



OFFICE OF HOUSING

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

SEP 22 2014

MEMORANDUM FOR: All Multifamily Owners
All Multifamily Management Agents
Performance Based Contract Administrators
Traditional Contract Administrators

FROM: Benjamin T. Metcalf, Deputy Assistant Secretary for
Multifamily Housing Programs, HT

SUBJECT: Clarification on Affirmative Fair Housing Marketing Plan Review and
Approval Guidance

SUMMARY

This memorandum provides clarification regarding the review and approval of a multifamily property owner's Affirmative Fair Housing Marketing Plan (AFHMP) and supersedes the May 15, 2014, Office of Asset Management memorandum on this topic.

BACKGROUND

On April 14, 2014, the Office of Fair Housing and Equal Opportunity (FHEO) published a memorandum that clarifies when updated AFHMPs need to be submitted to FHEO for review and approval. The Office of Multifamily Housing Programs released a memorandum May 15, 2014, from the Director of Asset Management, to Hub and Program Center Directors and Operations Officers. Some Departmental stakeholders were not included in the distribution for that memorandum, but are included here.

CLARIFICATION

FHEO is required to review initial AFHMPs and existing AFHMPs that have been updated as a result of an Owner's internal review and determination that the plan requires modification (submitted by Owners). An initial AFHMP is required for new projects and for projects new to Multifamily assistance, such as projects transitioning to Project-based Rental Assistance (PBRA) program through the Rental Assistance Demonstration (RAD) program. In addition, owners adopting a residency preference in their admissions policies must also submit a modified AFHMP for review and approval.

An Owner should review an existing AFHMP when:

- At least five (5) years have elapsed since the last review; OR
- The local jurisdiction's Consolidated Plan has been updated; OR
- Significant demographic changes have occurred in the housing market area;

If the Owner's analysis finds that the plan is satisfactory, including demonstrating that current

marketing and outreach is targeting diverse areas where individuals least likely to apply for housing currently live, then no further documentation need be submitted to the Department. Owners should retain a copy of the analysis for their own records.

If the Owner's analysis determines that the current AFHMP requires modifications or updates, the Owner must submit the updated AFHMP for FHEO approval.

In summary, owners must submit updated AFHMPs to HUD for FHEO review and approval only under one of the following two sets of circumstances:

(1)

- At least five (5) years have elapsed since the last review; OR
- The local jurisdiction's Consolidated Plan has been updated; OR
- Significant demographic changes have occurred in the housing market area;

AND

- The owner has conducted an analysis which determines that the population least likely to apply for housing is not identified in the current AFHMP **or** the advertising, publicity or outreach are no longer appropriate and require modification or expansion.

or,

(2)

- The owner adopts a residency preference for admission of persons who reside in a specified geographic area ("residency preference area"). An owner's residency preference must be approved by HUD as described in 24 CFR 5.655(c)(iii) subparts A and C. Residency preferences should only be approved when they further the goals of affirmative marketing.
- The owner adopts an admissions preference for admission of persons who reside in a specified geographic area that hasn't previously been approved, and then an update to the AFHMP must be approved.

Attached you will find the memoranda from FHEO and Asset Management. For questions or more information, please contact John Hall, the Deputy Director of the Office of Asset Management and Portfolio Oversight in Multifamily Housing at 202-402-5907 or John.Hall@hud.gov.

CC: All Multifamily Hub Directors and Operations Officers
Multifamily Program Center Directors
Office of General Counsel

Attachments

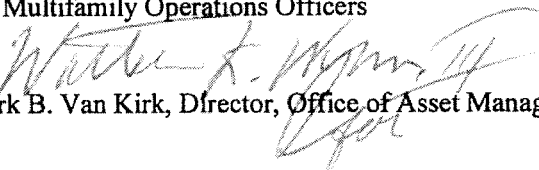


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

MAY 15 2014

MEMORANDUM FOR: All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers

FROM: 
Mark B. Van Kirk, Director, Office of Asset Management, HTG

SUBJECT: Fair Housing and Equal Opportunity Guidance on Affirmative Fair
Housing Marketing Plan Review

On April 14, 2014, the Office of Fair Housing and Equal Opportunity (FHEO) released a memorandum regarding *Affirmative Fair Housing Marketing Plan (AFHMP) Review*. This memorandum provides clarification on when FHEO must review new and updated AFHMPs. With this clarification, Multifamily Hub/Program Center Asset Management staff and Performance Based Contract Administrators are provided a better understanding of when to obtain and submit the AFHMP to FHEO for review.

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.*" The attached memorandum provides a detailed list explaining when initial approval is required.

FHEO may also need to review and approve some updated AFHMPs. Please only submit an updated AFHMP to FHEO for review and approval if:

1. Five years have elapsed since the last review, **or** the local jurisdiction's Consolidated Plan is updated, **or** significant changes have occurred in the demographics of the housing market area;

AND

2. The Owner/Agent 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 (including when a state requires the AFHMP is updated when an Owner adopts an admissions preference).

Please note that in order for an updated plan to require FHEO review and approval both criteria one **and** two must be met. If the Owner/Agent has conducted an analysis and determined an update to the plan is not required, the AFHMP should not be submitted to FHEO for review, but should be kept in the Owner/Agent's files for future reference.

Multifamily Hub/Program Center staff and Performance Based Contract Administrators should take this guidance into account when performing Management and Occupancy Reviews moving forward.

If there are any questions, please contact John Hall, Director, Field Asset Management Division at (202) 402-5907.

Attachment



OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

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

APR 14 2014

MEMORANDUM FOR: All FHEO Regional Offices
All FHEO Field Offices
FROM: *George D. Williams, Sr.*
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.

Updated 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.