



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:

Notice H 2013-20

All FHA-Approved Multifamily Mortgagees

Issued: July 26, 2013
Expires: This Notice remains
in effect until amended,
superseded or rescinded.

Cross Reference:

SUBJECT: Affirmatively Furthering Fair Housing Demonstration in Baltimore, Maryland, Standard Metropolitan Statistical Area (SMSA) Referred to as Affordable Housing (AH) Demonstration

I. PURPOSE

The purpose of this Housing Notice is to announce the commencement of the AH Demonstration.

II. EFFECTIVE DATE

The demonstration commences upon July 26, 2013.

III. BACKGROUND

A. Affirmatively Furthering Fair Housing

Section 808(e) of the Fair Housing Act (42 U.S.C. 3608(e)) requires HUD to administer its programs relating to housing and urban development in a manner to affirmatively further fair housing (AFFH). HUD carries out this obligation by requiring its program participants to affirmatively further fair housing. AFFH means undertaking affirmative efforts to overcome barriers to fair housing choice and reduce segregation of persons on the basis of race, national origin, and other protected classifications. For example, HUD has funded a number of voucher mobility programs that pair Housing Choice Vouchers with mobility counseling to facilitate greater housing choice and overcome the effects of historic patterns of segregation. One such regional voucher mobility program was established in the Baltimore SMSA in 1996. Multifamily housing assisted by or with financing insured by FHA is subject to the Fair Housing Act's AFFH requirement.

B. Announcement of Proposed Demonstration and Solicitation of Public Comment

Through notice published in the Federal Register on September 5, 2012, at 77 FR 54602, HUD announced its proposal to conduct a demonstration by which it would encourage investment in multifamily housing to promote the availability of affordable housing units in a manner that

reduces racial segregation and increases geographic and economic mobility in the Baltimore SMSA. For its multifamily housing programs that insure financing for multifamily housing development, HUD proposed to offer certain incentives to make more affordable housing available in mixed-income, integrated communities. In addition, HUD proposed that this new affordable housing be made available to Housing Choice Voucher holders, expanding housing options for these families.

HUD advised that the demonstration would be open to multifamily owners and developers pursuing FHA mortgage insurance under FHA's section 221(d)(4) program or other FHA multifamily finance programs for properties to be developed in "eligible areas" in the Baltimore SMSA. HUD proposed to offer incentives for owners and developers who agree to set aside a percentage of newly constructed or rehabilitated two- or three-bedroom units in general occupancy properties for families holding Housing Choice Vouchers, either under a project-based voucher contract or offered at rents less than or equal to the Fair Market Rent (FMR) for the Baltimore SMSA. HUD believes that the proposed incentives will encourage the construction of more affordable housing for voucher holders in areas with good schools, safe neighborhoods, and sustainable employment opportunities, and will contribute to reducing racial segregation. For the full description of HUD's proposed demonstration, see September 5, 2012, Federal Register notice at <http://www.gpo.gov/fdsys/pkg/FR-2012-09-05/pdf/2012-21840.pdf>.

C. Public Comments on the Proposed Demonstration

HUD solicited public comment on its proposed demonstration through November 5, 2012. HUD received two public comments. One commenter, a think tank that focuses on affirmative action, immigration, and bilingual education, requested that any efforts to reduce racial segregation not deny equal housing opportunities on the basis of race. The commenter's request is consistent with HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all. The second commenter, a trade association representing firms involved in all aspects of residential housing construction, expressed its support for the demonstration but sought further clarity on the types of incentives that would be offered, and suggested that one such incentive should be waiver of duplicative requirements such as the multiple physical property inspections currently required under FHA and for voucher programs. HUD intends to meet with interested lenders and will review individual proposals to determine which incentives, within statutory parameters, are appropriate for HUD to offer as part as the demonstration. HUD does not believe that the property inspection requirements are overly burdensome or duplicative. The public comments submitted in response to HUD's September 5, 2012, notice can be found at <http://www.regulations.gov/#!docketDetail;D=HUD-2012-0094>.

IV. AH DEMONSTRATION

Entities eligible to participate in the AH Demonstration are multifamily owners and developers pursuing FHA mortgage insurance under FHA's section 221(d)(4) program or other FHA multifamily finance programs for properties to be developed in eligible areas in the Baltimore SMSA.

Owners and developers are eligible to participate in the demonstration only if they meet all other requirements for FHA multifamily mortgage insurance, and in addition, if they:

- Certify compliance with the requirements of the FHA-insured financing, the terms of the AH Demonstration and, and civil rights requirements (a standard certification for all HUD programs);
- Develop and submit to HUD a satisfactory Affirmative Fair Housing Marketing Plan in accordance with the requirements of 24 CFR 200.625, for both the market rate units and the units that will be affordable to HCV holders in Baltimore City and throughout the Baltimore SMSA, including marketing of affordable units to HCV holders in Baltimore City through the Baltimore Regional Housing Partnership;
- Not establish local residency preferences;
- Maintain statistics on the race and ethnicity of the applicants and occupants for the affordable and market rate units.

Eligible areas for the demonstration are those areas in which the Baltimore regional mobility program operates. The Baltimore regional mobility program was established under the Thompson v. HUD settlement and is administered by the Baltimore Regional Housing Partnership. Eligible areas are identified as “communities of opportunities” in the Thompson v. HUD settlement. See Section IV.C.2 of the Settlement Agreement found at http://www.naacpldf.org/files/case_issue/Thompson%20v%20HUD%20-%20SettlementAgreement%20&%20Exhibits.fully%20executed.08-13-2012.with%20amended%20ExhibitE.09-13-2012.Final.pdf. Communities of opportunity provide good schools, a safe neighborhood environment, and sustainable employment opportunities.

Eligible properties for the demonstration must be located in eligible areas. Eligible units for the demonstration are 2 bedrooms or more in general occupancy properties, and must be distributed throughout the property.

Incentives will be offered to encourage private housing developers and owners to participate in the demonstration and, through such participation, to include affordable units for families when FHA-insured market-rate developments are constructed or rehabilitated in “communities of opportunity” throughout the Baltimore region (Baltimore City, Baltimore County, Anne Arundel County, Howard County, Carroll County and Harford County), and more specifically, to set aside at least 10 percent of newly constructed or rehabilitated units for Housing Choice Voucher (HCV) holders.

The precise incentives offered will depend upon the owner or developer’s proposal for affordable units (i.e., commensurate with the number of affordable units set aside), and are limited to those which FHA may offer within statutory parameters. Eligible incentives include, at a minimum, the following:

- Lowering the mortgage insurance premium;
- Adjusting the occupancy/vacancy rate lower when establishing the project’s anticipated budget;
- Establishing a procedure that results in greater and/or more frequent surplus cash distributions for projects containing a specified number of affordable units.

HUD may, but is not required, to offer the above incentives for creation of not more than 300-500 affordable units per year over a seven year period, not to exceed 2,100 over the seven years.

For purposes of transparency, all proposals accepted by HUD under this demonstration and the incentives offered will be posted on HUD's website at www.hud.gov/AHDemonstration.

Eligible entities interested in participating in the Demonstration should submit an expression of interest to AHDemonstration@hud.gov, and include a brief description of the proposal to create affordable units in a "community of opportunity" in the Baltimore Region. The description of the proposal must demonstrate that the requirements of the AH Demonstrations are met.

If there are any questions regarding this HN, please contact Mary Ann Henderson, Director, Baltimore Multifamily Hub, at (410) 209-6545.

Carol J. Galante
Assistant Secretary for Housing-
Federal Housing Commission