

APPENDIX A

BOSTON HOUSING AUTHORITY

Moderate Rehabilitation Program Administrative Plan

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Administrator

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CHAPTER 1: INTRODUCTION AND POLICY

1.1 Introduction

The purpose of this document is to set forth the Boston Housing Authority (“BHA”) policies and procedures for admission and continued participation in the Section 8 Moderate Rehabilitation Housing Program (“Mod Rehab Program” or “Mod Rehab”)¹. The Mod Rehab program provides project-based rental assistance for low-income families. The program was repealed in 1991 and no new projects are authorized for development. See Section 1.2 below for further clarification. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments (HAP) contract between an Owner and a Boston Housing Authority (BHA)

The federal regulations that authorize the BHA to administer the program can be found at 24 C.F.R. § 882 and are referenced throughout.

This Mod Rehab Program Administrative Plan frequently references the BHA’s Housing Choice Voucher Program (“HCVP”) Administrative Plan since there is a significant overlap in policy between the two programs.² Please note that the HCVP plan frequently references Leasing Officer duties. Those same duties will be assigned to the more general term BHA staff under Mod Rehab Program.

Sections of this Administrative Plan are organized in accordance with the Mod Rehab Program’s chronology, beginning with project development and continuing through to Unit leasing activities and continued Program administrations. Terms which are capitalized throughout this Administrative Plan are defined terms that can be found in the Glossary.

1.2 Note on Newly Rehabilitated Units and the Cranston-Gonzalez Act

The Cranston-Gonzalez National Affordable Housing Act repealed 42 U.S.C. § 1437f(e)(2) and thus ended the funding of new Moderate Rehabilitation Units as of October 1, 1991. See 42 U.S.C. § 12839(a). Units that were rehabilitated prior to the cessation of funding are still in operation, and thus this Administrative Plan will continue to address them.

Although the Mod Rehab Program was repealed, the Mod Rehab Single Room Occupancy (“SRO”) Program for Homeless Individuals in accordance with title IV of the McKinney-Vento Homeless Assistance Act is still an active program and potentially, new funding could become available subject to appropriations by Congress. See 42 U.S.C. § 11361 *et seq.* While this is technically a different program from the original Mod Rehab Program, this Administrative Plan will address both programs since they share most of the same regulations and most of the same BHA policies and procedures. The main difference between the programs is the statutory authority for their funding. Therefore, this

¹ See section 1.2 of this Administrative Plan for further information on use of the term “Mod Rehab Program.”

² Both the HCVP and the Mod Rehab Program are promulgated under Section 8 of the United States Housing Act of 1937.

Administrative Plan will refer to both programs as the “Mod Rehab Program” for the sake of convenience but will highlight any regulatory differences between the programs where necessary.

Since funding for new rehabilitations is only available pursuant to the McKinney-Vento SRO program, the sections of this Administrative Plan dealing with the funding and rehabilitation of new Units will exclusively conform with the regulations for the McKinney-Vento SRO program. See 24 C.F.R. part 882, subpart H. For the policies and regulations that governed the rehabilitation of Units under the original Mod Rehab Program, please refer to prior versions of 24 C.F.R. part 882 that were applicable at the time of contract award. Where appropriate, policies governing the maintenance of these still-operational Units are included in this version of the Administrative Plan.

1.2.1 Homeless Involvement in SRO Rehabilitation/Operation

To the maximum extent possible, the Owners of assisted McKinney-Vento Mod Rehab Program properties will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating SRO facilities, and in providing services for occupants of such facilities. See 24 C.F.R. § 882.808(q)(2).

1.2.2 Newly Rehabilitated Efficiency Units

Under the McKinney-Vento Homeless Assistance Act, Mod Rehab Program funding for SRO Units may also be used for the rehabilitation of efficiency Units. The rules and procedures for SRO Units in this Administrative Plan are therefore intended to apply to efficiency Units as well. See 42 U.S.C. § 11407 and 24 C.F.R. § 882.805(d)(4).

CHAPTER 2: GENERAL BHA POLICIES

2.1 Statement of Nondiscrimination

See section 1.2 of the HCVP Administrative Plan

2.1.1 Compliance with Federal and State Laws

See section 1.2.1 of the HCVP Administrative Plan

2.1.2 Civil Rights and Fair Housing

See section 1.2.2 of the HCVP Administrative Plan

2.1.3 Fair Admissions

See Section 1.2.3 of the HCVP Administrative Plan

2.1.4 Reasonable Accommodation

See Section 1.2.4 of the HCVP Administrative Plan

2.1.5 Domestic Violence

See Section 1.2.5 of the HCVP Administrative Plan

2.2 Accessibility and Plain Language

2.2.1 Accessible Facilities and Programs

See section 1.3.1 of the HCVP Administrative Plan

2.2.2 Plain Language Paperwork

See section 1.3.2 of the HCVP Administrative Plan

2.2.3 Forms of Communication other than Plain Language Paperwork

See section 1.3.3 of the HCVP Administrative Plan

2.2.4 English Language Ability

See section 1.3.4 of the HCVP Administrative Plan

CHAPTER 3: PROPERTY ELIGIBILITY, OWNER PARTICIPATION, AND SELECTION

3.1. Eligible Properties

Housing is suitable for the Program if it requires an expenditure of at least \$3,000 per Unit, including its prorated share of work to be accomplished on common areas or systems, to upgrade to Decent, Safe and Sanitary Condition³ to comply with the Housing Quality Standards (“HQS”)⁴ or other standards approved by the United States Department of Housing and Urban Development (“HUD”), from a condition below these standards (improvements being of a modest nature and other than routine maintenance). See 24 C.F.R. § 882.802.

Existing structures of various types may be appropriate for this program, including single-family houses, multi-family structures and group homes. See 24 C.F.R. § 882.803.

To be eligible, the housing must be located in an area in which there is a significant demand for such Units as determined by the HUD Field Office; and the BHA and the unit of general local government in which the property is located must approve of such Units being utilized for such purpose. See 24 C.F.R. § 882.401(b)(4).

3.1.1 Single-sex Facilities

Single-sex facilities may be rehabilitated for SRO housing, provided that the BHA determines that due to the physical limitations or configuration of the facility, considerations of personal privacy require that the facility (or parts of the facility) be available only to members of a single sex. See 24 C.F.R. § 882.803(a)(6). This determination shall only be made in accordance with applicable State law.

3.2 Ineligible Properties

The following properties may not be eligible for assistance under the Program. To determine whether or not a property is eligible it may depend on whether is McKinney-Vento SRO. See 24 C.F.R. §§ 882.401(b) and 882.803(a) for further detail and authority on property eligibility.

- (1) Nursing homes and related facilities such as intermediate care or board and care homes; Units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, and facilities providing continual psychiatric, medical or nursing services;

³ See 24 C.F.R. § 5, Subpart G.

⁴ The HQS for this Program will be Chapter II of the Massachusetts State Sanitary Code. See 105 C.M.R. § 410.000. Some rehabilitation work, where required, will have to meet more detailed Building and Electrical Code Standards. HQS regulations include requirements for all housing types including single and multi-Family dwelling Units, as well as specific requirements for Special Housing Types such as Single Room Occupancy and Shared Housing.

- (2) Housing owned by the Commonwealth or unit of general local government
- (3) High rise elevator projects for families with children, unless HUD determines there is no practical alternative⁵;
- (4) Housing that is receiving Federal funding for rental assistance or operating costs under other HUD programs;
- (5) Housing located in the Coastal Barrier Resources System designated under the Coastal Barriers Resources Act.
- (6) Any Unit occupied by an Owner.

3.3 Site Standards

The site for the proposed rehabilitation must be adequate in size, exposure, and contour to accommodate the number and type of Units proposed; adequate utilities and streets must be available to service the site. The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with local law, may be considered adequate utilities. See 24 C.F.R. § 882.803(b)(2)(i).

In accordance with 24 C.F.R. § 882.803(b)(2)(ii), the site must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-2000d-4); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601-19); E.O. 11063 (as amended by E.O. 12259; 3 C.F.R., 1959-1963 Comp. p. 652 and 3 C.F.R., 1980 Comp., p. 307); and HUD regulations issued pursuant thereto.

The site must also be accessible to social, recreational, educational, commercial, and health facilities, and other appropriate municipal facilities and services. See 24 C.F.R. § 882.803(b)(2)(iii).

3.4 Additional Requirements and Standards

3.4.1 General Federal Requirements and the ADA

Participation in the Mod Rehab Program requires compliance with the Federal requirements set forth in 24 C.F.R. § 5.105, and with the Americans with Disabilities Act (42 U.S.C. § 12101 *et seq.*)

3.4.2 Units for the Disabled

If an Owner is proposing to accomplish at least \$3,000 per Unit of rehabilitation by including work to make the Unit(s) accessible to a Disabled Person occupying the Unit(s) or expected to occupy the Unit(s), the BHA may approve such Units not to exceed 5% of the Units under its

⁵ HUD may make this determination for a locality's Moderate Rehabilitation Program in whole or in part and need not review each building on a case-by-case basis. See 24 C.F.R. § 882.401(3).
 BHA ADMINISTRATIVE PLAN FOR SECTION 8 PROGRAMS - Appendix A
 Implementation Date: November 1, 2009

Program, provided that accessible Units are necessary to meet the requirements of 24 C.F.R. § 8. The rehabilitation must make the Unit(s), as well as access and egress to the Unit(s), barrier-free with respect to the disability of the individual in residence or expected to be in residence. See 24 C.F.R. § 882.805(c)(1).

3.4.3 Labor Standards When Rehabilitating Nine or More Units

In accordance with 24 C.F.R. § 882.804(b), the following requirements for labor standards will apply for an Agreement to Enter Into a Housing Assistance Payments Contract (“AHAP”) covering nine or more Units:

- (1) Not less than the wages prevailing in the locality, as determined by the Secretary of Labor under the Davis-Bacon Act (40 U.S.C. §§ 276a-276a5), must be paid to all laborers and mechanics employed in the development of the project, other than volunteers under the conditions set out in 24 C.F.R. part 70;
- (2) The employment of laborers and mechanics is subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333); and
- (3) The BHA will comply with all related rules, regulations, and requirements as must all Owners, contractors, and subcontractors.

3.4.4 Environmental Standards

The environmental review requirements of 24 C.F.R. § 58, implementing the National Environmental Policy Act and related environmental laws and authorities, apply to the Mod Rehab Program. See 24 C.F.R. § 882.804(c).

3.5 Collecting Proposals

3.5.1 Request for Proposals

Owner Proposals (“Proposals”) will be publicly solicited through a Request for Proposals (“RFP”). The RFP will note that permanent displacement of Tenants will not be permitted except in cases where intra-project relocation is necessary.⁶ The RFP and subsequent selection of proposals will be performed in accordance with relevant State and federal procurement laws.

BHA staff will conduct a pre-proposal conference explaining the Program, the Owner’s rights and responsibilities, and the procedures for submitting, ranking, and selecting proposals. At the conference, the BHA will provide information about financing available from local lending institutions and any low interest loans available from the City of Boston’s Department of

⁶ For further relocation policies, see section 4.3 of this Administrative Plan.
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Neighborhood Development (“DND”). The deadline for submitting Proposals will be 45 days after the conference.

The RFP will require that the Owner include the following information in his Proposal:

- (1) Owner’s name, address, and telephone number;
- (2) Location, number, type, and bedroom size of Unit(s) to be rehabilitated, whether Units are currently vacant or occupied, the date of original construction (if known), the number of handicapped accessible Units, and the which Units have special features;
- (3) Rents received during the past 18 months, broken down by unit;
- (4) Family characteristics of present Tenants in Units proposed for subsidy;
- (5) A certification that the proposed rehabilitation will not cause permanent displacement of present Tenants;
- (6) Whether the Owner anticipates temporary Tenant relocation, the anticipated length of any such relocation, and the Owner’s agreement to assume the costs of the relocation;
- (7) A certification that no Tenant has been forced to move without cause during the past 12 months;
- (8) A summary of the Owner’s prior participation in HUD, BHA, and/or City of Boston programs (if applicable);
- (9) A statement of the Owner’s plans for managing and maintaining the Unit(s) (i e., who will perform management functions);
- (10) A statement of previous management experience of the Owner or management agency;
- (11) The Owner’s plan for financing the rehabilitation;
- (12) Number of occupied Units proposed to be assisted, broken down by Unit size;
- (13) An acknowledgment of applicability of Davis-Bacon Act requirements to projects with 9 or more assisted Units when required; and
- (14) A general description of the rehabilitation work accompanied by a rough estimate of the cost of each work item.

3.5.2 Review and Preliminary Screening of Proposals

Once the deadline for proposal submission has passed, the BHA and any other appropriate agencies will convene to review and rank each Proposal. A proposal may be rejected for one or more of the following non-exhaustive list of reasons:

- (1) It is substantially incomplete;
- (2) Overcrowded Units will be assisted and/or there will not be enough suitably-sized Units after rehabilitation to accommodate present Tenants (the BHA will not allow permanent relocation except within the development);
- (3) Present rents are at or above the Mod Rehab Program Fair Market Rents (“FMRs”);
- (4) The proposed project is infeasible;
- (5) An Owner is delinquent on tax, water, or sewer charges, or any other payments due the City of Boston that could result in a lien or otherwise endanger the long-term viability of the proposed project. However, the proposed project may be considered if the Owner has entered into an agreement with the appropriate agency for the repayment of same or can show that the delinquent amount is being appealed through the appropriate legal process;
- (6) The title to the property is in dispute or undetermined (evidence of site control is mandatory);
- (7) Room sizes in project Units do not meet the standards of 105 C.M.R. § 410.400. If the Owner proposes to subsidize efficiency Units, the size of a Unit will be determined based upon post-rehabilitation Unit layout. If the building code requires a higher room size standard, such standard shall apply;
- (8) If the Owner is unable to demonstrate an ability to initiate the rehabilitation within 120 days of conditional commitment of subsidy from the BHA; or
- (9) If reports from such agencies as the BHA, Inspectional Services Department, DND, HUD, etc. indicate that the Owner has a poor track record with them. These reports may include, but not be limited to, the Owner’s history of code violations, responses to notifications of substandard conditions, and financial management issues. See also 24 C.F.R. Part 24 regarding debarment and suspension of an owner due to issues of non-compliance with HUD rules and regulations.

3.5.3 Rejection of Proposals

An owner whose proposals are rejected for one or more the aforementioned reasons will be notified of the specific reason(s) for rejection. The notice will specify that the Owner may request, within ten (10) days, a conference with the BHA, during which the reason(s) for the rejection will be explained and the Owner will be given an opportunity to dispute the rejection. The decision remains at the discretion of the BHA after consultation with DND.

3.5.4 Accepted Proposals

All Proposals not rejected will be scheduled for Unit inspection and a Preliminary Feasibility Analysis.

3.5.5 Initial Inspection

The DND will inspect the Units for all proposals selected for further processing. They will request that the Owner and Tenant(s) be present during the inspection and encourage them to suggest needed repairs. The BHA, in consultation with the DND, will make the final decision regarding what repairs will be required.

The DND will record the results of the inspection and sign off on an inspection form prepared for the Mod Rehab Program. The form will detail the deficiencies which must be corrected to bring the proposed unit(s) into compliance with the HQS. The DND will also determine whether any major building system or component is in danger of failing.

3.5.6 Preliminary Feasibility Analysis and Energy Conserving Improvements

The DND will perform a Preliminary Feasibility Analysis to determine the feasibility of the Proposal. The BHA shall review the Preliminary Feasibility Analysis and shall have final right to approve or deny based on the Analysis. The DND will:

- (1) Estimate the required amount and terms of conventional rehabilitation financing using data provided by local banks or included in the Owner's proposal;
- (2) Determine a monthly amortization amount for the loan;
- (3) Establish a Base Rent using the rent and expense data in the proposal;
- (4) Calculate the Contract Rent and Gross Rent for the Unit(s) using HUD's formulas⁷;
- (5) Ascertain whether Tenants will be temporarily relocated;

⁷ For a further discussion of rent calculations, see Chapter 12.

- (6) Calculate the Owner-supplied utilities in accordance with the BHA Utility Chart; and
- (7) Compare the estimated Gross Rent(s) with the "Fair Market Rent" Limits and determine feasibility.
- (8) Gather preliminary eligibility information from tenants including but not limited to annual income information.
- (9) In reviewing the Proposal, the BHA will also determine whether cost-effective energy conserving improvements can be added. See 24 C.F.R. § 882.805(c)(6)(i)(B).

3.6 Ranking, Grading and Selection of Proposals

To be ranked and graded a proposal must meet the following minimum threshold selection criteria: (a) compliance with the RFP; and (b) the proposed financing is reasonably attainable. A proposal with a favorable Preliminary Feasibility Analysis which meets the above mentioned minimum threshold selection criteria will be graded and ranked against other proposals according to the following criteria and point scores:

- (1) *The number and extent of major State Sanitary Code violations addressed by rehabilitation work subsidized under the Mod Rehab Program.* Those proposals addressing the most numerous and serious substandard conditions and/or need for energy improvements will be ranked higher in the selection process. *(Maximum of 25 Points)*
- (2) *Rehabilitation of "key" structures.* Those proposals having a higher beneficial impact to a particular neighborhood, street, or block by the rehabilitation of a particular key building shall be ranked higher. *(Maximum of 25 Points)*
- (3) *Prior rehabilitation experience.* The Owner should document experience in the performance of similar rehabilitation projects. Those Owners with extensive housing rehabilitation experience will be ranked higher. *(Maximum of 20 Points)*
- (4) *The dollar amount of rehabilitation to be accomplished.* Those proposals realistically promising to deliver more work per subsidy dollar (a higher rehab/rent ratio) will be ranked higher. *(Maximum of 18 Points)*
- (5) *Imminent Financing.* Those proposals whose Owners document firm financing commitments or whose proposals demonstrate a better chance/ability of obtaining financing will be ranked higher. *(Maximum of 12 Points)*
- (6) *Services Provided.* Those proposals that provide a high level of services in accordance with the request for proposal will be ranked higher. The

experience and track record of providing services will be considered in the ranking of this category. (Maximum 25 Points)

Details on the actual scoring system used in connection with each of the above-listed criteria will be provided to interested Owners at the pre-proposal conference.

After the completion of the ranking, all proposals will be reviewed by the BHA and the DND. Based upon the information presented, final selections will be made and the DND and BHA will notify all Owners.

3.7 Notification of Owners

The DND and BHA will send an Owner a “Notice of Selection” informing them of whether they have been selected for *Final* Feasibility Analysis. If selected, the Owner will be informed of the tentative number of Units to be assisted. The Owners will be notified that they should request all tenants residing in Units tentatively selected for participation in the Program to contact the BHA to submit an application. Notices to Owners whose proposals have been selected for processing will state that they have thirty (30) days to complete the Final Feasibility Analysis.

Owners whose proposals are rejected will be notified of the reasons for the rejection and of their right to appeal the rejection. The time limit for appeal shall be set forth in the notice and shall depend on the urgency of the particular project. Owners whose proposals are viable but not selected for processing will be notified that their proposals are being held and that they will be notified should their proposal be selected for future processing. At the discretion of the BHA, an Owner may need to update their proposal or re-apply in order to be selected for future processing.

3.8 Selection of Units and Tenant Eligibility

Designated BHA staff will interview residents of approved Units using the HCVP procedures as described in Chapter 5 of the HCVP Administrative Plan. Eligibility will be determined in accordance with Chapter 9 of this Administrative Plan, and Eligible Families will be briefed as to their rights and responsibilities under the Mod Rehab Program. See 24 C.F.R. §§ 882.514 and 882.805(c)(2).

In the case of a determination of ineligibility, the ineligible Tenant will be notified in writing and informed of the right to request a hearing within twenty (20) days to dispute the determination. The BHA will not enter into a HAP Contract for any Unit occupied by an ineligible Family, meaning that a determination of Tenant ineligibility could lead to a reduction in the number of units assisted at a Property. The BHA will reconsider the rejection if the Tenant provides information disproving the determination of ineligibility. If the determination is upheld, the Owner will be informed of the adjustment in the number of Units to be assisted.

3.9 Preliminary Work Write-up and Cost Estimate

After the DND and the BHA inspects the Unit(s), performs the Preliminary Feasibility Analysis, and determines the number of Units to be assisted, DND and BHA staff will meet with the Owner to discuss the work that needs to be accomplished. See 24 C.F.R. § 882.805(c)(3). DND and BHA will also inform the Owner of the proposed Base and Contract Rent(s). If the Owner contends that the Base Rent is too low to permit adequate maintenance and management of the rehabilitated unit, he will be required to submit additional data to the DND and BHA. This data will be analyzed using HUD-supplied standards of average management and maintenance expenses. If the submitted data supports an adjustment to the Gross Rent, a new determination of feasibility will be made. See Chapter 12 for a more thorough discussion of the determination of rents.

If the Owner agrees with the DND's and BHA's assessment as to the work that must be accomplished, then the Owner and DND in conjunction with BHA will complete a "Preliminary Work Write-Up and Cost Estimate." The write-up will serve as the basis for the cost estimate for the accomplishment of all specified items. The write-up will detail each required repair and its cost as well as describe how any deficiencies eligible for amortization through the Contract Rents are to be corrected including minimum acceptable levels of workmanship and materials. See 24 C.F.R. § 882.805(c)(3). To assist with the process, Owners will be provided with the following information:

- (1) A copy of the list of deficiencies and description of work required and its estimated cost;
- (2) A sample work write-up and cost estimate;
- (3) A list of approved contractors⁸;
- (4) Davis-Bacon Act wage rates for the area, if Owner proposes to renovate nine or more Units for assistance; and
- (5) Information about available financing.

Since actual preparation of the work write-ups and cost estimates will be the responsibility of the DND and the Owner, the initial meeting between the Owner and the DND will be important. The DND will explain each form and answer the Owner's questions. The meeting will allow DND to gauge the Owner's ability to meet the responsibilities and thus to plan what assistance might be needed.

The DND will be available to assist the Owner in preparing cost estimates and work write-ups, and will review the completed documents for consistency with the findings of the initial inspection. Owners with proposals covering nine or more assisted Units will receive special assistance since federal labor standards and provisions will apply to such proposals.

Although DND performs a large function under this section, the BHA has final accountability and control regarding the Work Write up and Cost Estimate.

⁸ See section 3.10.1 of this Administrative Plan for further information.

3.10 Selection of Contractors

3.10.1 List of Approved Contractors

Although Owners will not be required to select To help Owners select a contractor, a list of approved contractors, including minority contractors, will be developed, derived from the DND's list of approved contractors and responses to advertising for contractors. To be listed, contractors must:

- (1) Be licensed, where applicable under State Law;
- (2) Have personal liability and worker's compensation insurance; and
- (3) Provide both professional and credit references. Professional reference checks will determine such factors as the timeliness of the contractor's performance, the cost to complete the project, and quality of the contractor's workmanship.

3.10.2 Rehabilitation by Owner

Owners who propose to accomplish all or part of the rehabilitation themselves must obtain advance approval from the BHA and must also meet the requirements set forth in Section 3.10.2 above.

3.10.3 Bid Award Procedures

Owners, including those doing some of the work themselves, will be required to seek at least three bids for completion of the approved rehabilitation work items. The DND will assist in soliciting bids if necessary or if the Owner requests. Bids may be requested orally, but contractors must submit written bids, accurately describing the work to be performed and the cost of each item.

The DND and BHA will examine all bids before an AHAP is executed. Owners will be expected to select the lowest responsible bidder, though they will be given latitude to select the best proposal even if it is not the lowest bid. The BHA will investigate the possibility that an *identity of interest* may be present between the Owner and selected contractor. In all cases, the Owner must sign an "Identity of Interest" certification form.

3.11 Financing

3.11.1 Sources of Financing

Any type of public or private financing may be utilized to finance rehabilitation with the exception of the rehabilitation loan program under Section 312 of the Housing Act of 1964. See 24 C.F.R. § 882.405(a). This restriction does not apply to the McKinney Vento funded SRO units.

Owners will be informed about their financing options. The BHA will provide clear and precise information to the lending community and to Owners in preparing documents required by lending institutions.

3.11.2 Use of AHAP or Contract as Security for Financing

In accordance with 24 C.F.R. § 882.405(b), an Owner may pledge, or offer as security for any loan or obligation, an AHAP or Contract entered into pursuant to the Mod Rehab Program, provided that:

- (1) Such security is in connection with a Unit(s) rehabilitated pursuant to the Mod Rehab Program; and
- (2) The terms of the financing or any refinancing must be approved by the BHA in accordance with standards provided by HUD. Any pledge of the AHAP or Contract, or payments there under, will be limited to the amounts payable under the Contract in accordance with its terms.

3.12 Final Feasibility Analysis

To complete the final feasibility analysis, the DND and BHA will work with the Owner to review the detailed work write-ups and cost estimates and contractor bids, and calculate the proposed Contract Rents

Based on this analysis, the DND and BHA will make a final determination whether the Owner's proposal is feasible. For proposals not found feasible, DND and BHA will determine the proposal could be feasible if work items were modified and/or the contractor's price was reduced. If that is possible, the Owner will be given the opportunity to make changes to bring the proposal within approvable rent limits.

Owners whose proposals are not feasible will be notified in the same manner as if the initial proposal had been rejected as described in section 2.7 of this Administrative Plan. Owners whose proposals are feasible will be notified and advised that, subject to the securing of financing, the BHA will execute an AHAP with them. The letter will indicate that the BHA is available to assist the Owner in requesting and obtaining financing. See also section 3.11.1

3.13 Additional Responsibilities Prior to Contract Execution

In conjunction with the Final Feasibility Analysis and prior to contract Execution, the BHA will also:

- (1) After the financing and a contractor are obtained, determine whether the costs can be covered by initial Contract Rents; and, if a structure contains more than 50 units to be assisted, submit the Base Rent and Contract Rent calculations to the appropriate HUD field office for review and

approval in sufficient time for execution of the AHAP in a timely manner. See 24 C.F.R. § 882.805(c)(6)(iii).

- (2) Require Owner to obtain and submit to BHA firm commitments to provide necessary supportive services. See 24 C.F.R. § 882.805(c)(6)(iv).
- (3) Require owner to obtain and submit to BHA firm commitments for other resources to be provided. See 24 C.F.R. § 882.805(c)(6)(v).
- (4) Determine that the \$3,000 minimum amount of work requirement is met. See 24 C.F.R. § 882.805(c)(6)(vi).
- (5) If the BHA determines that any structure proposed in its application is infeasible, or the BHA proposes to select a different structure for any other reason, submit information for the proposed alternative structure to HUD for review and approval. HUD will rate the proposed structure in accordance with procedures in the applicable notice of funding availability. The BHA may not proceed with processing for the proposed structure or execute an AHAP until HUD notifies the BHA that HUD has approved the proposed alternative structure and that all requirements have been met. See 24 C.F.R. § 882.805(c)(6)(x).

CHAPTER 4: EXECUTION OF AHAP AND REHABILITATION PERIOD

4.1 Execution of AHAP

After approval of the Final Feasibility Analysis and after the Owner has completed all the steps required before rehabilitation can begin, the BHA will prepare the AHAP and review it with the Owner. The BHA will then enter the starting date for the rehabilitation work and the deadline for its completion on the AHAP. The BHA will explain the rights and responsibilities under the AHAP and HAP Contract and emphasize the importance of timely and correct completion of the work. The Owner will sign the AHAP and submit it to the BHA to review and sign.

The AHAP will provide that the work must be completed and Contract executed within 12 months of execution of the Annual Contributions Contract (“ACC”) entered into between HUD and the BHA. HUD may reduce the number of Units or the amount of the annual contribution commitment if, in HUD’s determination, the BHA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify reducing the number of Units. See 24 C.F.R. § 882.806(a)(2)(ii).

4.2 Pre-Construction Conference

The DND and BHA will hold a pre-construction conference with each Owner and contractor before work begins to review work items and cost estimates, obtain a signed copy of the rehabilitation contract for the files, explain the process by which the work will be inspected, and agree upon deadlines for completing the work. The DND and BHA will explain the procedure for requesting changes to the contract and/or work write-ups and provide the Owner and contractor with written materials describing any procedures not specified in the contract.

The pre-construction conference will also include a discussion of the effect of the rehabilitation work on the Tenants and the measures which will be taken to avoid damage to their personal property and disruption of their normal routine. If temporary relocation is required, the Owner will provide the BHA with a relocation plan and copies of all notices send to existing tenants. The Owner will then assume responsibility for notifying the tenant of the need to move temporarily and of their rights in connection with the relocation in compliance with Section 4.3.2 and 4.3.3.

4.3 Relocation

4.3.1 Minimizing Displacement

Owners must assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, non-profit organizations, and farms) as a result of a project assisted under the Mod Rehab Program. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling Unit in the project upon its completion. See 24 C.F.R. § 882.810(a)(1).

Whenever a building/complex is rehabilitated, and some but not all of the rehabilitated Units will be assisted upon completion of the rehabilitation, the relocation requirements of 24 C.F.R. § 882.810 apply to the occupants of each rehabilitated Unit, whether or not Mod Rehab Program assistance will be provided for the Unit. See 24 C.F.R. § 882.810(a)(2).

4.3.2 Relocation of Displaced Persons

A "displaced person" (as defined in 24 C.F.R. § 882.810(g)) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655) and implementing regulations in 49 CFR part 24. The Owner of a Mod Rehab or prospective Mod Rehab property shall notify displaced person of his or her rights under the Fair Housing Act (42 U.S.C. 3601-19) and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority is located in an area of minority concentration, such person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

4.3.3 Temporary Relocation

In accordance with 24 C.F.R. § 882.810(b), residential Tenants who will not be required to move permanently but who must relocate temporarily for the project will be provided:

- (1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation; and
- (2) Appropriate advisory services, including reasonable advance written notice of:
 - (i) The date and approximate duration of the temporary relocation;
 - (ii) The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
 - (iii) The terms and conditions under which the Tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling the project upon completion; and
 - (iv) The assistance required under item (1) of this section of the Administrative Plan.

4.3.4 Appealing Relocation Assistance Decision

A person who disagrees with the Owner's determination concerning the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the BHA. A person who is dissatisfied with the Owner's determination on his or her appeal may submit a written request for review of that determination to the HUD field office. See 24 C.F.R. § 882.810(e).

The BHA shall also comply with the requirements of G.L. c. 79A and 760 CMR 27.00 to the extent that they supplement, and at times impose higher requirements than, federal law on relocation.

4.4 Timely Performance of Work

After execution of the AHAP, the Owner must promptly proceed with the rehabilitation work as provided in the AHAP. If the work is not so commenced, diligently continued, or completed, the BHA will have the right to rescind the AHAP, or take other appropriate action. See 24 C.F.R. § 882.806(a)(2)(i).

4.5 Inspection of Work and Monitoring of Program Requirements

The DND will monitor the progress of the rehabilitation by inspecting the work at least bi-weekly to ensure that it is proceeding on schedule and that the Owner is in compliance with the appropriate Labor Standards and Davis-Bacon Wage Rates (if applicable). Through the inspections, the DND will ensure that the work is accomplished in accordance with the terms of the AHAP, particularly that the work meets the acceptable levels of workmanship and materials specified in the work write-up. See 24 C.F.R. § 882.806(a)(3). The Owner (and the local Code Inspector(s) when appropriate or required) will normally be asked to accompany the DND Inspectors. Copies of all these reports shall be supplied to the BHA by DND.

During the rehabilitation process, the DND will review on a bi-weekly basis the percentage of work actually completed and the established deadline for completion of rehabilitation. The bi-weekly reports will also include comments on any current or anticipated problems. The BHA shall be informed of the results of all DND inspections.

The BHA shall final accountability and control regarding the requirement set forth in this Section.

4.6 Change Orders

Contractors will be required to request and obtain written approval from the DND and BHA for any changes to the work specified in the AHAP that would alter the design or the quality of the required rehabilitation or increase the Contract amount. Change orders will generally not be approved unless the circumstances giving rise to the proposed change are beyond the contractor's control and/or the change is in the best interest of the rehabilitation project. Where appropriate, the BHA may condition its approval of changes on a reduction of the Contract amount and the proposed Contract Rents. The BHA will be responsible for

monitoring the use of any Contract contingency amount in order to ensure that it is not exceeded due to change orders. See 24 C.F.R. § 882.806(d).

Every attempt will be made to avoid the necessity of requesting rent increases in excess of approved FMRs due to unanticipated work. Thorough initial inspections and work write-ups in conjunction with a high frequency of inspections will minimize requests for rent increases above the FMRs. The BHA is aware that no increase in the Contract Rent(s) due to unanticipated work items will be approved without the review and approval of HUD.

4.6.1 Changes Made Without BHA Approval

If changes to the work are made without prior BHA approval, the BHA may determine that Contract Rents must be reduced or that the Owner must remedy any deficiency as a condition for acceptance of the Unit(s). See 24 C.F.R. § 882.806(d).

CHAPTER 5: COMPLETION OF REHABILITATION

5.1 Certifications and Final Inspection

Owners will be required to contact the DND and the BHA at least one week prior to the completion of rehabilitation work. Once notified, DND will schedule a final inspection based on the estimated completion date and remind the Owner of the documents that he or she will be required to submit before final project approval. The BHA will require Owners to provide the following Owner certifications in accordance with 24 C.F.R. § 882.507(b) to evidence completion of the Unit(s):

- (1) A certificate of occupancy and/or other official approvals as required by the locality.
- (2) A certification by the Owner that:
 - (i) The Unit(s) has been completed in accordance with the requirements of the AHAP;
 - (ii) The Unit(s) is in good and tenantable condition;
 - (iii) The Unit(s) has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations⁹, as modified by any waivers obtained from the appropriate officials;
 - (iv) The Unit(s) are in compliance with part 35, subparts A, B, H, and R of 24 C.F.R.;
 - (v) Any Units(s) built prior to 1973 are in compliance with § 882.404(c)(3) and § 882.404(c)(4); and
 - (vi) If applicable, the Owner has complied with the provisions of the AHAP relating to the payment of not less than prevailing wage rates¹⁰ and that to the best of the Owner's knowledge and belief there are no claims of underpayment concerning alleged violations of said provisions of the AHAP. In the event there are any such pending claims to the knowledge of the Owner, PHA or HUD, the Owner will be required to place a sufficient amount in escrow, as determined by the BHA or HUD, to assure such payments.

The Owners will also be required to fill out an "Actual Cost and Rehabilitation Loan Certifications" form. See 24 C.F.R. § 882.507(c).

The DND and BHA will perform the final inspection of the Unit(s), reviewing all work items required by the AHAP and determining compliance with the HQS, applicable codes, and the Contract. The Owner and the contractor will be

⁹ Including but not limited to the Uniform Federal Accessibility Standards, if applicable. 42 U.S.C. § 4151-4157

¹⁰ See section 3.4.3 of this Administrative Plan for more information.

requested to accompany the DND and a BHA inspector so that remedies for deficiencies can be discussed and agreed upon immediately after the inspection. The DND and BHA will prepare a punch list of deficiencies and set a final completion date for these remaining items. Provided that all other requirements of the AHAP have been met, and which in any case do not affect the health or safety of the Tenant(s), will not prevent the acceptance of the Unit(s) and execution of the HAP Contract.

5.1.1 Procedure in Case of Items of Delayed Completion

If there are delays in correcting deficiencies which are documented in the final inspection, an escrow fund determined by the BHA to be sufficient to assure completion will be required, as well as a written agreement between the BHA and Owner specifying the schedule for completion. This written agreement would be included as an exhibit to the Contract. If the items are not completed within the agreed time period, the BHA shall evaluate the individual circumstances of the delay and may use its discretion to terminate the Contract or exercise other rights under the Contract. See 24 C.F.R. § 882.507(e)(2).

5.1.2 Procedure in Case of Other Deficiencies

If other deficiencies exist, the BHA will determine whether and to what extent the deficiencies are correctable, and whether the Contract Rents should be reduced. The Owner will be notified of any such decision. If the corrections required are possible, the BHA and the Owner must enter into an agreement for the correction for the deficiencies within a specified time. If the deficiencies are corrected within the agreed period of time, the BHA will accept the Units. Otherwise, the Unit(s) will not be accepted and the Owner will be notified with a statement of the reasons for non-acceptance.

5.2 Preparation and Execution of HAP Contract

The DND and BHA will review the Owner certifications immediately after the final inspection and compare the "Actual Cost and Rehabilitation Loan Certifications" form to the Final Feasibility Analysis and approved change orders (if any). If after the review and inspection, the DND finds that the Unit(s) comply with the AHAP, the Unit(s) will be accepted. See 24 C.F.R. §§ 882.507(e). Contract Rents will be recalculated if rents specified in the AHAP need to be adjusted in accordance with Chapter 12. See 24 C.F.R. §882.408(d).

The HAP Contract will be prepared and the Owner will execute the HAP Contract. BHA staff will explain how and when housing assistance payments will be made and answer any questions the Owner has regarding the HAP contract.

5.2.1 Effective Date of the HAP Contract

The effective date of the Contract will be no earlier than the final inspection which provided the basis for acceptance of the Unit(s). See 24 C.F.R. § 882.807(e).

5.2.2 Term of the HAP Contract

The Contract for any Unit rehabilitated in accordance with the Mod Rehab Program will be for a maximum initial term of 10 years. The Contract will give the BHA the option to renew the Contract for an additional 10 years. See 24 C.F.R. § 882.807(b).¹¹

(a) BHA Annual Review of HAP Contract

The BHA reviews Contracts on annual basis and determines whether or not Contracts should be renewed based on funding availability and Owner compliance with the contract.

5.2.3 Changes in Contract Rents from the AHAP

The Contract Rents may be higher or lower than those specified in the AHAP, as discussed in section 12.4 of this Administrative Plan. See 24 C.F.R. §§ 882.807(c) and 882.805(d).

5.2.4 Reporting Unleased Units at the Time of Execution

At least 120 days prior to the execution of the Contract, the Owner shall submit a list of dwelling Unit(s) they anticipate to be leased and not leased as of the effective date of the Contract. The Owner shall update the BHA if any changes in regards to the number of leased and unleased units as the effective date of the Contract approaches. See also 24 C.F.R. § 882.807(d).

¹¹ Note that 10 years is the required time for a HAP Contract executed pursuant to 24 C.F.R. § 882, subpart H (the regulations for newer SRO projects). Previously, HAP Contracts had to be for a term of 15 years under 24 C.F.R. § 882.403(c), and such Contracts may still be in existence.

CHAPTER 6: ADVERTISING AND OUTREACH

The Owner shall conduct marketing and outreach efforts to potential Applicants to the Mod Rehab Program that may be potential Tenants at their sites.

In carrying out its marketing and outreach, neither the Owner, nor its Agents, will discriminate based on race, color, creed, religion, sex, sexual orientation, national or ethnic origin, age disability, handicap, ancestry, class, or marital status, or any other basis prohibited by law. This also applies to accepting and processing applications.

The Owner and the Owner's staff involved in processing applications shall be trained in: (1) procedures and policy matters regarding federal, state and municipal orders, laws, and statutes, dealing with civil rights and fair housing; (2) the relevant BHA policies governing waiting list administration and tenant selection; (3) applicable regulations governing the selection of applicants for housing, including, but not limited to, Title VIII of the Civil Rights Act of 1968; Title VI of the Civil Rights Act of 1974; Executive Order 11063, November 29, 1962; M.G.L. Ch 151B; Executive Order 11246; September 9, 1965; the Fair Housing Act Amendments of 1988 and the American with Disabilities Act. In addition the Owner shall explain the appropriate complaint procedures so that Applicants may avail themselves to the complaint process if they feel discrimination has occurred.

The Owner shall also conduct advertising and Outreach in accordance with the requirements set forth in Chapter 1 and 2 of the HCVP Administrative Plan. *See also* 24 C.F.R. § 882.808(a).

CHAPTER 7: *RESERVED*

CHAPTER 8: TENANT SELECTION AND REFERRAL TO BHA

8.1 Leasing to In-Place Tenants at Completion of Rehabilitation

The initial round of subsidies will go to “qualified In-place Tenants.” “In-place Tenants” are defined as those living in the property at the time the HAP Contract is executed between the BHA and the Owner. They are “qualified” if they are determined by BHA staff to be income-eligible under the criteria described in Chapter 7 of this Administrative Plan. Such Tenants will not need to be placed on the development’s site-based waiting list prior to being accepted as Mod Rehab Program Participants. See 24 C.F.R. § 882.514(b).

8.2 *RESERVED*

8.3 Referral of Applicants to the BHA to Fill Vacant Units

When vacancies occur, one or more Families from the existing waiting list shall be referred to the Owner, following selection preferences contained in Section Priorities and Preferences outlined in the Section Housing Choice Voucher Program Administrative Plan, Chapter 3.

If the BHA is unable to refer a sufficient number of interested applicants to the Owner within 30 days of the Owner’s notification, the Owner may be approved to advertise or solicit applications from low income families and refer those families to the BHA to determine eligibility. The BHA will determine eligibility of referred families in accordance with this Administrative Plan. Since the Owner is responsible for selecting tenants under this procedure, the Owner may refuse any family provided that he does not unlawfully discriminate.

The Owner must rent all vacant McKinney-Vento SRO Units under Contract, rehabilitated under 24 C.F.R. § 882, subpart H, to homeless individuals located through the Owner’s outreach efforts and determined by the BHA to be eligible. See also 24 C.F.R. § 882.808(b)(2). Thus, all Applicants who have applied for McKinney-Vento SRO units, must be homeless as defined by in Section 103 of the McKinney Act (42 U.S.C. 11302). See Section 3.3.5(b) of the HCVP Administrative Plan for definitions of the different Priorities.

8.4 Payment for Vacancies Between Execution of the Contract and Initial Occupancy

If a Unit is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the Unit for a vacancy period not exceeding 60 days from the effective date of the Contract. In accordance with 24 C.F.R. § 882.411(a), to receive such payments, the Owner must:

- (1) Have complied with 24 C.F.R. §§ 882.506(d) and 882.508(d);
- (2) Have taken and continues to take all feasible actions to fill the vacancy;
and

- (3) Have not rejected any eligible applicant except for good cause acceptable to the BHA.

8.5 Payment for Vacancies After Initial Occupancy

If an Eligible Family vacates its Unit and it is not the result of a Mod Rehab Program violation by the Owner, the Owner may receive the housing assistance payments due for as much of the remainder of the calendar month (“move-out month”) as the Unit remains vacant. If the vacancy continues, the Owner may receive a housing assistance payment in the amount of 80% of the Contract Rent for a vacancy period not exceeding an additional month. However, if the Owner collects any of the Family share of the rent for this period, the amount paid by the BHA will be reduced to an amount which, when added to the Family’s payment, does not exceed 80% of the Contract Rent. Any payment exceeding this amount must be reimbursed by the Owner to the BHA. See 24 C.F.R. § 882.411(b)(1).

To receive a vacancy payment in these circumstances, the Owner must:

- (1) Notify the BHA in writing within two (2) business days upon learning of the vacancy or prospective vacancy;
- (2) Have taken and continue to take all feasible actions to fill the vacancy including referral of sufficient number Applicants to BHA in accordance with Section 8.3 above; AND
- (3) Have not rejected any Eligible Applicant except for good cause acceptable to the BHA.

If such a vacancy results from the Owner evicting an Eligible Family, the Owner will not be entitled to any of the above payments unless the BHA determines that the Owner complied with all requirements of the Contract. See 24 C.F.R § 882.411(c).

8.6 Double Compensation for Vacancies Is Prohibited

Payments for vacancies under sections 8.4 and 8.5 will not be available to an Owner if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding Units vacant for relocations pursuant to Title I of the HCD Act of 1974 or payments for unpaid rent under 24 C.F.R. § 882.414 (Security and Utility Deposits)). See 24 C.F.R. § 882.411(c).

8.7 Leasing Vacant Units to Ineligible Families Is Prohibited

Owners must lease all assisted Units under Contract to Eligible Families. Leasing of vacant, assisted Units to ineligible Tenants is a violation of the Contract and grounds for all available legal remedies, including suspension or debarment from HUD programs and reduction of the number of Units under the Contract in accordance with Section 6.9 of this Administrative Plan. Once the BHA has determined that a violation exists, the BHA will notify HUD of its determination

and the suggested remedies. At the direction of HUD, the BHA will take the appropriate action. See 24 C.F.R. § 882.512(a).

8.8 Failure to Lease Units to Eligible Families

If, at any time beginning six months after the effective date of the Contract, the Owner fails for a period of six continuous months to have at least 90 percent of the assisted Units leased or available for leasing by Eligible Families (because families initially eligible have become ineligible due to termination), the BHA may reduce the number of assisted Units in accordance with Section 6.9 of this Administrative Plan. See 24 C.F.R. § 882.512(b).

8.9 Reduction of Number of Units Covered by Contract

The BHA may reduce the number of Units covered by the Contract if the Owner leases vacant assisted Units to ineligible Families (see Section 6.7) or fails to lease Units to Eligible Families (see Section 6.8). In any situation, the BHA may reduce the number of Units assisted to the number of Units actually leased or available for leasing by Eligible Families plus 10 percent (rounded up). The BHA will give at least 30 days' notice before doing so. See 24 C.F.R. § 882.512(a)(b).

If the Owner has only one Unit under Contract and if one year has elapsed since the date of the last housing assistance payment, the BHA may terminate the Contract with the consent of the Owner. See 24 C.F.R. § 882.512(b).

8.10 Restoration of Number of Units Covered by Contract

In accordance with 24 C.F.R. § 882.512(c), if a reduction is made, the BHA will agree to an amendment of the Contract which restores the number of units covered by the Contract to pre-reduction levels if:

- (1) The BHA determines that the restoration is justified by demand;
- (2) The Owner otherwise has a record of compliance with obligations under the Contract; and
- (3) Contract authority is available.

CHAPTER 9: Communications and Verification

The Mod Rehab Program's procedures regarding communication with Applicants and Participants, the verification of Applicant and Participant information, and missed appointments are the same as those found in the HCVP. See Chapter 4 of the HCVP Administration Plan.

CHAPTER 10: DETERMINATION OF ELIGIBILITY

Applicants will be referred to the BHA from the Owner's waiting list for eligibility determination in accordance with this chapter.

10.1 Threshold Eligibility Requirements

See section 5.2 of the HCVP Administrative Plan and all of its subsections.

10.2 Eligibility Interview (Final Eligibility)

See section 5.3 of the HCVP Administrative Plan and all of its subsections.

10.3 Family Composition

See section 5.4 of the HCVP Administrative Plan and all of its subsections.

10.4 Income Eligibility and Targeting

See section 5.5 of the HCVP Administrative Plan and all of its subsections.

10.4.1 Admission of Lower Income Families

The BHA has authority provide assistance to Lower Income Families in 10 percent of its Mod Rehab portfolio. This authority can only be used to prevent displacement of Families residing in the property prior to rehabilitation. The BHA considers Lower Income Families to be in danger of displacement if the post-rehabilitation rents, plus the Tenant supplied utilities, exceed 30 percent of the Family's adjusted gross income (gross income minus deductions).

10.4.2 Accessibility for Disabled Persons

The BHA may use a portion of its allocations to provide barrier-free Units for Disabled Persons. If selected proposals include Units that are already occupied by the Disabled, Owners will be required to permit Reasonable Modifications as required by law. See also 24 C.F.R. § 100.203. When barrier-free Units become vacant, Disabled Applicants on the Owner's waiting list with similar Disabilities will be given preference to lease these Units.

10.5 Review of Citizenship and Eligible Immigration Status

See section 5.6 of the HCVP Administrative Plan and all of its subsections.

10.6 Review of Criminal Offender Record Information (CORI)

See section 5.7 of the HCVP Administrative Plan and all of its subsections.

10.7 Required Release Forms

See section 5.8 of the HCVP Administrative Plan.

10.8 Denial of Eligibility

The Mod Rehab Program grounds for denial of Eligibility, Priority status or Preference and the process for appealing a decision to deny are the same as those found in the HCVP Administrative Plan, unless where an Applicant does not meet the definition of homeless required for eligibility to the McKinney-Vento SRO program. The BHA will deny an Applicant in accordance with Chapter 6 of the HCVP Administration Plan. Upon Denial of Eligibility for the Mod Rehab program, an Applicant shall be removed from all Mod Rehab site-based waiting lists and any other BHA waiting lists where Section 8 eligibility is required, or only withdrawn from McKinney-Vento SRO lists where that requirement is necessary.

10.8.1 Limitation on Number of Eligibility Determinations

For each Applicant, the BHA shall only be required to determine Section 8 eligibility once every eighteen (18) months unless the Applicant was denied for one or more of the following reasons:

- (a) Lack of Citizenship or eligible Non-Citizen status;
- (b) Past due balance owed to a publicly assisted housing program;
- (c) Lack of priority status;
- (d) Family income exceeds the applicable program limits;

The BHA may re-determine eligibility for an Applicant in less than eighteen (18) months as reasonable accommodation for a person with disabilities.

10.9 Briefing the Family

If the Family is determined eligible for housing assistance payments or is selected for participation in the Mod Rehab Program, the BHA will provide a letter inviting them to a briefing session.

If the Applicant is ineligible, the BHA will give them a letter stating the reason for ineligibility and informing the Family of their right to request an informal review of the determination or a reasonable accommodation. The letter will also include a description of the process for obtaining such a review. Failure to attend the briefing session will result in withdrawal from the waiting list.

10.9.1 Briefing Session

BHA staff will brief Eligible Families on the amount of their Tenant Rent and provide them with a copy of the BHA's Utility Allowances schedule. Applicants may supply their own interpreter for the briefing, but the BHA will take reasonable steps to assure meaningful access by Disabled

Persons and persons with limited English ability in accordance with section 2.2.4 of this Administrative Plan.

Each Family will also be provided with a “Statement of Family Responsibility,” the obligations of which must be fulfilled along with the obligations of the Lease. See 24 C.F.R. § 882.413(a). Each Family will receive a full explanation of the following, in accordance with 24 C.F.R. § 882.514:

- (i) Family and Owner responsibilities under the Lease and Contract;
- (ii) Significant aspects of the applicable State and local laws;
- (iii) Significant aspects of Federal, State and local fair housing laws;
- (iv) The fact that the subsidy is tied to the unit and the Family must occupy a unit rehabilitated under the Mod Rehab Program;
- (v) The Family's options under the Mod Rehab Program should the Family be required to move due to an increase or decrease in Family size; and
- (vi) The advisability and availability of blood lead level screening for children under 6 years of age and HUD's lead-based paint requirements in part 35, subparts A, B, H, and R of this title.

10.9.2 Additional Information Given at Briefing

Applicants will also receive BHA policies regarding Domestic Violence and Reasonable Accommodation for Individuals with Disabilities.

For all Families to be temporarily relocated, the briefing will include a discussion of the relocation policies.

10.9.3 Consequences of Failure to Attend Briefing Session

If the Family does not attend the scheduled briefing session, they will be sent a letter, explaining that they must contact BHA staff to make an appointment for another briefing session or they may be denied assistance for the selected Unit. If the Applicant does not respond or fails to attend the second briefing session, the BHA may deny assistance in accordance with section 10.8. Mod Rehab

CHAPTER 11: LEASING IN THE MOD REHAB PROGRAM

11.1 Preparing the Lease

11.1.1 Determinations and Verification

Upon execution of the HAP Contract and determination of Applicant eligibility, the BHA shall determine: the appropriate "Utility Allowance;" the "Utility Reimbursement," if any; and the Family's share of the rent. At the same time, the staff will ensure that the Family's income verification is still valid in accordance with BHA the verification requirements set forth in Chapter 8 of this Administrative Plan.

11.1.2 Lease Effective Date

BHA staff will prepare leases that may become effective as early as the date of the HAP Contract, but *no earlier* than the date on which the new Tenant takes occupancy of the unit.

11.1.3 Term of Lease

The initial lease between the Family and the Owner will be for at least one year or the term of the HAP Contract, whichever is shorter. In cases where there is less than one year remaining on the HAP Contract, the Owner and the BHA may mutually agree to terminate the Unit from the HAP Contract instead of leasing the family to an Eligible Family. See 24 C.F.R. § 882.403(d)(1).

Any renewal or extension of the Lease term for any Unit will in no case extend beyond the remaining term of the HAP Contract. See 24 C.F.R. § 882.403(d)(2).

The procedures set forth in Section 7.4.2 of the Housing Choice Voucher Program apply when the owner would like to amend or use a lease other than the Model Lease provided by BHA.

11.1.4 Lease Limits for SRO Units

Leases for SRO Units will limit occupancy to one eligible individual. See 24 C.F.R. § 882.808(c).

11.3 Signing the Lease

The tenant must have legal capacity to enter a lease under State and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner. See also, the definition of an Emancipated Minor in the Glossary.

Separate agreements between the Family and Owner covering items and services not included in the rent and for which the BHA is not providing

assistance and is not responsible will be listed under “Additional Provisions.” The Owner cannot assess charges for items covered by the Lease and by the HAP Contract.

11.4 Subcontracting of Owner Services

An Owner may contract with any private or public entity to perform for a fee the services required by the AHAP, Contract or Lease. Such a contract may not shift any of the Owner’s responsibilities or obligations. See 24 C.F.R. § 882.412(a).

CHAPTER 12: RENT

Note that this Chapter details the rent calculations used for Units rehabilitated prior to the creation of this current draft of the Mod Rehab Administrative Plan that are still operational, as well as the rent calculations to be used in the case of the rehabilitation of new SRO Units under 24 C.F.R. part 882, subpart H.

12.1 Calculating Initial Gross Rents

Gross Rent is the total monthly cost of housing an Eligible Family and is the sum of the Contract Rent and any utility allowance. See 24 C.F.R. § 882.102.

The initial Gross Rent for any Unit must not exceed the Mod Rehab FMR¹² applicable to the Unit on the date that the AHAP is executed. See 24 C.F.R. § 882.408(a). Note that the following exceptions apply:

- (a) *Exception Rents.* With HUD Field Office approval, the BHA may approve initial Gross Rents which exceed the applicable Mod Rehab FMRs by up to 10% for all Units of a given size in specified areas where HUD has determined that the rents for standard Units suitable for the Existing Housing Program are more than 10% higher than the Existing Housing FMRs.¹³ The BHA will submit documentation demonstrating the necessity for such exceptions rents in the area to the HUD Field Office. See 24 C.F.R. § 882.408(a) and (b).
- (b) The BHA may approve changes in the Contract Rent subsequent to execution of the AHAP (see section 5.2) which result in an initial Gross Rent which exceeds the Mod Rehab FMR applicable to the Unit by up to 20%. See 24 C.F.R. § 882.408(a) and (d).

12.1.1 FMR for Structures Containing Four or Fewer SRO Units

If a structure contains four or fewer SRO Units, the FMR for that size structure (the FMR for a 1-, 2-, 3-, or 4-bedroom Unit, as applicable) must be used to determine the FMR limitation instead of using the separate FMR for each SRO Unit. To determine the FMR limitation for each SRO Unit, the FMR for the structure must be apportioned equally to each SRO Unit. See 24 C.F.R. § 882.805(d)(3).

12.1.2 FMR Limits for Efficiency Units

¹² Under the Program, Fair Market Value (“FMR”) for a Unit is determined by consulting the FMR Schedule for Moderate Rehabilitation, which is 120% of the Existing Housing FMR Schedule promulgated under 24 C.F.R. part 888. Note that the FMR limitation applicable to SRO housing is 75% of the Moderate Rehabilitation FMR for a 0-bedroom Unit (i.e., 75% of 120% of the Existing Housing FMR).

¹³ In areas where HUD has approved the use of exception rents for 0-bedroom Units, the SRO housing exception rent will be 75% of the exception rent applicable to Moderate Rehabilitation 0-bedroom Units. See 24 C.F.R. § 882.408(b).

The gross rent for efficiency Units may be no higher than for SRO units (i.e., 75 % of the 0-bedroom Mod Rehab Fair Market Rent). See 24 C.F.R. § 882.805(d)(4).

12.2 Calculating Initial Contract Rents

The initial Contract Rent and Base Rent for each Unit will be computed in accordance with HUD requirements. See 24 C.F.R. § 882.408(c). The amounts may be determined in accordance with the following methods:

- (a) *Initial Contract Rent*: The initial Contract Rent is equal to the base rent plus the monthly cost of a rehabilitation loan but not more than the maximum stated at the end of this section. See 24 C.F.R. § 882.408(c)(2).
- (b) *Base Rent*: The base rent must be calculated using the rent charged for the Unit or the estimated costs to the Owner of owning, managing and maintaining the rehabilitated unit. See 24 C.F.R. § 882.408(c)(2).
- (c) *Monthly Cost of a Rehabilitation Loan*: The monthly cost of a rehabilitation loan must be calculated using:
 - 1. The actual interest rate on the portion of the rehabilitation costs borrowed by the Owner;
 - 2. The HUD-FHA maximum interest rate for multifamily housing (or another rate prescribed by HUD) for rehabilitation costs paid by the Owner out of non-borrowed funds; and
 - 3. At least a 15-year loan term, except that if the total amount of rehabilitation is less than \$15,000, the actual loan term will be used for the portion of the rehabilitation costs borrowed by the Owner. (HUD Field Offices may authorize loan terms which differ from the above in accordance with HUD requirements).

If calculating the monthly cost of a rehabilitation loan for SRO Units, refer to section 12.3.1 of this Administrative Plan.

The initial Contract Rent may in no event exceed: the Mod Rehab FMR or exception rent applicable to the Unit on the date that the AHAP is executed, *minus* any applicable allowance for utilities and other services attributable to the Unit. See 24 C.F.R. §§ 882.408(a) and (c)(1).

Contract Rents for SRO Units will not include the costs of providing supportive services, transportation, furniture, or other non-housing costs, as determined by HUD. See 24 C.F.R. § 882.805(d)(4).

12.2.1 Calculating Monthly Cost of a Rehabilitation Loan for SRO Units

In determining the monthly cost of a rehabilitation loan for SRO Units, a loan term of at least 10 years (instead of 15 years) may be used. The

exception for using the actual loan term if the total amount of the rehabilitation is less than \$15,000 continues to apply. See 24 C.F.R. § 882.805(d)(1)(i).

In addition, the cost of the rehabilitation that may be included for the purpose of calculating the amount of the initial Contract Rent for any Unit must not exceed the lower of:

- (a) The projected cost of rehabilitation; or
- (b) The per unit cost limitation that is established by Federal Register notice, plus the cost of the fire and safety improvements required by 24 CFR § 882.605(b)(4).¹⁴

Note that HUD may, however, increase this latter per unit limitation by an amount it determines is reasonable and necessary to accommodate special local conditions, such as high construction costs or stringent fire or building codes. For further requirements see 24 C.F.R. §§ 882.805(d)(1)(i)(B) and (d)(1)(ii)

12.3 Changes in the Initial Contract Rents During Rehabilitation

In accordance with 24 C.F.R. § 882.408(d), the initial Contract Rent as calculated under section 12.2 will be the Contract Rents on the effective date of the Contract, except under the following circumstances:

- (a) When, during rehabilitation, work items (including substantial and necessary design changes) which (A) could not reasonably have been anticipated or are necessitated by a change in local codes or ordinances, and (B) were not listed in the work write-up prepared or approved by the BHA, are subsequently required and approved by the BHA. See 24 C.F.R. § 882.408(d)(i).
- (b) When the actual cost of the rehabilitation performed is less than that estimated in the calculation of Contract Rents for the AHAP or the actual certified costs are more than estimated due to unforeseen factors beyond the Owner's control (e.g., strikes, weather delays or unexpected delays caused by local governments). See 24 C.F.R. § 882.408(d)(ii).
- (c) When the BHA (or HUD) approves changes in financing. See 24 C.F.R. § 882.408(d)(iii).
- (d) When the actual relocation payments made by the Owner to temporarily relocated Families varies from the cost estimated in the calculation of Contract Rents for the AHAP. See 24 C.F.R. § 882.408(d)(iv).

¹⁴ HUD will publish future cost limitation changes in the Federal Register in the Notice of Funding Availability issued each year. See 24 C.F.R. § 882.805(d)(1)(i)(B).

- (e) When necessary to correct errors in computation of the base and Contract Rents to comply with the HUD requirements. See 24 C.F.R. § 882.408(d)(v).

Should such circumstances occur during rehabilitation (either an increase or decrease), the BHA will approve any necessary change in work and amendment of the work write-up and cost estimate, recalculate the initial Contract Rents, and amend the Contract or AHAP, as appropriate, to reflect the revised rents. See 24 C.F.R. § 882.408(d)(2).

In recalculating the initial Contract Rents, the BHA must determine that the resulting Gross Rents do not exceed the Mod Rehab FMR or the exception rent in effect at the time of execution of the AHAP. The FMR or exception rent, as appropriate, may only be exceeded when the BHA determines in accordance with the above circumstances that it will be necessary for the revised Gross Rent to exceed the Mod Rehab FMR or exception rent. Should this determination be made, the BHA will not execute a revised AHAP or Contract for Gross Rents exceeding the FMRs by more than 10 % until it receives HUD Field Office approval. The HUD Field Office may approve revised Gross Rents which exceed the FMRs by up to 20 percent for the circumstances listed above upon proper justification by the BHA of the necessity for the increase. See 24 C.F.R. § 882.408(d)(3).

12.3.1 Further Limits for SRO Units

In approving changes to initial Contract Rents during rehabilitation for SRO Units, the revised initial Contract Rents may not reflect an average per unit rehabilitation cost that exceeds the limitations specified in section 12.2.1 of this Administrative Plan. See 24 C.F.R. § 882.805(d)(2).

12.4 Contract Rents at End of Rehabilitation Loan Term

For a Contract in which the initial Contract Rent was based upon a loan term shorter than 10 years¹⁵, the Contract will provide for reduction of the Contract Rent effective with the rent for the month following the end of the term of the rehabilitation loan. The amount of the reduction will be the monthly cost of amortization of the rehabilitation loan. This reduction should result in a new Contract Rent equal to the Base Rent plus all subsequent adjustments. See 24 C.F.R. § 882.807(e).

12.5 Rent Increases

12.5.1 AAF Limits to Annual Contract Rent Adjustments

¹⁵ Note that “less than 10 years” is required pursuant to 24 C.F.R. part 882, subpart H (the regulations for newer SRO projects). For Mod Rehab Units built prior to the enactment of subpart H, but still operational, this part of section 12.5 should read “less than 15 years” in accordance with 24 C.F.R. § 882.409.

The amount of any rent increase cannot exceed the amount established by multiplying HUD's Annual Adjustment Factor ("AAF")¹⁶ by the Base Rents. See 24 C.F.R. § 882.410(a)(1).

If the amounts borrowed to finance the rehabilitation costs or to finance purchase of the property are subject to a variable rate or are otherwise renegotiable, Contract Rents may be adjusted in accordance with other procedures as prescribed by HUD, and specified in the Contract. However, any such adjusted Contract Rent may still not exceed the amount attained by multiplying the AAF by the Contract Rents. See 24 C.F.R. § 882.410(a)(1).

To receive an annual contract rent adjustment the Owner must request the rent increase in writing at least 75 days prior to the anniversary of the HAP contract.

The next section describes cases in which further "special adjustments" may be made with HUD approval. See 24 C.F.R. § 882.410(a)(2).

12.5.2 Special Rent Adjustments Subject to HUD Approval

Special rent adjustments may be recommended by the BHA for approval by HUD in the following situations:

- (a) *Increased Ownership/Maintenance Costs* - A special adjustment, to the extent determined by HUD to reflect increases in the actual and necessary expenses of owning and maintaining the Unit which have resulted from substantial general increases in real property taxes, assessments, utility rates, may be recommended by the BHA for approval by HUD. See 24 C.F.R. § 882.410(a)(2)(i).
- (b) *Drug-related Criminal Activity Prevalent* - Subject to appropriations, a special adjustment may also be recommended by the BHA for approval by HUD when HUD determines that a project is located in a community where drug-related criminal activity is generally prevalent, and not specific to a particular project, and the project's operating, maintenance, and capital repair expenses have substantially increased primarily as a result of the prevalence of such drug-related activity. HUD may, on a project-by-project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120% of the current gross rents for each Unit size under a HAP contract, to cover the costs of maintenance, security, capital repairs and reserves required for the Owner to carry out a strategy acceptable to HUD for addressing the problem of drug-related criminal activity. Prior to approval of a special adjustment to cover the cost of physical improvements, HUD will perform an environmental review to the extent required by HUD's environmental regulations at 24 C.F.R. §

¹⁶ The AAF may be found online at www.gpoaccess.gov.

50, including the applicable related authorities at 24 C.F.R. § 50.4. See 24 C.F.R. § 882.410(a)(2)(i).

The aforementioned special rent adjustments will only be approved if and to the extent the Owner clearly demonstrates that these general increases have caused increases in the Owner's operating costs which are not adequately compensated for by annual adjustments. See 24 C.F.R. § 882.410(a)(2)(ii).

The Owner must submit financial information to the BHA which clearly supports the increase. For Contracts of more than twenty (20) units, the Owner must submit audited financial information. See 24 C.F.R. § 882.410(a)(2)(iii).

12.5.3 Further Overall Limitation to Rent Adjustments

Rent adjustments made may not result in material differences between the rents charged for assisted and comparable unassisted Units, as determined by the BHA (and approved by HUD, in the case of adjustments made pursuant to section 12.8.3). This further limitation will not prohibit differences in rents between assisted and comparable unassisted Units to the extent that differences existed with respect to the initial Contract Rents, unless the rents have been adjusted in accordance with 24 C.F.R. § 882.409 as discussed in section 12.5 of this Administrative Plan. See 24 C.F.R. § 882.410(b).

12.6 Tenant Share of Rent

12.6.1 Determination of Tenant Rent

Tenant Rent is the amount payable monthly by the Family to the Owner and is equal to the Total Tenant Payment minus any Utility Allowance. See 24 C.F.R. § 5.634(a).

12.6.2 Total Tenant Payment

In accordance with 24 C.F.R. § 5.628, the Total Tenant Payment will be the highest of the following amounts, rounded to the nearest dollar:

- (1) 30 percent (30%) of the Family's monthly adjusted income¹⁷;
- (2) 10 percent (10%) of the Family's monthly income;
- (3) If the Family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the portion of those payments which is so designated;

¹⁷ See 24 C.F.R. § 5.611 for the precise calculations for adjusted income.
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12.6.3 Tenant Payment to Owner

See section 8.8.4 of the HCVP Administrative Plan.

12.6.4 Limit of BHA responsibility.

See section 8.8.5 of the HCVP Administrative Plan.

12.6.5 Utility Reimbursement

In accordance with 24 C.F.R. § 5.632(b)(1), the BHA will pay a Utility Reimbursement if the Utility Allowance (for tenant-paid utilities) exceeds the amount of the Total Tenant Payment.

The BHA shall pay the Utility Reimbursement directly to the Family.

12.7 Security Deposits

12.7.1 General

An Owner may collect a security deposit at the time of the initial execution of the Lease. If a Family vacates the Unit, the Owner, subject to Massachusetts and local law, may use the security deposit as reimbursement for any unpaid Tenant Rent or other amount owed for which the Family owes under the Lease (such as damages beyond normal wear and tear). See 24 C.F.R. § 882.414(a) and (b).

Security deposit limits and procedures used by the BHA are consistent with M.G.L. ch. 186, § 15(b)(i)(iii) and HUD memoranda. The maximum amount of the deposit shall be the *greater* of one month's TTP or \$50. Furthermore, this amount shall not exceed the maximum amount allowable under Massachusetts or local law. For Units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the Family vacates the Unit subject to the Lease terms. The Family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources. See 24 C.F.R. § 882.414(a).

12.7.2 Owner's Obligation to Refund

If a Family vacates the Unit the Owner shall refund the security deposit if required to do so under Massachusetts law.

12.7.3 Interest Accrued on Security Deposits

The Owner shall comply with all Massachusetts and local laws regarding interest payments due Tenants on security deposits. Owners shall take any owed interest payments into consideration when calculating reimbursements for unpaid rent or refunds to Families. See 24 C.F.R. § 882.414(c).

Chapter 13: INSPECTIONS (INTERIM AND ANNUAL)

13.1 Coordination of Annual Inspection

The Inspection Department maintains a listing of all Moderate Rehabilitation developments sorted by HAP Contract anniversary date and performs annual inspection based on the anniversary date of the HAP contract. Inspections of projects are automatically scheduled approximately three months prior to this anniversary date. See 24 C.F.R. §§ 882.515 and 882.516.

The BHA shall also inspect an Apartment prior to the initial term of any the Lease, and at least annually during assisted occupancy, and at other times as needed, to determine if the Apartment meets the HQS.

A thorough Unit inspection is required for the BHA to determine compliance with HQS and determine the Rent Reasonableness. See also Chapter 17.

13.2 Inspection Performance Requirements

13.2.1 Generally

See Section 9.1.1 of the HCVP Administrative Plan

13.2.2 Quality Control

See Section 9.1.2 of the HCVP Administrative Plan.

13.3 Initial Inspections

The inspections referred to in Chapter 5 cover those inspections required after the completion of any rehabilitation or construction prior when the unit is initially inhabited. The initial inspections referred to in this section refer to inspection that occur prior to an Applicant moving into an existing Moderate Rehabilitation unit.

The unit must pass the HQS inspection before the execution of the Assisted Lease and the initiation of payments.

13.3.1 Length of Validity (Initial Inspection)

See Section 9.2.3 of the HCVP Administrative Plan

13.3.2 Inspection Notice Requirements

The BHA will notify the Family and Owner of the inspection results in writing.

The Owner shall receive detailed information for all failed and inconclusive inspection items so that he or she is fully aware of the work necessary to pass the HQS inspection.

13.3.3 Initial Inspection Failure

If the Owner indicates that he or she is willing to make the requisite repairs, the BHA shall exercise discretion with respect to the period within which the Owner must make repairs in order for the Applicant to execute a Lease for the Apartment. Failure to make repairs and lease the contracted unit to an eligible Family is good cause for the BHA to reduce the number of units assisted under the Contract as described in section 8.9.

13.4 Interim Inspections

See Section 9.4 of the HCVP Administrative Plan

13.5 Inspection Failure (Annual and Interim)

13.5.1 Time Parameters for Corrections of Inspections Violations

See section 9.5.1 of the HCVP Administrative Plan.

13.5.2 Stopping and Resuming Payments after Interim or Annual Inspection

See section 9.5.2 of the HCVP Administrative Plan. If any unit is in violation of the HQS for more than six month and the Owner does not receive payment as a result, the BHA may reduce the number of assisted units under the Contract in accordance with section 8.9

13.5.3 Re-inspection (Follow-up inspection)

See section 9.5.3 of the HCVP Administrative Plan.

13.5.4 HAP Contract Termination Criteria

See section 9.5.4 of the HCVP Administrative Plan.

Where no Housing Assistance Payments have been made for 6 consecutive months and the BHA determines that it is unlikely that the Owner will take corrective action to bring the unit into compliance with inspection requirements, the BHA may exercise any of its rights or remedies under the HAP Contract. These remedies include abatement of housing assistance payments (even if the Family continues in occupancy), termination of the HAP Contract for the affected unit, and assistance to the Family in accordance with 24 C.F.R. § 882.514(e).

24 C.F.R. § 882.514 states:

If an Owner evicts an assisted family in violation of the Contract or otherwise breaches the Contract, and the Contract for the unit is terminated, and if the Family was not at fault and is eligible for continued assistance, the Family may continue to receive housing assistance through the conversion of the Moderate Rehabilitation assistance to tenant-based assistance under the Section 8 certificate or voucher program. The Family must then be issued a certificate or voucher, and treated as any participant in the tenant-based programs under 24 CFR part 982, and must be assisted by the BHA in finding a suitable unit. All requirements of 24 CFR part 982 will be applicable except that the term of any housing assistance payments contract may not extend beyond the term of the initial Moderate Rehabilitation Contract.

If the Family is determined ineligible for continued assistance, the certificate or voucher may be offered to the next Family on the BHA's waiting list. The unit will remain under the Moderate Rehabilitation ACC which provides for such a conversion of the units; therefore no amendment to the ACC will be necessary to convert to the Section 8 tenant-based assistance programs.

13.5.5 Notice of Subsidy Termination

The BHA will notify the Owner in writing of the HAP Contract termination. In the case that the HAP Contract is terminated due to Owner non-compliance and the Family is still eligible for continued participation in the Mod Rehab Program, see section 15.2.2 of this Administrative Plan.

13.5.6 HQS Violations of the Participant Family

See Chapter 13 of the HCVP Administrative Plan.

13.6 Analysis of Utility Costs

See section 9.6 of the HCVP Administrative Plan.

13.7 Lead Paint Policy

See section 9.7 of the HCVP Administrative Plan.

CHAPTER 14: RECERTIFICATION

The BHA must conduct an annual recertification for the Family.

14.1 Appointment for Recertification

See section 10.1.1 of the HCVP Administrative Plan.

14.2 Determining Family's Appropriate Unit Size and Subsidy

At the appointment, BHA staff will verify the Family's anticipated income, verify any changes in Family Composition, determine whether the Unit is too small or too large, and establish the Family's subsidy in accordance with Chapter 10 of this Administrative Plan.

- (a) *Change of Unit Size.* The appropriate Unit Size will be determined and exceptions made as previously described. If the Family requires a smaller or larger Apartment, BHA staff will notify them in writing of the change in bedroom size, the conditions under which the BHA might allow an exception to the Subsidy Standards, and the right to an informal hearing to dispute the determination.
- (b) *Unit Overcrowded or Underoccupied (Underhoused or Overhoused).* If the BHA determines that the Family's unit is not decent, safe, and sanitary by reason of an increase in Family size, or that the unit is larger than appropriate for the size of the Family, the BHA will not abate HAP payments. However, the Owner must offer the Family a suitable alternative unit should one become available and the Family will be required to move. If the Owner does not have a suitable available unit, the BHA shall assist the Family to move to another Mod Rehab unit within the BHA portfolio as soon as possible. Housing assistance payments under the Contract may be terminated if the Family rejects without Good Cause, the offer of a unit which the BHA judges to be acceptable. See 24 C.F.R. § 882.509.

If a Family notified by the BHA that they must find a smaller or larger apartment does not move, the BHA shall not terminate the subsidy until the BHA has identified an appropriate apartment for them. See 24 C.F.R. § 882.509.

14.2.1 Overcrowded SRO Units

If the BHA determines that anyone other than, or in addition to, the eligible individual is occupying an SRO Unit assisted under the Mod Rehab Program, the BHA will take all necessary action, as soon as reasonably feasible, to ensure that the Unit is occupied by only one eligible individual. See 24 C.F.R. § 882.808(j). A Mod Rehab Tenant residing in an SRO unit with more than one authorized Family member shall receive priority to transfer over another Mod Rehab Tenant who is underhoused. The BHA shall look first to transfer the Household within

the Owner's portfolio. If no units are available within the Owner's portfolio, then the BHA shall look to other Moderate Rehabilitation units.

14.3 Additions to Family Composition

See section 10.1.3 of the HCVP Administration Plan, but refer to section 14.2 of this Administrative Plan in the case that a change to Family Composition will result in a Unit being severely overcrowded.

14.4 Removal of Members from Family Composition

See section 10.1.4 of the HCVP Administrative Plan.

14.5 Change the Head of Household / Co-Head of Household

See section 10.1.5 of the HCVP Administrative Plan.

14.6 Adjustment of Utility Allowances

The BHA will analyze Utility Allowances annually as discussed in section 9.6 of the HCVP Administrative Plan.

If an adjustment is to be made to the Utility Allowance schedules, then the BHA will determine the amounts of adjustments, if any, to be made in the amount of rent to be paid by affected Families and the amount of Housing Assistance Payments. The BHA will notify the Owners and Families accordingly. Any adjustment to the Utility Allowance will be implemented at the Family's next annual recertification or at lease renewal, whichever is earlier. See 24 C.F.R. § 882.510.

CHAPTER 15: CONTINUED PARTICIPATION

15.1 Interim Recertification

15.1.1 Circumstances Requiring an Interim Recertification

See section 11.1.1 of the HCVP Administrative Plan excluding section 11.1.1(d) which does not apply to the Moderate Rehabilitation Program.

15.1.2 Family Request for Interim Recertification

See section 11.1.2 of the HCVP Administrative Plan.

15.2 Continued Assistance After Termination of HAP Contract

15.2.1 Grounds for Termination Contract

If the BHA finds that the Owner or Family has failed to meet the program or contractual obligations, the BHA may suspend the subsidy payments, terminate the HAP Contract, or terminate the subsidy accordingly.

HUD will also review Mod Rehab Program operations at such intervals as it deems necessary to ensure that the Owner and the BHA are in full compliance with the terms and conditions of the Contract and the ACC. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD. See 24 C.F.R. § 882.517.

15.2.2 Continued Participation

If an Owner evicts an assisted Family in violation of the Contract or otherwise breaches the Contract, and/or the Contract for the unit is terminated, and if the Family was not at fault and is eligible for continued assistance, the Family may continue to receive housing assistance through the conversion of the Moderate Rehabilitation assistance to tenant-based assistance under the HCVP if funding is available. The Family must then be issued a voucher and treated as a Participant under 24 C.F.R Part 982 and the HCVP Administrative Plan, and must be assisted by the BHA in finding a suitable unit. All requirements of 24 C.F.R. part 982 will be applicable except that the term of any HAP Contract for tenant-based assistance may not extend beyond the initial Mod Rehab Contract.

If the Family is determined ineligible for continued assistance, the voucher may be offered to the next Family on the BHA waiting list.

The unit shall remain under the Moderate Rehabilitation ACC which provides for such a conversion of the units; therefore, no amendment to the ACC will be necessary to convert to the HCVP tenant-based program.

15.4 Change of Ownership

In accordance with the Contract, the Owner may not make any transfer in any form, including any sale or assignment of the HAP contract of the property without prior written consent of the BHA. See also section 11.4 of the HCVP Administrative Plan.

15.5 Eviction

See section 11.5 of the HCVP Administrative Plan.

15.6 Family Absence from a Unit

See section 11.6 of the HCVP Administrative Plan.

15.6.1 Absence of up to Thirty (30) Days

See section 11.6.1 of the HCVP Administrative Plan.

15.6.2 Absence Greater Than Thirty (30) Days

See section 11.6.2 of the HCVP Administrative Plan.

15.6.3 Absence May not Exceed 180 Days

See section 11.6.3 of the HCVP Administrative Plan

15.7 Family Break-Up Policy

A Family Break-Up occurs when one or more adult Household Members will no longer reside together and there is a dispute as to who will remain in the Unit. A Family Break-Up situation may often occur in instances including but not limited to: divorce, separation, or the issuance of a protective order. When a Family Break-Up occurs, the Head of Household will not necessarily retain the benefit of the assisted Unit. Any adult Household Member, Emancipated Minor, or adult assuming responsibility for one or more minor family members could retain the Assistance.

When the BHA receives notice that a Family has broken up or will imminently break-up, the BHA will make the determination of which Family member retains the benefit of the assisted Unit using the criteria and the procedure provided below.

15.7.1 Court Determination

See section 11.7.1 of the HCVP Administrative Plan.

15.7.2 BHA Determination

See section 11.7.2 of the HCVP Administrative Plan

15.7.3 Notice of Proposed Disposition of Assistance

See section 11.7.3 of the HCVP Administrative Plan.

15.7.4 Right to Appeal BHA's Initial Determination

See section 11.7.4 of the HCVP Administrative Plan.

15.7.5 Procedure for Informal Hearings Regarding Family Break-Up

See section 11.7.5 of the HCVP Administrative Plan.

15.7.6 Assistance Pending the Exhaustion of Right of Review

See section 11.7.6 of the HCVP Administrative Plan.

15.7.7 Recertification of Family's Income and Change in Rent Share

Where there has been a Family Break-Up, and following the court or BHA Family Break-Up determination (and exhaustion of the BHA review process, where applicable), a subsequent change in the Head of Household occurs, the BHA will immediately remove the prior Head of Household from the Family Composition and recalculate the family's rent share to reflect the current Family Composition in accordance with the provisions of section 10.3 and Chapter 12 of this Administrative Plan. Any change in the Family's Share of rent will be effective retroactive to the first of the month following the date the Family Break-Up occurred.

15.7.8 Procedure Where There Is a Family Break-Up and Adults Who Are Not Currently Household Members Advance a Claim on Behalf of Minor or Incapacitated Household Members

See section 11.7.8 of the HCVP Administrative Plan.

15.8 Residual Family Policy

See section 11.8 of the HCVP Administrative Plan.

15.8.1 Qualifications for Residual Family

See section 11.8.1 of the HCVP Administrative Plan.

15.8.2 Calculation of Rent Once Residual Applicant Approved

See section 11.8.2 of the HCVP Administrative Plan.

15.8.3 Limitations of Policy

See section 11.8.3 of the HCVP Administrative Plan.

15.8.4 Residual Family – Right of Appeal

See section 11.8.4 of the HCVP Administrative Plan.

15.8.5 Residual Tenancies and the Rules for Underoccupied Units

If a Residual Family Applicant is approved, the rules and procedures for underoccupied Units found in section 14.2 of this Administrative Plan will still be applied.

15.9 Continued Housing Assistance Payments

A Family's eligibility for Housing Assistance Payments shall continue until the Total Tenant Payment equals the Gross Rent. The termination of eligibility at such point will not affect the Family's other rights under its lease, nor will such termination preclude the resumption of payments as a result of later changes in income, rents or other relevant circumstances during the term of the Contract. However, eligibility also may be terminated in accordance with HUD and BHA requirements for such reasons as failure to submit requested verification information, including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 C.F.R. part 5, subpart B, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by 24 C.F.R. part 5, subpart B. For provisions requiring termination of assistance when the BHA determines that a family member is not a U.S. citizen or does not have eligible immigration status, see 24 C.F.R. parts 5 and 982 for provisions concerning certain assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) in lieu of termination of assistance, and for provisions concerning deferral of termination of assistance. See 24 C.F.R. § 882.515(d).

CHAPTER 16: TERMINATION OF ASSISTANCE

16.1 Definitions

See section 13.1 of the HCVP Administrative Plan.

16.2 Mandatory Termination

See section 13.2 of the HCVP Administrative Plan and all its subsections excluding 13.2.1 as there is no right to continued participation once a participant is evicted from a Moderate Rehabilitation unit and thus unnecessary for BHA to proceed with termination.

16.3 Discretionary Termination

See section 13.3 of the HCVP Administrative Plan and all of its subsection excluding Sections 13.3.2 through 13.3.4, for which there is no regulatory ground for termination in the Mod Rehab program.

Under the Mod Rehab Program, the BHA may also terminate assistance for a Family if:

- (a) The BHA determines that a Family has failed to meet its responsibilities under the Statement of Family Responsibilities. See 24 C.F.R. § 882.413(b).
- (b) The BHA determines that a member of the household is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees. See 24 C.F.R. § 882.518(c)(2)(ii)(A).
- (c) The BHA determines that a member of the household is violating a condition of probation or parole imposed under Federal or State law. See 24 C.F.R. § 882.518(c)(2)(ii)(B)
- (d) The participant has refused to move to an appropriate-sized Apartment after the Family composition has changed enough to necessitate a change in Apartment size, provided the BHA has informed the Family of the availability of an provably Apartment. See 24 C.F.R. § 882.509.

16.4 Termination of Assistance Due to Lack of Adequate Funding

See section 13.4 of the HCVP Administrative Plan.

16.5 Family Obligations

In addition to the Statement of Family Responsibility described above, Participants in the Mod Rehab Program must follow the same Family Obligations found in Section 13.5.2 of the HCVP Administrative Plan. Violation of the Family Obligations by an act or a failure to act may result in termination of Mod Rehab

program assistance. Termination for a violation of the Family Obligations shall be at the discretion of the BHA.

16.5.1 Tenants Informed of Family Obligations

- (a) The BHA will supply the Family with a written description of the Family obligations at each annual recertification.
- (b) The Head of Household will sign the Family obligations at each annual Recertification to certify that he/she understands and will comply with the obligations of the Mod Rehab Program. See also section 13.5.1-2 of the HCVP Administrative Plan.

16.6 Procedure for Terminating Assistance

See section 13.6 of the HCVP Administrative Plan.

16.7 Informal Hearings for Participant Families

See section 13.7 of the HCVP Administrative Plan.

CHAPTER 17: GENERAL ADMINISTRATIVE PROCEDURES

See Chapter 17 of the HCVP Administrative Plan

CHAPTER 18: GLOSSARY

See Chapter 18 of the HCVP Administrative Plan