
CHAPTER 6: COMPLIANCE PROCEDURES

- 6-1. INTRODUCTION. The Compliance Procedures for Affirmative Fair Housing Marketing, 24 CFR Part 108, were issued pursuant to the authority granted to the Secretary to issue regulations under Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535 (d), and implement the functions, powers, and duties imposed on the Secretary by Executive Order 11063, as amended, 24 F.R. 11527, and the Fair Housing Act, 42 U.S.C. 3608. The primary purpose of these procedures is to determine whether the actions of an applicant whose units are covered by the provisions of 24 CFR Part 200, Subpart M are in compliance with the approved Affirmative Fair Housing Marketing (AFHM) Plan, AFHM Regulations (24 CFR Part 200, Subpart M) and AFHM requirements in Departmental programs.
- 6-2. PURPOSE OF COMPLIANCE PROCESS. The purpose of a compliance review or complaint investigation is to determine whether the applicant is in compliance with the Department's AFHM Regulations and the applicant's approved AFHM Plan. Further, these processes serve as a vehicle for promoting equal housing opportunity and assure access to a full range of housing and related facilities.
- 6-3. DEPARTMENTAL RESPONSIBILITIES. The Regional Director of Fair Housing and Equal Opportunity has responsibility for conducting compliance reviews and complaint investigations to determine whether an applicant's actions are in compliance with the approved AFHM Plan and the AFHM Regulations; scheduling compliance meetings to resolve AFHM Plan deficiencies; preparing compliance reports; and referring unresolved AFHM Plan matters to the Assistant Secretary for FHEO for determination of noncompliance and consideration of further action, including the imposition of sanctions.
- A. Complaint Intake. The Complaint Intake Analyst (CIA) shall review all complaints received to ascertain any allegations of violations of the AFHM requirements and regulations. If a complaint alleges violation in more than one area of jurisdiction, then the complaint

shall be processed by all appropriate program areas.

For instance, if a complaint alleges violation of the AFHM regulations and includes an allegation of a violation of the Fair Housing Act, the two allegations are to be dealt with separately. The Regional Office FHEO staff will process the AFHM allegation, and either the Regional Office or the appropriate State/local substantially equivalent agency will process the Fair Housing Act portion of the complaint. If the complaint is limited to an AFHM allegation, but an investigation reveals Title VI implications, both the Fair Housing Act and Title VI staff shall be involved in the investigation procedures.

- B. Joint Processing. When joint processing activities appear to be appropriate, the CIA shall so advise the Director of Compliance. Information gathered by the various Branches shall be shared so as to eliminate duplication of effort. Procedures for joint processing of compliance reviews and complaints are discussed further in paragraph 6-11.
- C. Department Initiated Reviews. In the absence of a complaint, the Director of Regional FHEO has authority to initiate periodic compliance reviews to determine the compliance of applicants subject to 24 CFR Part 200, Subpart M. Selection of projects for Department initiated reviews should reflect the diversity of HUD programs. (See Paragraph 6-6.)
- D. On-site Review Activities. On-site review activities may be required for preliminary reviews and shall be required for compliance reviews.
- E. Preliminary Review. If it is determined that modifications are needed in the AFHM Plan or its implementation, or that compliance issues exist, the Equal Opportunity Specialist (EOS) shall prepare a preliminary review report for the approval of the Director, Regional Office of FHEO, within five (5) working days after completion of the review.
- F. Applicant Notification. The Regional Office Director shall notify the applicant by certified mail, return receipt requested, of the results of the preliminary review and advise the applicant of the right to respond within seven (7) days to the matters raised and to submit information and relevant data evidencing

compliance with the AFHM Regulation, the AFHM Plan, Executive Order 11063, as amended, and the Fair Housing Act as appropriate. In addition, the notification shall advise the applicant of the time and place of the compliance meeting at least ten (10) working days prior to such meeting. The appropriate Field Office Manager shall be notified of the meeting and may attend.

- G. Compliance Meeting. The compliance meeting shall be held at least 10 days before the next sales or rental report is due. Also, the Regional Office should contact the appropriate Field Office FHEO and Housing Division Directors for current information regarding the applicant's project.
- H. Determination of Possible Noncompliance. If the evidence indicates possible noncompliance with the AFHM Plan or Regulation, or if the matters raised cannot be resolved, the Director of the Office of Regional FHEO shall notify the applicant by certified mail, return receipt requested, after the compliance meeting is held, and shall advise the applicant whether the Department will conduct a compliance review or refer the matter to the Assistant Secretary for FHEO for action, including the imposition of sanctions. It is recommended that the Regional Office conduct a compliance review prior to referring the matter to the Assistant Secretary.
- I. Compliance Review. The purpose of a compliance review is to determine whether the applicant is in compliance with the Department's AFHM regulations and requirements and the applicant's approved AFHM Plan. Where allegations are also cognizable under the provisions of Executive Order 11063, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, or Section 504 of the Rehabilitation Act of 1973, as amended, the review will also involve appropriate reviews under those authorities.
- J. Compliance Report. The applicant shall be provided with a summary of the compliance report and notified that if the matter cannot be resolved within 10 days of

receipt of the Notice, the matter will be referred to the Assistant Secretary of FHEO. When negotiations are successful, a written conciliation agreement should be prepared and executed by the applicant and the Director

of Regional FHEO. Copies of such documents should be forwarded to the Director, Office of Investigations, as well as to the appropriate Field Office Manager.

K. Referral to the Assistant Secretary. Once the compliance review has been completed, the compliance meeting held and if voluntary resolution is not achieved, the compliance report (including the report of the compliance meeting(s), the report of the preliminary review and the Regional Office recommendation) shall be forwarded to the Assistant Secretary for FHEO. The Assistant Secretary shall make a finding of compliance or noncompliance and shall notify the applicant within 10 working days of the determination. If a finding of noncompliance is made, the applicant shall be sent a copy of the report, certified mail, return receipt requested, which specifically lists the violations found. Copies of such correspondence will be forwarded to the Regional and Field Office FHEO and Housing Directors.

L. Voluntary Resolution. The Director, Office of Regional FHEO is encouraged to attempt voluntary resolution of findings of possible noncompliance through the compliance process. Every effort should be made to extend assistance and guidance to the applicant in order to facilitate compliance.

6-4. RELATIONSHIP BETWEEN AFHM COMPLIANCE PROCEDURES AND OTHER FHEO AUTHORITIES. Information obtained during a compliance review may also impact upon an applicant's compliance with other civil rights statutes. In this respect, the appropriate civil rights authorities should be considered in connection with AFHM Compliance Procedures. The interrelationship of civil rights statutes should be considered during the analysis of incoming complaints and the targeting of projects for compliance reviews, as well as throughout the compliance review process. It is important to assure that any applicant is in full compliance with all relevant civil rights statutes, and to avoid any duplication of enforcement efforts. (See Paragraph 1-4.)

6-5. COMPLIANCE REVIEW PROCESS. The steps in the compliance review process include:

A. Selection of a project or analysis of a complaint filed against an applicant;

- B. Preliminary review and report;
 - C. Documentation of findings;
 - D. Compliance meeting to resolve findings;
 - E. Determination of the need for a compliance review or recommendation for initiation of enforcement actions;
 - F. Preparation of a compliance review plan;
 - G. Conduct of on-site compliance review and preparation of a report;
 - H. Compliance meeting to resolve possible noncompliance; and
 - I. Recommendation for imposition of sanctions where voluntary compliance efforts are unsuccessful.
- 6-6. SELECTION CRITERIA FOR COMPLIANCE REVIEWS. Under the direct supervision of the Director of Compliance, the CIA will be responsible for researching and gathering pertinent information to assist the Director of Compliance in:
- A. The identification of applicants for AFHM compliance reviews;
 - B. The review and analysis of information ascertained in the absence of a complaint alleging an applicant's noncompliance; and
 - C. Review and analysis of complaints filed pursuant to AFHM Regulations which are also cognizable under Title VI, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11063.

Compliance reviews may be initiated by the Department when Field Office monitoring activities indicate significant Plan implementation deficiencies, or when complaints are received from individuals and public or private groups.

Compliance reviews may also be initiated by the Director, Office of Regional FHEO. Projects identified for compliance reviews by the Regional Director for FHEO should reflect a diverse group of housing programs.

6-7. PRELIMINARY REVIEWS. In preparing for a preliminary review, the Title VIII Branch Chief should closely coordinate activities with the Field Office. The Field Office will provide all information concerning the project or housing involved. The EOS conducting the review will thoroughly analyze all of the documents pertaining to the project. Where the compliance review is complaint-based, an assessment of the complaint and initial contact with the complainant(s) is required.

A. Types of Preliminary Reviews.

1. In-House. All available information and records should be maintained as a part of the office project file. In addition, other information in this section should be requested of the applicant and be included in the in-house review, as appropriate.
2. On-site. Where necessary and feasible, an on-site preliminary review should be conducted. The Director, Office of Regional FHEO shall determine when the circumstances warrant an on-site review. In those instances where an on-site preliminary review is conducted, a preliminary review plan should be developed and approved by the appropriate Branch Chief.
3. Joint Compliance and Complaint Processing. Where a compliance review is conducted jointly with a complaint investigation, an assessment of the complaint and initial contact with the complainant(s) is required.

B. Scope of Preliminary Review. The preliminary review should address the following:

1. Requirements contained in the AFHM Plan.

2. Basic information about the project such as:
 - a. HUD program involved;
 - b. Location of project units;
 - c. Number of units and bedroom distribution;

- d. Number of accessible units;
 - e. Sales and/or rental price ranges; and
 - f. Race, handicapped status and sex of buyers and/or tenants.
3. Analysis of information available regarding matters subject to review:
- a. Applicant's sales and rental practices, including procedures for determining eligibility, soliciting, selecting and rejecting buyers and renters, and procedures for completing sales and rental transactions;
 - b. Efforts to attract minority and non-minority buyers and renters (including the use of advertising media, brochures, and pamphlets); and
 - c. Compliance with both the Department's Fair Housing Poster Regulation and the Fair Housing Advertising Guidelines.
4. Any complaints filed against the applicant or existing conciliation or compliance agreements to which the applicant is a signatory.
5. Information developed under Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Order 11063 investigations which may be applicable to the AFHM review process.
6. Summaries of all current reports on Form HUD-935.5 should provide information as to the applicant's success in achieving the objectives of the approved AFHM Plan.

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7. If an on-site preliminary review is conducted,
- a. Interviews with complainant(s), witness(es) and staff responsible for marketing units should be held; and
 - b. Copies of tenant selection procedures, occupancy reports, monthly sales or rental

reports, screening and processing criteria, training programs, waiting lists and advertising brochures should be secured. Records which impact on the applicant's marketing program should be reviewed and secured.

- 6-8. CONTENTS OF REPORT OF PRELIMINARY REVIEW (RPR). When the preliminary review has been completed, the EOS will prepare a report of preliminary findings. The RPR is an objective, written narrative of the facts and evidence gathered by the EOS. In all cases the facts and evidence must be accurate and pertinent to the issues under review or the allegations in the complaint. The RPR will include, but not be limited to:
- A. A summary of the issues and/or allegations;
 - B. A copy of the complaint(s), if appropriate;
 - C. The authority(ies) involved;
 - D. An analysis of all required HUD report forms reviewed;
 - E. An analysis of all information and documents submitted by the applicant during the preliminary review;
 - F. Copies of all documentary evidence and records;
 - G. A statement from the complainant(s) and witness(es), if appropriate;
 - H. A statement from the applicant and applicant's(s') witness(es) if appropriate;
 - I. A list of the preliminary review findings;
 - J. An analysis by the EOS of the preliminary review findings; and

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- K. A recommendation for subsequent action in the form of a memorandum to the file.
- 6-9. NOTIFICATION OF APPLICANT. The applicant shall be notified of the results of the preliminary review and any additional action required within five (5) days after the Director, Office of Regional FHEO concurs in the preliminary review findings. The applicant shall have the

right to respond within seven (7) days.

- A. Recommendation of Compliance. Where the report of preliminary review indicates that there are no issues involving the AFHM Plan or its implementation, the applicant shall be notified (Appendix 19).
- B. Recommendation of Possible Noncompliance. Where it is determined that the evidence provides reasonable cause to believe that the applicant has failed to comply with the Plan or that the goal of the Plan may not be achieved, the Director, Office of Regional FHEO, shall notify the applicant of the results of the preliminary review and advise the applicant of the right to respond within seven (7) days to the matters raised and to submit information and relevant data evidencing compliance with the Regulation and Plan (Appendix 19).

6-10. COMPLIANCE MEETING. A compliance meeting reviews the applicant's compliance with the AFHM requirements and the implementation of the AFHM Plan and indicates any changes which may be required in the Plan. In addition, corrective or remedial actions which are deemed necessary should also be discussed. The procedures for conducting a compliance meeting are outlined in 24 CFR Part 108.25.

- A. When Held. A compliance meeting is held after a preliminary review has been conducted. The Director, Office of Regional FHEO may schedule a compliance meeting under the following circumstances:
 - 1. If it appears that an applicant has not complied with the requirements under 24 CFR Part 108.15 or Part 108.20;
 - 2. If it appears that the goals of the AFHM Plan may not be achieved; or

3. That implementation of the Plan should be modified.

- B. Notification of Applicant. It shall be the responsibility of the Regional Office to notify the applicant by certified mail, return receipt requested, of the time and place of the meeting at least 10 working days prior to such meeting. Also, the meeting shall be held at least 10 days before the next sales or rental report is due. In addition, the applicant

shall have the right to respond within seven (7) days to the matters to be raised at the compliance meeting (Appendix 20).

C. Attendees. The meeting shall be conducted by the Director, Office of Regional FHEO or a designee. The applicant may be represented by counsel and shall have an opportunity to present information and relevant data indicating compliance with the AFHM Regulations and the AFHM Plan. The Field Office Manager and the Field Office Director of FHEO shall be notified of the meeting and may attend.

D. Resolution of Matters.

1. Determination of Compliance. If the evidence shows no violation of the AFHM Regulations and the applicant is complying with the approved AFHM Plan, the Director, Office of Regional FHEO, shall notify the applicant within 10 days of the meeting. The Field Office FHEO and Housing Division Directors shall also be notified.

2. Determination of Possible Noncompliance. If matters raised in the compliance meeting indicate that corrective action is needed, the Director, Office of Regional FHEO, shall attempt to resolve them informally. The Director shall discuss with the applicant the matters raised including recommendations for corrective action. If matters are resolved through revision of the Plan or its implementation, the terms of the resolution shall be agreed upon by HUD and the applicant (respondent) in writing. The applicant (respondent) shall submit the revised Plan and the plan for implementation to the Office of Regional FHEO within 10 days of the compliance meeting (See 24 CFR 108.25(e).)

E. Failure to Resolve Matters. In cases where the evidence indicates possible noncompliance with the AFHM Regulations, or the AFHM Plan, or matters raised at the compliance meeting cannot be resolved informally, or where the applicant fails to attend the meeting, the Director, Office of Regional FHEO shall notify the applicant (pursuant to 24 CFR Section 108.25(g) or (h), as appropriate) that the Department will conduct a compliance review or refer the matter

to the Assistant Secretary for FHEO for consideration of action including the imposition of sanctions.

- 6-11. COMPLIANCE REVIEWS. The compliance review is designed to determine whether the applicant is in compliance with the AFHM Regulations and requirements and the approved AFHM Plan. In those cases, the applicant shall be given at least five (5) days notice of the time set for a compliance review and the place(s) for such review.
- A. Notification of Compliance Review. Such notification will be made by certified mail, return receipt requested, no later than 10 days after the scheduled compliance meeting. In the event the Director, Office of Regional FHEO refers the matter to the Assistant Secretary, such referral should be made promptly after the date of the scheduled compliance meeting. However, it is advisable to conduct a compliance review prior to referring the matter to the Assistant Secretary for FHEO (Appendix 21).
- B. Compliance Review Plan. A Compliance Review Plan should be developed and approved by the Fair Housing Enforcement Branch Chief prior to commencing a compliance review. Areas to be covered by the plan are:
1. In the case of a Department initiated review, a listing of all deficiencies identified by the Field Office or identification of specific areas of the AFHM Plan where particular emphasis will be placed. In the case of a complaint-based review, a listing of all allegations cited in the complaint shall be identified;

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2. Identification of applicable statutes and regulations;
 3. Identification of relevant documentary evidence that should be obtained and reviewed;
 4. Issues to be addressed under each cognizable statute;
 5. Information about the project(s);
 6. Identification of complaints filed against the applicant (respondent) or existing conciliation

agreements; and

7. Witnesses to be interviewed.

C. Joint Processing of Compliance Review(s) and Complaint Investigation Activities. In some instances, it may be appropriate for the Director, Office of Regional FHEO, to jointly conduct an AFHM compliance review and a Fair Housing Act complaint investigation. Likewise, an AFHM compliance review may identify a need for a compliance review under other civil rights authorities. Whenever joint processing procedures are implemented, the Director of Compliance will coordinate all activities with appropriate Branches.

1. AFHM Compliance Review and Fair Housing Act. The Director of Compliance will initiate joint processing procedures under these two authorities, as appropriate. Where a compliance review precipitates a Fair Housing Act complaint, the complaint will be fully investigated (see 24 CFR Part 103) so as to protect the rights of the complainant(s).

2. AFHM Compliance Review and Executive Order 11063. The Director of Compliance will initiate joint processing procedures under these two authorities, as appropriate. Both compliance reviews should address the appropriate regulations, 24 CFR Part 107 for Executive Order 11063 and 24 CFR Part 108 for AFHM.

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3. AFHM Compliance Review and Title VI. The Director of Compliance will initiate joint processing procedures under these two authorities, as appropriate. Both compliance reviews should address the appropriate regulations, 24 CFR Part 1.7 for Title VI of the Civil Rights Act of 1964 and 24 CFR Part 108 for AFHM.

6-12. SCOPE OF REVIEW. The review will cover the applicant's AFHM efforts for assisted and insured projects. See recommended checklist (Appendix 24) for this purpose. In addition, the applicant's compliance with other applicable civil rights requirements should be determined.

A. Items for Review. The compliance review may cover:

1. The applicant's sales and rental practices, including practices in soliciting buyers and renters, determining eligibility, selecting and rejecting buyers and renters, and sales and rental transactions.
2. Programs to attract minority and non-minority buyers and renters regardless of sex, including:
 - a. Use of advertising media, brochures, and pamphlets; and
 - b. Conformance with both the Department's Fair Housing Poster Regulations (24 CFR Part 110), the Fair Housing Advertising Regulations (24 CFR Part 109) and any revision thereto.
3. Data relating to:
 - a. The size and location of units;
 - b. Services provided;
 - c. Sales and/or rental price ranges; and
 - d. The race, color, religion, sex, disability, familial status and/or national origin of buyers and/or renters, as appropriate.
4. Other matters relating to the marketing of dwellings under the AFHM requirements and the AFHM Plan.

B. Compliance Review Issues. Throughout the compliance review process, many issues may be identified and should be considered. For example, the scope of the compliance review will depend on whether the compliance review is initiated by the Department or is the result of a complaint. A complaint-based review could be limited to a single area such as examining an applicant's application procedures. If, however, during the course of the compliance review information is obtained which raises additional issues, the review should be expanded accordingly. The same principle applies where a project is targeted for a compliance review by the Director, Office of Regional FHEO and, upon examination, it is determined that the applicant adhered to an approved Plan which was, in fact,

inadequate. Additionally, the scope of the review will be impacted by internal or external conditions which will affect the success of the applicant's affirmative fair housing marketing efforts.

1. Viability of Approved Plan. The first and most important step in the review process is an assessment of the viability of the applicant's approved Plan. The review should determine whether each element of the Plan appears sufficient to promote the objective of providing access to the targeted population. For example, an approved Plan may indicate that the targeted group is Hispanic and population data available to the EOS shows that this particular housing market area has a high percentage of Hispanics who are non-English speaking, yet the approved Plan shows no outreach to Hispanic community groups and no intent to advertise in Spanish.
2. Site Location. The location of a project could significantly impact upon a buyer's/renter's decision to live in a given area. This impacts upon the applicant's meeting the occupancy objectives of the approved Plan. Assessments of neighborhood stability should include a review of the services and conveniences in the immediate neighborhood and an observation of how surrounding dwelling units and grounds are maintained, number of abandoned units in the vicinity and the number of units for sale or rent.

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3. Applicant's Background/Experience. Whether the applicant is non-profit or profit oriented may have a direct impact on the success of the affirmative marketing efforts. Also, the applicant's previous marketing experience or failure to use professional advertising expertise in the planning of marketing strategies may explain why certain marketing problems exist.

The applicant's Previous Participation Certificate (HUD-2530) should be obtained and reviewed. Moreover, the regional directory of respondents should be checked for a determination of the applicant's previous complaint activity.

4. Demographic Patterns. The EOS should be familiar

with the demographic characteristics (social and economic) of the neighborhood in which the project is located, adjacent neighborhoods and the jurisdiction as a whole. At a minimum, a demographic analysis should include census tract data in which the project is situated and contiguous census tracts. Available information sources are: Census Bureau Reports; CHASSs, Community Development Block Grant applications and SMSA data. In analyzing demographic data, the following should be considered.

- a. The racial/ethnic composition of the area. For example, is the area exclusively occupied by one racial/ethnic group? Are racial/ethnic groups present but confined to particular blocks within the census tract?
- b. Has the applicant utilized minority media or media identified as having substantial minority distribution?
- c. Does the content of the advertising convey a discriminatory message?
- d. Does the applicant use the Equal Housing opportunity logo?

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- 6-13. REVIEW FINDINGS. The facts established in a review of AFHM practices must be documented. Likewise, if joint processing activities take place, care must be exercised so that the notification and documentation processes under the various HUD civil rights authorities are closely implemented. Where findings of possible noncompliance are made, the requirements contained in 24 CFR Part 103, Fair Housing Complaint Processing; 24 CFR Part 107, Executive Order 11063; 24 CFR Part 8, Section 504 of the Rehabilitation Act of 1973, as amended; or 24 CFR Part 1, Title VI of the Civil Rights Act of 1964, must be adhered to.
- 6-14. COMPLIANCE REVIEW REPORT. The compliance review report is prepared after a compliance review has been conducted. The analysis of information gathered during the compliance review should address the impact of the applicant's marketing efforts, the appropriateness of marketing instruments used (i.e. brochures, media) and the effect of external circumstances (i.e. vacancy rates, demographic

patterns) on the applicant's efforts to implement the approved AFHM Plan. The EOS's recommended determination of compliance or possible noncompliance will be recorded in the form of a memorandum to the file. At the bottom of the memorandum will be signature lines for the concurrence or nonconcurrence of the Branch Chief, Director of Compliance and the Director, Office of Regional FHEO. The compliance review report includes the report of preliminary findings, if appropriate, and the following:

- A. Summary of expanded issues addressed by the review;
- B. Additional authorities considered during the review;
- C. Chronology of subsequent review activities conducted after completion of the report of preliminary findings or compliance meeting;
- D. Additional statements from the complainant(s) and witness(es), if applicable;
- E. Additional statements from the applicant(s) and witness(es);
- F. Copies and analysis of any additional documentary evidence or information secured during the compliance review;

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- G. A list of all findings with specific identification or statement of regulations found to be violated or specific statement of evidence of compliance with all AFHM requirements and other cognizable civil rights statutes; and
- H. A recommendation of the determination of compliance or possible noncompliance.

6-15. RECOMMENDATION FOR A FINDING OF COMPLIANCE OR POSSIBLE NONCOMPLIANCE. A recommended finding of possible noncompliance shall be made whenever facts developed in a compliance review or other HUD analysis disclose a violation of Affirmative Fair Housing Marketing regulations or requirements or indicate that the provisions of a HUD approved AFHM Plan have not been implemented. A recommended finding of possible noncompliance does not necessarily involve a determination that discriminatory conduct based on the race, color,

religion, sex, handicap, familial status or national origin of persons has occurred. For example:

- A. Minority Media. A compliance review established that an applicant has failed to use minority media identified in its HUD approved AFHM Plan for advertising the availability of dwellings in its multifamily project. Such a failure to comply with the AFHM Plan would be a basis for a finding of possible noncompliance.
- B. Referrals of Eligible Buyers. A compliance review discloses that an applicant does not solicit eligible buyers whose names are referred to the applicant by HUD or local community groups. This failure, in and of itself, is not sufficient basis for a finding of possible noncompliance. However, where the review discloses that the referrals of eligible buyers were made to further the achievement of the goals of affirmative marketing, the failure to solicit the referrals would be a basis for a finding of possible noncompliance. It is not essential to establish that the failure to make the solicitation was based on race, color, religion, sex, handicap, familial status or national origin to establish a violation of AFHM requirements.

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- 6-16. NOTIFICATION OF FINDINGS. The applicant shall be notified by certified mail, return receipt requested, of the results of the compliance review and provided with a summary of the compliance review report within five (5) days after the Director, Office of Regional FHEO, concurs in the compliance review report. (Appendices 22 and 23) The notice shall advise the applicant that, if the matters raised cannot be resolved within 10 days of receipt of the notice, the case will be referred to the Assistant Secretary for FHEO with a recommendation for the imposition of sanctions where a finding of possible noncompliance has been made. Compliance reports shall be submitted to the Assistant Secretary for FHEO who shall make a finding of compliance or noncompliance. In addition, the Regional and Field Office Housing Directors shall receive a copy of the compliance report and be notified if the matter is referred to the Assistant Secretary for FHEO.
 - 6-17. REMEDIAL ACTIONS. Whenever practicable, emphasis should be placed on working with the applicant to achieve

voluntary resolution of findings made as a result of the compliance review or meeting. All revisions agreed upon by HUD and the applicant should be in writing. In an attempt to correct findings of possible noncompliance the following examples of possible noncompliance and suggested remedies may be considered.

- A. AFHM Plan. If the Plan appears deficient and available information indicates that the applicant followed the "approved plan," the Regional and Field Office should confer to determine appropriate revisions to the existing plan and subsequently schedule a meeting with the applicant.
- B. Use of Commercial Media. A review indicates that contrary to the approved plan, the applicant neither advertised in media aimed at the general public nor media utilized by the targeted population; the applicant failed to follow advertising guidelines as set forth in 24 CFR Part 109; or the applicant used advertisements which effectively discouraged applications from the targeted group(s) (e.g., English only ads, pictures or slogans which indicated preference). In this case, the written agreement should:

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- 1. Be executed to direct the applicant to strictly adhere to the revised Plan with target dates for completion of various stages of commercial advertising;
 - 2. Include additional media sources aimed specifically at the targeted population; and
 - 3. Should provide for advertising in languages other than English, where appropriate, and proposed advertisements should be submitted to the Regional or Field Office for review.
- C. Community Contacts. If a review indicates that contacts have been inadequate or no outreach to community organizations identified in the approved Plan has taken place, remedial action should provide for technical assistance by the Regional or Field Office to assist the applicant in effectively communicating with organizations representing targeted populations. Further, the Regional and/or Field Office should monitor the frequency and type of

contacts. It is important to note that the examples of remedial actions may not always be appropriate for every applicant. In any case, the following factors will determine the nature and scope of actions necessary to address an AFHM violation:

1. The type and extent of the violation;
2. The operational size of applicant;
3. The number of dwellings involved;
4. The demography of the jurisdiction;
5. Past experience with the applicant;
6. The present occupancy levels;
7. The number of persons seeking occupancy;
8. The type of housing provided; and

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9. The experience of the Department and applicants with the use of such actions in the area.

6-18. REFERRAL TO ASSISTANT SECRETARY. If it becomes necessary to refer a matter to the Assistant Secretary, the entire case file shall be forwarded with a recommendation from the Director, Office of Regional FHEO. The Office of Investigations shall review the case for the Assistant Secretary and make a recommendation to the Assistant Secretary after receipt of the case file. Once the Assistant Secretary makes a finding of compliance or noncompliance, the Regional and Field Offices of FHEO and Housing shall be so notified. Likewise, the applicant shall be notified by certified mail, return receipt requested, of the finding and of any sanctions to be imposed.

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