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Q: What are HOME Participating Jurisdictions' (PJs) responsibilities for developing, disseminating, and implementing affirmative marketing procedures?

- A.** The HOME final rule (24 CFR 92.351(a)) requires PJs and state recipients to develop and adopt and follow written affirmative marketing procedures and requirements for rental and homebuyer projects containing five or more HOME-assisted housing units, regardless of the specific activity the HOME funds will finance (e.g., acquisition, rehabilitation, and/or new construction). Affirmative marketing requirements and procedures also apply to all HOME-funded programs (e.g., homeowner rehabilitation, homebuyer assistance, and, tenant-based rental assistance). The PJ, its subrecipients, and project owners it funds must implement the written affirmative marketing procedures for the program or project.

The objective of affirmative marketing is to ensure that PJs, subrecipients, and project owners design and employ marketing plans that promote fair housing by ensuring outreach to all potentially eligible households, especially those least likely to apply for assistance. Affirmative marketing consists of actions to provide information and otherwise attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The affirmative marketing requirements also apply to projects targeted to persons with special needs. If a PJ's written agreement with a project owner permits a rental housing project to limit tenant eligibility or to have a tenant preference in accordance with §92.253(d)(3), the PJ must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the project.

The affirmative marketing procedures must describe specific steps that must be taken to ensure applicants who are unlikely to apply for housing without special outreach have equal access to housing opportunities generated by the use of HOME Program funds. There are five elements that each PJ or state recipient's marketing procedures must include:

1. A description of how the PJ plans to inform the public, subrecipients, owners, and potential tenants about Federal fair housing laws and the PJ's affirmative marketing policy;
2. The requirements and practices that each subrecipient and owner of HOME-funded housing must adhere to in order to carry out the PJ's affirmative marketing procedures and requirements;
3. A statement of procedures to be used by subrecipients and owners to inform and solicit applications from persons in the housing market area who are least likely to apply for the housing without special outreach;
4. A list of what records the PJ will keep, and what records the PJ will require subrecipients and owners to keep, regarding efforts made to affirmatively market HOME-assisted units, and to assess the results of these actions; and

5. A description of how the PJ will annually assess the success of affirmative marketing action(s) and what corrective actions will be taken where affirmative marketing requirements are not met.

PJs must implement their affirmative marketing procedures in projects or programs that they administer directly. PJs must also provide their affirmative marketing procedures to subrecipients that administer all or a portion of the PJ's HOME program and to owners/developer of HOME projects with five or more HOME-assisted units. The requirement to affirmatively market must be included in the written agreement between the PJ and the subrecipient or owner. The PJ must ensure subrecipients and owners have an understanding of the fair housing practices for advertising and soliciting applications (targeted populations should include those least likely to apply), know what records they must keep to document compliance, and how the PJ will assess the owner's marketing procedures and their success.

The HUD field office may request that a PJ provide the marketing procedures during monitoring and may evaluate whether the PJ is ensuring that subrecipients and owners comply with its procedures. Consequently, PJs must evaluate subrecipients and project owners' records during on-site monitoring to ensure that compliance is taking place and being adequately documented.

There is no submission requirement for affirmative marketing procedures in the HOME regulations. However, as a best practice, HUD recommends that affirmative marketing procedures be included in the Consolidated Plan, so that the procedures are subject to public review and comment. PJs should review their affirmative marketing procedures at least every five years to determine if they are still appropriate to the market, or more frequently if the demographics and market conditions of the jurisdiction have changed significantly.

With changing demographics in the United States, there are challenges when marketing to an eligible population that is limited English proficient (LEP). If there is an LEP population, HUD encourages the PJ to:

- Translate its marketing material to serve this population,
- Work with the language minority-owned print media, radio and television stations,
- Place marketing material at movie theaters that provide for free public service announcements,
- Partner with faith-based and community organizations that serve newly arrived immigrants, and
- Conduct marketing activities at adult-education training centers or during "English as a Second Language" classes.

Additional information on LEP is located at

<https://www.hudexchange.info/resources/documents/HUD-LEP-Services.pdf>