
Chapter 18 Affirmative Fair Housing Marketing Plan

18.1 Purpose

A. The purpose of this chapter is to provide a comprehensive overview of the Affirmative Fair Housing Marketing Plan (AFHMP), including its role in promoting fair housing choices and addressing historical inequalities to accessing housing.

B. Owners who seek to participate in Federal Housing Administration (FHA) insurance programs and Multifamily Housing (MFH) rental assistance programs must complete an AFHMP as part of the requirement to engage in affirmative fair housing marketing (AFHM). Various program regulations¹ state that HUD approval of the AFHMP is required before such a respondent may participate in an FHA or MFH program.

C. The Affirmative Fair Housing Marketing Plan regulations² require each respondent for participation in an FHA insurance or MFH rental assistance program to complete and submit a form supplied by HUD that describes its affirmative fair housing marketing plan. MFH has developed a form titled *Affirmative Fair Housing Marketing Plan (AFHMP) — Multifamily Housing (form HUD-935.2A)* (AFHMP Form) that respondents must submit. This chapter covers who must submit the form, when it must be submitted, and what information it must contain in order for a respondent to comply with the AFHM requirement.

18.2 Background

A. For much of the 19th and 20th centuries, government at all levels throughout the United States, along with private developers and mortgage lending institutions, played an active role in creating segregated living patterns, which perpetuated inequalities in access to opportunity. Title VIII of the Civil Rights Act of 1968,³ known as the Fair Housing Act, requires HUD and recipients of federal funds from HUD to administer their programs and activities in a manner to affirmatively further fair housing (AFFH). HUD strives to ensure that the agency and its program participants take meaningful actions to overcome patterns of segregation, promote fair housing choice, eliminate disparities in opportunities, and foster inclusive communities. The Fair Housing Act prohibits discrimination based on:

1. Race;
2. Color;
3. National origin;

¹ See for example, 24 C.F.R. § 880.601(a)(2), which states that the Owner of a project assisted under a project-based Section 8 new construction contract must conduct marketing “in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan.”

² 24 C.F.R. § 200.625

³ 42 U.S.C. §§ 3601–19

4. Religion;
5. Sex (including gender identity and sexual orientation⁴);
6. Familial status; and
7. Disability.

B. One way that HUD has implemented its obligation to AFFH is through AFHMPs, which seek to address disparities in exposure to and information about housing options in an attempt to promote fair housing choice and prevent the perpetuation of segregation. In developing an AFHMP, the goal is to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of protected characteristics. The plan outlines marketing strategies the respondent must use, including special efforts to attract persons who are least likely to apply and to make such persons aware of available housing opportunities.

C. AFHM and outreach are requirements extending from statute, executive order, and regulation. Statutory authority exists in the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973,⁵ Title VI of the Civil Rights Act,⁶ and Executive Order 11063, which provide that all federal executive departments and agencies must act to end discriminatory practices in the programs or activities of recipients of federal financial assistance.

18.3 Applicability

A. With the exception of respondents described in paragraph B., all respondents with projects containing five or more units (24 CFR 200.615⁷) seeking participation in an FHA insurance and/or MFH project-based rental assistance program must complete an AFHMP (24 CFR 200.625). The AFHMP must lay out the respondent's approach to complying with the requirements in 24 CFR 200.620.

B. While Owners of the following types of projects are required to comply with the nondiscrimination provisions of the Fair Housing Act and Executive Order 11063, they are not required to submit an AFHMP:

⁴ The Supreme Court ruled in *Bostock v. Clayton County* that employment discrimination based on sex, which is prohibited under Title VII of the Civil Right Act of 1964, includes discrimination based on gender identity and sexual orientation. An *Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* ([EO13988](#)) stated that the *Bostock* ruling applies more broadly to laws that prohibit discrimination based on sex, including the Fair Housing Act.

⁵ 29 U.S.C. § 794

⁶ 42 U.S.C. § 2000d-1

⁷ Note that the regulation refers to "FHA subsidized and unsubsidized housing programs." The terms "subsidized" and "unsubsidized" correspond with the terms "assisted" and "unassisted," as used through this handbook. An unassisted FHA project is one that participates in an FHA insurance program but is not subject to a MFH contract for rental assistance. An assisted project is subject to a contract for project-based rental assistance and may or may not also participate in an FHA insurance program.

1. Projects built or substantially rehabilitated before February 1972, unless the requirement for an AFHMP is stated in the HAP contract; and
2. Projects that have refinanced under Section 207/223(f) of the National Housing Act and do not have a HAP contract.

18.4 Terms Used in this Chapter

A. Census Tract. A small, relatively permanent statistical subdivision of a county or statistically equivalent entity that is given a unique numeric code. Census tracts average 4,000 inhabitants with a minimum population of 1,200 and a maximum of 8,000.

B. Housing Market Area (HMA). Area from which a multifamily housing project Owner/Agent may reasonably expect to draw a substantial number of its prospective residents. This is typically a census-defined place, such as a municipality, but it can also be a county or other jurisdiction, for unincorporated areas.

C. Expanded Housing Market Area (EHMA). A geographical area larger than an HMA, such as a Metropolitan Division, Metropolitan Statistical Area, or a Micropolitan Statistical Area, that may provide additional demographic diversity when considering race, color, national origin, religion, sex, disability, or familial status. If an Owner's HMA is not in a metropolitan area, then the county in which the Owner's project is located could be considered an expanded housing market area.

D. Integrated Real Estate Management System (iREMS). Internal system used by HUD that stores historical data relative to the project as well as project characteristics and contact information.⁸

E. Least Likely to Apply. Any demographic group or groups with an identifiable presence in a housing market area or expanded housing market area who are unlikely to apply for admission to a project without targeted outreach, including marketing materials in other languages for limited English proficient individuals and alternative formats for persons with disabilities. Reasons for not applying can include, but are not limited to, insufficient information about housing opportunities, language barriers, insufficient means of accepting applications, or transportation impediments.

F. Residency Preference. A preference for admission of persons who reside or work in a specified geographic area (residency preference area) over nonresidents. An area smaller than a county or municipality may not be used as a residency preference area.⁹ Length of residency in a residency preference area may not be used as a qualification factor. Residency preferences must comply with fair housing and civil rights requirements and cannot have the purpose or effect of delaying or denying admission based on a protected class.

⁸ See *Asset Management Systems* (chapter 4).

⁹ However, if a municipality is smaller than a county, the municipality must not be used, and the county should be used instead.

G. Targeted Marketing Activity. Advertising, marketing, and outreach that are designed and implemented to reach the demographic group(s) in the housing market area who are least likely to apply.

18.5 Owner Submission and Review of AFHMP

18.5.1 Initial Submissions

A. An initial AFHMP is required for new projects and for projects new to MFH (i.e., projects converting to project-based rental assistance (PBRA) through HUD’s Rental Assistance Demonstration (RAD) program).

18.5.2 Review and Analysis of Existing AFHMPs

A. After establishing a HUD-approved AFHMP, Owners must review their existing AFHMPs when at least one of the following conditions is met:

1. At least five years has elapsed since HUD approval of the AFHMP or the last review by the Owner;
2. The local jurisdiction’s Consolidated Plan has been updated; or
3. Significant demographic changes have occurred in the HMA such that the demographics captured in Worksheet 1 of the HUD-approved AFHMP Form are no longer accurate. To determine whether significant demographic changes have occurred, Owners must look at the current demographics of the HMA to determine whether there have been changes in the population in terms of race, ethnicity, national origin, religion, persons with disabilities, and/or families with children.

18.5.2.1 Required Analysis

A. If one of the three conditions described in section 18.5.2.A is met, the Owner must analyze the current AFHMP to determine:

1. If the group(s) identified as the group(s) least likely to apply is correct given the demographics of the project’s residents and the demographics of the HMA and EHMA; and
2. If the advertising and marketing cited in the current plan are appropriate for effectively reaching those least likely to apply.

18.5.2.2 Results of Analysis

A. If the Owner finds that either the least-likely-to-apply group is no longer correct, additional groups are considered least likely to apply, or the advertising and marketing must be changed, then the Owner must update its AFHMP and resubmit it to HUD for review, as described in section 18.5.3.

B. If the Owner determines that the AFHMP does not need to be revised, then the Owner must maintain a file documenting what was reviewed, what was found as a result of the review, and why no change was made. This documentation is subject to review by HUD or a Contract Administrator conducting a Management and Occupancy Review on HUD's behalf.

18.5.3 Subsequent Submissions

A. There are three instances in which an Owner must submit a revised AFHMP to MFH for review and approval:

1. When the analysis described in section 18.5.2.1 shows that the AFHMP must be updated;
2. When there is a change in the Owner or Agent;¹⁰ and/or
3. When the Owner requests HUD approval to adopt a new residency preference or change an existing residency preference as described in 24 CFR 5.655(c)(1)(iii)(A) and (C).

18.6 Required Contents of AFHMP

A. The AFHMP Form must be filled out completely and signed by an authorized official of the entity responsible for marketing.

18.6.1 Respondent and Project Information

A. Respondents/Owners must provide the following information:

1. Project name and address;
2. Project HAP contract number, if applicable;
3. Number of units;
4. Census tract;
5. HMA and EHMA;
6. Management Agent name, address, phone number, and email address;
7. Respondent/Owner/developer name, address, phone number, and email address;
8. Entity responsible for marketing, including position, name, and contact information; and
9. Main point of contact for the AFHMP.

18.6.2 AFHMP Type and Status of Marketing/Occupancy Activities

A. The AFHMP Form requests the following information:

¹⁰ In this circumstance, FHEO review is required only if the Owner has completed the analysis described in 18.5.2.1 and determined that one of the conditions necessitating modification of the AFHMP has been met.

1. Plan type (either initial or updated), the date of the first approved AFHMP, and the reason for the plan submission;
2. The HUD-approved occupancy type of the project (family, elderly, disabled, mixed (elderly/disabled));
3. Date of initial occupancy; and
4. Advertising start date and purpose.

18.6.3 Demographics of Market Area

A. The AFHMP Form requests information related to the demographics of the project's residents and the market area.

1. Worksheet 1 of the AFHMP Form contains fields where the Owner must provide data about the demographic make-up of project residents, prospective residents, the census tract in which the project is located, the HMA, and the EHMA.
2. If the demographic data show that there is a significant underrepresentation of any demographic group among current or prospective residents compared with the census tract, HMA, or EHMA, then the Owner's outreach and marketing activities must be targeted to underrepresented groups within the market area. If there are no underrepresented groups in the HMA, then the Owner has an obligation to ensure that the project reflects the demographics of the EHMA.

18.6.4 Residency Preference and Marketing Program

A. The AFHMP Form includes a section where a respondent or Owner may request HUD approval of a residency preference.

B. A residency preference is an admissions preference that gives priority to people who reside or work in a specified geographic area (a "residency preference area"). Residency requirements are prohibited. Eligibility for a residency preference must include people who work in the area and may not be based on the length of time the prospective resident has lived or worked in the area. The preference must not have the purpose or effect of delaying or otherwise denying admission to a project or unit based on a protected class.

C. A county or municipality may be used as a residency preference area but only if doing so complies with fair housing and civil rights requirements and is approved by HUD.

D. An area smaller than a county or municipality may not be used as a residency preference area. This means, for example, that a county public housing authority (PHA) cannot adopt a residency preference that does not include the entirety of that county.

E. HUD encourages respondents and Owners to consider that in areas with deeply segregated living patterns, an overly restrictive residency preference area is highly likely to discriminate in violation of fair housing and civil rights requirements. The larger the residency preference area, the less likely it is to violate fair housing and civil rights requirements. See Chapter 4 of *Occupancy*

Requirements of Subsidized Multifamily Housing Programs (HUD Handbook 4350.3) for additional information on residency preferences.

E. The AFHMP Form requests the following information regarding a residency preference if the respondent or Owner wishes to adopt one:

1. The residency preference type (new or revised);
2. The respondent's or Owner's residency preference policy from the Tenant Selection Plan;
3. The geographic area of the residency preference (i.e., the county, the MSA, etc.);
4. The respondent's or Owner's justification for the preference;
5. The respondent's or Owner's plan for periodically evaluating any potential discriminatory effects of the residency preference; and
6. The demographics of the residency preference area (see Worksheet 2 of the AFHMP Form: *Establishing a Residency Preference Area*).

F. Please note that a residency preference must be approved by HUD prior to its implementation.

18.6.5 Community Contacts

A. Question 4b on the AFHMP Form requests information about how the project will work with local community contacts in order to reach those who are least likely to apply. The following information is required:

1. Worksheet 3 of the AFHMP Form (*Proposed Marketing Activities — Community Contacts*) contains fields where the respondent/Owner must list targeted populations (those least likely to apply).
2. For each targeted population, the respondent/Owner must identify one or more community contact organizations that will facilitate outreach to the particular population group.
3. A community contact can be a social service agency, religious body, advocacy group, community center, etc.
4. For each community contact identified, the respondent/Owner must include the following information:
 - a. Name;
 - b. Contact information;
 - c. Previous experience working with the targeted population;
 - d. The date contacted to arrange for them to be the community contact; and
 - e. The role the community contact will play in affirmatively marketing the project.

18.6.6 Marketing and Advertising

A. The AFHMP Form requests information about how the project proposes to market to those who are least likely to apply.

1. Proposed methods of advertising and marketing to those groups that are least likely to apply must be listed on Worksheet 4 of the AFHMP Form: *Proposed Marketing Activities – Methods of Advertising*.
2. For each targeted population, the respondent/Owner must identify a means of advertising that will reach that group and the reason that method will be effective, including:
 - a. The specific media used (e.g., name of newspaper, television station, Web site, location of bulletin board, etc.);
 - b. The specific population targeted;
 - c. The language in which the material will be provided;
 - d. The methods used to ensure effective communication with individuals with various types of disabilities such as alternative formats for people who are blind or visually impaired (e.g., Braille, large print, accessible electronic communication) or other alternative formats to reach individuals with intellectual, developmental, and cognitive disabilities;
 - e. The logos that will appear on the materials and the sizes of the logos (e.g., the equal opportunity logo); and
 - f. A copy or picture of the advertising/marketing material.
3. If necessary, additional sheets may be used to provide all the requested information

18.6.7 Evaluation of Marketing

A. Section 6 of the AFHMP Form includes a field where the respondent/Owner must provide information related to how the project will evaluate the marketing activities identified on Worksheet 4 to determine if the project has been successful in attracting those least likely to apply.

B. The respondent/Owner must describe how the evaluation will be conducted and how often the project will evaluate the success of their affirmative marketing to check if the demographic make-up of the project generally reflects that of the HMA and EHMA, whichever is more diverse.

18.6.8 Marketing Staff and Training

A. The AFHMP Form requests information related to the staff responsible for conducting marketing activities for the project.

B. As the front line for ensuring that fair housing responsibilities are being upheld at FHA-insured and MFH-assisted projects, project staff need to understand the requirements for the projects where they work. The AFHMP Form contains fields where the respondent/Owner must provide the following information:

1. What staff positions in property ownership or management are responsible for Affirmative Fair Housing Marketing.
2. Whether staff are trained and assessed on the AFHMP and fair housing and, if so, who provides that training and how frequently.
3. Whether staff are assessed periodically to ensure they understand the AFHMP and have the skills necessary to perform the responsibilities required to make sure the AFHMP is followed. How frequently any such staff assessment occurs.
4. Whether staff are trained on the Tenant Selection Plan in accordance with the occupancy policy of the project, including any residency preference. What staff position(s) is (are) responsible for tenant selection.
5. What the staff AFHMP/Fair Housing training involves, whether it has been or will be provided, to whom it was/will be provided, and the contents of the training. Dates of past and anticipated trainings are requested, as are copies of the training materials.

18.6.9 Fair Housing Display

A. All FHA-insured and MFH-assisted projects must prominently display in all offices where sale or rental activity takes place the HUD-approved Fair Housing Poster. Additionally, any printed material used in connection with sales or rentals must include the HUD-approved Equal Housing Opportunity logo. The project site sign must be posted in a conspicuous position and prominently display either the Equal Housing Opportunity logo, slogan, or statement.

B. The AFHMP, once approved, must be made available for public inspection at the sales or rental offices of the respondent. HUD recommends that the respondent/Owner post the AFHMP on their Web site.

18.6.10 Certification

A. By signing, the respondent assumes responsibility for implementing the AFHMP, reviewing the plan at least once every five years or more frequently if local conditions or project demographics significantly change, and updating the plan when necessary. HUD may monitor the implementation of the AFHMP at any time and may also request modification in its format and/or content when deemed necessary. The respondent must also notify their local MFH office if they plan to make revisions to the AFHMP strategy after HUD approval has occurred.

18.7 HUD Review of the AFHMP

A. MFH staff review the AFHMP Form to check for completeness and verify the information provided. They rely on the following resources to review and confirm the information submitted in an AFHMP:

1. iREMS;
2. Census data; and

3. Information presented in the AFHMP itself.

B. MFH staff may use an internal checklist during the AFHMP review when checking for completeness.

C. Once MFH staff have reviewed for completeness, they will send the AFHMP to the Office of Fair Housing and Equal Opportunity (FHEO) for review.

18.7.1 IREMS

A. iREMS plays a key role in the early stages of the review process. The AFHMP Form requests information regarding the project (i.e., address and description), Owner, Management Agent, and the person responsible for marketing at the project.

B. The submitted information from the AFHMP Form must correspond to what is in iREMS, unless:

1. The person listed in iREMS is a regional manager, vice president, or someone within leadership at the Owner organization who is different from the on-site person responsible for marketing; or
2. The AFHMP is being submitted as the result of a change in the project Owner or Agent.

18.7.2 Census Tract

A. MFH staff need to ensure that the submitted AFHMP Form uses the correct census tract, since multiple worksheets rely on this information to identify demographic groups least likely to apply.¹¹ Staff can verify the census tract of a particular property using the [Census Geocoder](#). When an address is entered, the Geocoder provides various geographic information (state, county, MSA, etc.), including the census tract name.

¹¹ The forthcoming automated AFHMP Form will pull census tract information directly from the Census Bureau.