

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000



OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

APR 14, 2014

MEMORANDUM FOR: All FHEO Regional Offices
All FHEO Field Offices

FROM: _____/s/_____
George D. Williams, Sr., Deputy Assistant Secretary for Office of
Policy, Legislative Initiatives and Outreach, EC

SUBJECT: Affirmative Fair Housing Marketing Plan Review Guidance

Background

This memorandum is intended to clarify what FHEO is required to review and approve regarding Affirmative Fair Housing Marketing Plans (AFHMP).

AFHMP Authorities and Sources of Information

Affirmative fair housing marketing and outreach is a requirement per statute, executive order and regulation. Statutory authority exists in the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act. Also, Executive Order 11063 provides that all Federal executive departments and agencies must act to end discriminatory practices for properties receiving federal financial assistance.

All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (24 CFR 200.615) must complete the Affirmative Fair Housing Marketing Plan (AFHMP) form.

What is FHEO (the Department) required to review and approve?

Initial Plans

FHEO is required to review and approve all initial plans that meet the requirements of the AFHMP requirements. Under 24 CFR 200.625, *each applicant for participation in FHA housing programs to which these regulations apply shall provide on a form to be supplied by the Department information indicating his affirmative fair housing marketing plan to comply with the requirements set forth in §200.620. This form, once approved by HUD, will be available for public inspection at the sales or rental offices of the applicant.* Examples of initial plans may include, but are not limited to:

- All new subsidized and unsubsidized projects under the jurisdiction of Assisted Housing Programs;
- New Section 8 Project Based units;
- Any pre-1972 project that gets additional HUD funding (for rehab or sale) and therefore has to do an AFHMP for the first time;
- Existing private (not FHA) housing that now comes under an assisted housing program for the first time;
- Projects that transition to project based rental assistance(PBRA) through the RAD Program;
- All new SFH Developments if five or more homes are sold or are expected to be sold and they don't have an agreement to come under any other umbrella AFHMP. This includes manufactured home parks of five or more units; and
- New FHA Condos or Coop units if there are five or more.

Undated Plans

FHEO is also required to review and approve updated AFHMPs. This requirement stems from the Department's obligation to ensure compliance generally with HUD's Affirmative Fair Housing Marketing Regulations (*24 CFR part 200*) and more specifically under 24 CFR 108.21. See also HUD Handbook, 8025.1 and Form HUD 935.2A

An updated AFHMP should only be submitted to FHEO for review and approval if at least five years have elapsed since the last review, or the local jurisdiction's Consolidated Plan is updated, or when there are significant changes in the demographics of the housing market area and the respondent has conducted an analysis which determines that the population least likely to apply for housing is not identified in the currently approved AFHMP and/or the advertising, publicity or outreach are no longer appropriate and require modification or expansion.

The elapse of five years, an update of a local jurisdiction's Consolidated Plan, or significant changes in demographics of the housing market area should trigger the respondent (developer/owner) to review the existing plan and make determinations about whether the plan requires an update. This analysis should demonstrate that the entities' current marketing and outreach are targeting diverse areas where individuals that are least likely to apply live. If a respondent determines that the existing marketing plan is satisfactory, it should not be sent to the Department for approval, but instead maintained by the respondent for record keeping purposes. If the respondent determines that modifications or updates are required to the existing plan, the respondent should submit the updated AFHMP for FHEO approval.

FHEO, through its delegated authority, is responsible for ensuring compliance with the AFHMP requirements and is also responsible for approving both initial and updated AFHMPs. With this clear regulatory obligation and authority, the Office of Fair Housing and Equal Opportunity must, at a minimum, complete the reviews as outlined in this memorandum.

If there are any questions regarding these regulatory requirements, please contact Tracy Richardson, Director, Program Standards, Office of Policy, Legislative Initiatives and Outreach.