positive step forward to further capacity, identify and act on priorities, and promote cooperation among all parties.

Summary of Contract Changes

Based on discussions with LHAs, providers, Department of Mental Health (DMH) and Department of Developmental Services (**formerly DMR now DDS as of July 1, 2009**), changes have been made in the revised version of the standard contract. The intent is to strengthen the financial and programmatic integrity of the relationship between LHA, provider and state sponsoring agency. The contract spells out specific processes more clearly and definitively to promote those ends. We also feel the changes provide a renewed focus on program operations and administration as we build on the accomplishments of the c. 689/167 initiative.

The following are the key modifications made to the contract, including issues of rent negotiation, maintenance, and communications:

- Baseline target rent will be the equivalent of \$216 per unit per month. However, current state budget funding restrictions may limit the ability to reach this target in FY10. *Rents currently above this baseline standard will not be reduced.* DMH and DDS will continue to work toward fully funding the target level at all developments.
- A monthly maintenance fee of \$167 (\$2000/12) per development is now to be paid by the provider to the LHA and will be included as part of the total monthly rent payment. The LHA will assume responsibility for all repair work for the development as opposed to the provider being responsible for the first \$2,000 in repairs. See below for additional explanation.
- An attachment to the contract outlines the responsibilities of the provider and the LHA for minor repairs, routine and preventive maintenance, major system repairs and emergency repairs. Adjustments to responsibilities in Attachment A are allowed subject to negotiation and agreement

- among the parties, but such changes should only be made in cases of extenuating circumstances.
- The LHA will convene an annual meeting with all parties of the contract to review the rent level, capital needs and priorities, program changes, reserve levels, budget information, communication patterns, etc.
 - Following the annual meeting, there will be an annual adjustment in total rent, tied to the federal Cost of Living Adjustment (COLA, published by the Social Security Administration). In years where there is a COLA increase, it will be applied on the anniversary date of the contract execution.
 - Each development is expected to maintain a minimum operating reserve, which should be the equivalent of six months worth of operating expenditures. Funds in excess of this amount will be available for capital improvements.
 - An approved capital plan (using the new Capital Planning System) will target needed improvements at each development, and the parties will jointly seek to identify resources that can be brought to bear beyond formula funding. Resources will be limited, and projects may be deferred based on availability of funds and state bond cap.

Implementation Timeframe and Other Considerations

Please begin using the revised contract with the beginning of your LHA's next fiscal year. Because of timing issues, September 1, 2009 should be the projected start date for contracts and leases for LHAs with June 30 FYE. The use of FYE cycle will allow for a phasing in of the new procedures, and complement the overall budget time frame for each Authority. If necessary, existing contracts should be mutually terminated and simultaneously replaced with the new contract, then submitted for approval coinciding with this FYE timetable. This phasing-in will also allow adequate time to process and approve the new contracts and identify any start-up issues.

If current base rent is at or above the target of \$216 PUM, it is anticipated that this will be the agreed upon rent level for the first year of the new contract, in the face of this transition and the budget limitations of the DMH and the DDS. For those below that target, the first step will be to reach the target \$216 PUM. As part of the discussions among the parties to initiate this new contract, the current PUM should be reviewed in relation to the target \$216. Given required spending reductions for this fiscal year, DMH and DDS will be reviewing and considering rent increases on a case by case basis. As state funding allows, the next cycle of rent negotiations should at least reach the target figure. The monthly maintenance fee of \$167 (per site, not per unit), as also noted above will be added to the base rent in any case for the first year of the new contract. As an example, an 8-person development at the \$216 base rent level would pay a total monthly rent of \$1,895 (8 units X \$216 = \$1728, plus \$167 maintenance fee = \$1895).

In advance of the FYE anniversary date, the provider, LHA and appropriate area or regional state staff will conduct the annual meeting described in the new contract. The meeting will encompass a review of operating reserves, priority capital needs, and other issues. DHCD and DMH or DDS will act as arbitrators for any major disputed issues. Please become familiar with the new documents as there are additional specifics describing communication and responsibilities for all parties, such as the annual meeting requirement and a more formalized emergency notification procedure.

Also, please keep in mind these considerations during the transition and beyond:

- There are four (4) different templates to be used, two for DMH and two for DDS. For each agency, there is one contract for developments operated by private providers and a separate contract for developments operated directly by DMH or DDS employees. This is a state agency requirement,

so please use the correct template. Contact DHCD if you have any questions on the appropriate form to use. *Note: For the State operated contract, the address of the Provider on page one should be that of the regional or area office which is responsible for service provision at the development.*

- No changes to the template, other than to Attachment A as specified above, can be made without prior approval from DHCD and either DDS or DMH.
- The Guarantee for State operated developments was deemed not applicable in these revised documents, as the State is in fact the Provider. Its remains in effect for all vendor operated sites.
- Yearly addendum (to be available on website) will continue to be necessary to reflect any changes in rent/payment.

Four copies of the document with original signatures should be processed as follows for the two sponsoring state agencies:

For DDS submission:

Four (4) copies of document or its annual addendum (as needed) are to be signed and dated by both the Provider and the Authority, and should be forwarded by the Authority to the address below for sign off by **DDS central office**. Once approved at that level, all copies will be forwarded to DHCD by DDS for final approval and signature. Two of the originals will then be returned to the Authority for its files and for those of the Provider. DDS and DHCD will each retain a signed original.

DMR/DDS Central Office Address:

Department of Developmental Services
500 Harrison Ave.
Boston, MA 02118-2439
Attn: Debra Grzywacz, Assistant. Deputy Commissioner (Tel: 617-624-7727)

For DMH submission:

Four (4) copies of document or its annual addendum (as needed) are to be signed and dated by both the Provider and the Authority, and should be forwarded by the Authority to the **DMH Area Office** specified by the Provider. Following sign off, that Area Office will forward all copies to the DMH Central Office at the address below for authorization. All copies will then be forwarded by DMH to DHCD for final approval and signature. Two of the originals will then be returned to the Authority for its files and for those of the Provider. DMH and DHCD will each retain a signed original.

DMH Central Office Address:

Department of Mental Health
25 Staniford St.
Boston, MA 02114

Copies of the templates are available on the DHCD Housing Applications website, <https://app2.ocd.state.ma.us/HousingApps/Login.asp>, found under “**Documents/Forms/Letters**” selection, and further delineated by lead agency and state or vendor operated. Please be sure you are using the appropriate version. The Word documents will allow you to type information, starting in the “blocked” gray areas, but the remainder of the documents is password protected and cannot be changed.

Again, we appreciate your patience and participation in the move to strengthen and renew this valuable program. This has truly been a team effort, and we want to recognize the MassNAHRO 689/167 Working Group and the MassNAHRO Housing Committee for partnering with us through this revision process. We are planning to arrange for a workshop/roundtable discussion of the new contract and related topics in the near future, and will advise as to scheduling. Please contact your Housing Management Specialist if you have general questions, or contact Martin Robb at 617-573-1239 for additional support or assistance.