

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Equal Opportunity

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Program Participants  
and Departmental  
Staff

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April 1993                      Implementing Affirmative  
Fair Housing Marketing  
Requirements

EQUAL HOUSING  
OPPORTUNITY

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U.S. Department of Housing and Urban Development

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Special Attention of:

Transmittal for Handbook No.: 8025.1, REV-2  
Regional Administrator, Regional  
Directors of Housing; Regional    Issued: April 30, 1993  
FHEO Directors; FHEO Program Operations  
Division Directors; Field Office Managers;  
Field Office Housing Development and Housing  
Management Directors; Field Office FHEO Directors

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1. This transmits:

Handbook 8025.1, REV-2 entitled Implementing Affirmative  
Fair Housing Marketing Requirements.

2. Purpose:

This revised Handbook updates the procedures and philosophy behind the Department's Affirmative Fair Housing Marketing (AFHM) Requirements. Fair Housing and Equal Opportunity Field Office and Program Operations Division staff implement these procedures while reviewing and monitoring AFHM Plans and affirmative marketing procedures required under programs such as the HOME Investment Partnership program. Regional Office staff implement the compliance review and complaint investigation procedures outlined in Chapter 6. It also

contains updated guidance to applicants for the Department's assisted and insured multifamily and single-family programs on the preparation and implementation of AFHM Plans.

3. Changes:

This revision contains a number of significant changes, including the following:

- a. The passage of the Fair Housing Amendments Act of 1988 added handicap and familial status to the classifications protected under the Fair Housing Act. The Handbook adds references to the new protected classes and includes guidance on marketing to these classes. Consistent with these changes, the Department plans to propose amending the AFHM Regulations (24 CFR Part 200, Subpart M) to include these new protected classes. However, the Handbook provisions dealing with marketing to disabled persons and families whose status affects their ability to obtain housing, e.g., families with children, will not take effect until the AFHM Regulations have been amended.
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- b. In October 1987, the Department issued a Handbook change which eliminated the use of numerical occupancy or applicant related goals as measures of effectiveness for AFHM Plans. This event was a major change in the Department's legal viewpoint on numerical indicators of success as a valid means of judging the effectiveness of an AFHM Plan. Applicants no longer had to tell the Department what the tenant composition of their projects or subdivisions was going to be prior to the commencement of construction. This revision proposes indicators of success which relate directly to (1) the effectiveness of the good faith efforts made to implement the Plan and (2) the numbers of applicants actually attracted to the proposed housing as a result of the marketing program. It also includes Form HUD-935.5, the Report on Multifamily Project Applicants, which is the sole numerical racial/ethnic data collection instrument for Affirmative Fair Housing Marketing.
  - c. The passage of the National Affordable Housing Act gave rise to many new programs which required by Regulation the submission of either AFHM Plans or the formulation of written affirmative marketing procedures by the applicants. Chapters 1 and 2 of this revision contain frequent references to these new programs and give guidance to applicants and HUD staff about the affirmative marketing procedures required by the HOME Investment Partnership and HOPE homeownership programs. Almost all references to the significant programs of the

early 1980's, e.g., the Section 8 New Construction and Substantial Rehabilitation Programs, have been deleted from the Handbook.

- d. The Handbook reflects guidance previously issued by the Offices of Housing and FHEO which required developers of single-family subdivisions to submit AFHM Plans for all segments of any subdivision that had not been previously built and sold.
- e. The Handbook also contains a revised Chapter 5 on Monitoring which reflects the Department's thrust toward accountability monitoring and risk analysis in determining which projects are monitored in AFHM.

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4. Effective Date:

This Handbook is effective immediately.

5. Filing Instructions:

Remove:  
Handbook 8025.1 REV-1

Insert:  
Handbook 8025.1 REV-2

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Leonora L. Guarraia, General Deputy  
Assistant Secretary for Fair Housing  
and Equal Opportunity, ED

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CHAPTER 1. INTRODUCTION

- 1-1. INTRODUCTION. This Handbook provides guidance for the implementation of the Affirmative Fair Housing Marketing (AFHM) Regulations (24 CFR Part 200, Subpart M) and the AFHM requirements in the Department's housing and community development programs. It instructs applicants on the preparation and implementation of AFHM Plans, and provides guidance to Fair Housing and Equal Opportunity (FHEO) Field Office staff on the processing of AFHM Plans and the monitoring of approved AFHM Plans. It also includes Regional Office staff procedures for conducting compliance reviews of applicants subject to AFHM requirements. In addition, the AFHM Plan procedures are updated to take into account:
- A. The fundamental changes in the structure and purposes of the Department's housing assistance and insurance programs during the last decade;
  - B. The current legal philosophy undergirding efforts to achieve equal housing choice and opportunity; and
  - C. The implementation of the Fair Housing Amendments Act of 1988, especially those provisions dealing with discrimination on the basis of handicap and familial status.
- 1-2. LEGAL AUTHORITIES. The following laws and Executive Orders are the legal bases for the affirmative fair housing marketing policies and provisions covered by this Handbook.
- A. The Fair Housing Act which prohibits discrimination in the sale, rental, financing, or other services related to housing on the basis of race, color, religion, sex, handicap, familial status or national origin. Section 808(e)(5) of this law mandates that HUD administer its programs in a manner to affirmatively further fair housing. Section 804(f) of this law prohibits discrimination because of the handicap of individual buyers, renters, and persons associated with such buyers or renters; discrimination in the terms, conditions, privileges and services connected with the sale or rental of dwelling units; refusal to allow the tenant to make reasonable modifications of existing dwellings to enable a handicapped person to enjoy fully

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the dwelling unit; refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such persons equal opportunity to use and enjoy the dwelling; and failure to make covered multifamily dwelling units first occupied after March 13, 1991 accessible to disabled persons. The law defines "covered multifamily dwellings" as buildings consisting of four or more units if such building has one or more elevators; and ground floor units in other buildings consisting of four or more units.

B. Executive Order 11063, as amended, which provides that no person in the United States because of race, color, religion (creed), sex or national origin, shall be denied equal opportunity in housing or related facilities owned, operated or insured by the Federal government or provided with federal financial assistance; and that all Federal Executive Departments and agencies shall take action to promote the abandonment of discriminatory practices for:

1. Residential property and related facilities endowed with federal financial assistance, and
2. The lending practices connected with such property and facilities insofar as such practices relate to loans insured or guaranteed by the Federal Government.

C. Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

1-3. PURPOSE OF AFHM REQUIREMENTS. The purpose of the AFHM requirements is to promote a condition in which individuals of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of the individual's race, color, religion, sex, handicap, familial status or national origin. They are also a means to carry out the mandate of Section 808(e)(5)

of the Fair Housing Act and ensure positive outreach and informational efforts to those who are least likely to know about and apply for the housing in question. Each applicant for participation in housing programs of the Department of Housing and Urban Development (HUD) shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, and in advertising the availability of housing properties.

- 1-4. REGULATORY AND CONTRACTUAL REFERENCES. Legally binding obligations for AFHM may be found in regulations issued by HUD and in contract documents which describe the terms and conditions of Federal involvement in the provision of assisted housing. The Department has issued regulations to implement the functions, powers and duties imposed on it by the laws and Executive Orders listed in paragraph 1-2. Appendix 1 contains a list of these regulations. In addition, the following sections of Title 24 of the Code of Federal Regulations (CFR) pertain directly to affirmative fair housing marketing requirements:
  - A. "AFHM Regulations" (24 CFR Part 200, Subpart MI sets forth requirements for AFHM under HUD-subsidized and unsubsidized housing programs that received a conditional commitment after February 25, 1972. These regulations require submission of a Plan and outline the components of the AFHM Program (See Section 200.600 of the AFHM Regulation).
  - B. "Compliance Procedures for AFHM" (24 CFR Part 108) establishes procedures for determining whether or not an applicant's actions are in compliance with its approved AFHM Plan, AFHM Regulations at 24 CFR 200.600 and AFHM requirements contained in HUD program regulations. These procedures do not apply to programs which do not require AFHM Plans. Appendices 2, 3 and 4 contain references to requirements relating to AFHM which are found in program regulations, and affirmative marketing guidance found in the contractual documents, Notices and Handbooks for the respective housing programs.
- 1-5. APPLICABILITY AND DURATION.
  - A. Applicability. Except when specifically noted, AFHM requirements discussed in this Handbook apply to housing programs administered by HUD that are covered by the AFHM Regulations at 24 CFR 200.600. In many instances, these requirements are incorporated

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into regulations governing these programs. Appendix 5 lists the programs for which a written AFHM Plan submission is required and the programs for which applicants need to adopt AFHM procedures and incorporate them into their project management plans or procedures.

- B. Duration of AFHM Requirements. The duration of AFHM requirements varies with each housing program:
1. In home mortgage programs, AFHM requirements apply through the completion of initial sales transactions on units covered by the approved AFHM Plan.
  2. In insured rental programs, AFHM requirements apply throughout the life of the mortgage, including those periods when the project does not maintain sustaining occupancy.
  3. In privately-owned insured and uninsured rental housing assisted under Section 8 of the United States Housing Act of 1937, AFHM requirements apply throughout the duration of the Housing Assistance Payments Contract with HUD. Although no new Housing Assistance Payments Contracts are being entered into for New Construction, Substantial Rehabilitation and State Agency projects, monitoring of the Affirmative Marketing Plans connected with contracts presently in force still should take place and applicants should continue to carry out Affirmative Marketing activities appropriate to the post-initial occupancy environment. (See Paragraph 4-11 for a more detailed description of such post-occupancy activities.)

1-6. EXEMPTIONS FROM AFHM PLAN REQUIREMENTS.

- A. Certification of Intent Not to Market. Any applicant that buys land, installs streets and other improvements, sells lots to builders and receives a HUD subdivision report, but neither applies for conditional commitment nor submits requests for insurance endorsement under the Direct Endorsement Program, is

exempt from submitting a written AFHM Plan. Such applicants are required to file a Certification of Intent Not to Market Housing, Form HUD-935.3 (Appendix 26). However, the builder who buys the land from the developer for the purpose of building housing units must submit a plan, if HUD mortgage insurance is to be used.

- B. Voluntary Affirmative Marketing Agreements (VAMAs). These agreements are negotiated between HUD Headquarters and national associations that represent components of the housing industry. A national agreement is signed by the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO) and national officers of the industry groups. State and local member affiliates adopt the national agreement. Signatories to HUD-approved VAMAs are exempt from the submission of an AFHM Plan in connection with the programs identified in Appendix 2.

FHEO staff will accept either a certification from the authorized representative of the signatory organization that has a valid VAMA with HUD or an appropriate affiliate of that organization that the applicant has signed the VAMA and has agreed in writing to implement all terms of the Agreement applicable to member signatories. FHEO staff may monitor and conduct compliance reviews on these projects, pursuant to criteria established for VAMA monitoring.

- C. Property Disposition. Owners of multifamily projects that are sold by the Department under the Multifamily Property Disposition Program where the Department is either the owner or mortgagee in possession, and purchasers of HUD-owned multifamily projects purchased at a foreclosure sale are also exempt.
- D. Other Programs. Programs which by Regulation do not require the submission of an AFHM Plan.

NOTE: Appendix 5, Section B lists those programs that are exempt from the AFHM requirements of 24 CFR Part 200, Subpart M.

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1-7. DEFINITIONS. The definitions of terms used throughout this Handbook are the following:

- A. Applicant. For the purposes of this Handbook, a person

remains an "applicant" from the date of application for mortgage insurance or subsidy assistance through the duration of the mortgage or other assistance provided for covered housing assistance. Such applicants include:

1. All persons, as defined in Paragraph 1-7L., whose applications are approved for the development and rehabilitation of:
  - a. Single-family subdivisions of five or more units when those units have not gone into escrow or been committed for sale to a buyer; and in initial submissions by a Direct Endorsement lender for an application for mortgage insurance on a single family property, where the property is located in a subdivision and the builder or developer intends to sell five or more properties in the subdivision;
  - b. Multifamily projects of five or more units for which the applicant applies for HUD mortgage insurance and/or subsidy;
  - c. Mobile home parks of five or more lots, units or spaces; or
  - d. Dwelling units, when the applicant's participation in HUD-assisted housing programs has exceeded or would exceed development of five or more such dwelling units during the year preceding the application. For example, the small builder who builds five or more individual dwelling units during a twelve-month period must submit an AFHM Plan for those units.
2. Purchasers of multifamily projects which are owned by the Department or are sold under a foreclosure procedure who purchase the project with HUD mortgage insurance or Section 8 subsidy.

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3. All other persons subject to AFHM requirements in HUD's housing and community development programs which are not covered by the AFHM Regulations at 24 CFR 200.600, but are subject to separate AFHM requirements set forth in the programmatic, statutory or regulatory provisions.

- B. Covered Housing. For the purposes of this Handbook, covered housing is all rental and sale housing units insured and/or subsidized under programs administered by the Department of Housing and Urban Development to which the AFHM Regulations apply.
- C. Field Office. This term includes all Field Offices collocated with the ten Regional offices, all Category A offices and those Category B Offices which have FHEO staff (Charleston, Sacramento, Houston).
- D. Good Faith Effort. Good faith efforts are recorded activities and documented outreach to those individuals identified as least likely to apply. Examples of such efforts include:
  - 1. Advertising in print and electronic media that are used and viewed or listened to by those identified as least likely to apply;
  - 2. Marketing housing to specific community, religious or other organizations frequented by those least likely to apply;
  - 3. Developing a brochure or handout that describes facilities to be used by buyers or renters, e.g., transportation services, schools, hospitals, facilities, industry, recreation facilities. The brochure should also describe how the proposed project will be accessible to physically handicapped persons and describe any reasonable accommodations made to persons with disabilities; and
  - 4. Insuring that the sales/management staff has read and understood the Fair Housing Act, and the purposes and objectives of the AFHM Plan.
- E. Housing Market Area. That geographic region from which it is likely that renters/purchasers would be drawn for a given multifamily housing project or single family subdivision. A housing market area most often corresponds to a Metropolitan Statistical Area (MSA).

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- F. Individual with Handicaps. A person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an

impairment; or is regarded as having such an impairment. This basic definition is found in both Section 504 of the Rehabilitation Act of 1973 (See also 24 CFR 8.3) and in the Fair Housing Act at Section 804(f). (See HUD Handbook 4350.3, Occupancy Requirements for Insured Housing Programs, for information on eligibility for applicable programs.)

G. Initial Rent-Up Period. That period beginning with the date on which the applicant is granted permission by both HUD and the local government to begin occupancy or rent-up, and ending on the date sustaining occupancy (usually 95 percent) is attained.

H. Minority. An individual who is a member of any one of the following racial or ethnic groups:

1. Black. An individual having origins in any of the Black racial groups of Africa or the Caribbean, but not of Hispanic origin.
2. American Indian or Alaskan Native. An individual having origins in any of the original people of North America, and who maintains cultural identification through tribal affiliation or community recognition.
3. Hispanic. An individual of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
4. Asian or Pacific Islander. An individual having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

I. Minority Area. (Reserved)

J. Minority Media. (Reserved)

K. Non-Minority Area. (Reserved)

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L. Person. One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives or agents, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries and public entities.

- M. Subsidized Housing. Units funded under programs in which either the rent applicable to the unit or the tenant is subsidized in accordance with a statutory formula.
  - N. Target Group. Identifiable segments of the population eligible for the housing by virtue of their income, and where applicable as an eligibility criterion, the age of household head, handicap status, race and ethnicity.
- 1-8. ROLES AND RESPONSIBILITIES. The following paragraphs describe the roles and responsibilities of Departmental officials in the administration of AFHM requirements:
- A. Assistant Secretary for Fair Housing and Equal Opportunity has the delegated responsibility for the administration of the Fair Housing Act and Executive Order 11063 in all of the Department's programs, including AFHM Regulations and requirements. The Assistant Secretary is responsible for making a finding of compliance or noncompliance pursuant to the outcome of a compliance review, and the determination of actions to be taken, including the imposition of sanctions, when there is evidence of a failure to comply with the AFHM Plan or the AFHM Regulations. The Assistant Secretary is also responsible for administering Affirmative Fair Housing Marketing procedures contained in those programs which do not require the submission of AFHM Plans.
  - B. Regional Administrator administers within the defined geographic boundaries of each region all of the Department's programs and activities in accordance with the program direction of, and subject to the delegations of authority from, the Secretary and/or Assistant Secretaries; serves as liaison to other Federal agencies and State governments; and oversees the administration of the Regional and Field Offices.

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- C. Director of the Regional Office of Fair Housing and Equal Opportunity is responsible for determining possible noncompliance with the provisions of the AFHM Plan, the AFHM Regulations and 24 CFR 108, as well as the Fair Housing Act and Executive Order 11063. He/she conducts complaint investigations and compliance reviews pursuant to these provisions. The Director also is responsible for investigating and conciliating

all complaints filed under the Fair Housing Act, including those involving provisions of the Act and Regulations relating to advertising and marketing.

- D. Field Office Manager is responsible for overall direction of housing programs within the geographic jurisdiction of the Field Office and must assure that processing is carried out in accordance with program regulations, the AFHM Regulations, the instructions in this Handbook and the processing requirements for the respective programs covered by this Handbook.
- E. Program Operations Division Director/Field Office Director of Fair Housing and Equal Opportunity (POD/FOD) is responsible for providing technical assistance to applicants in the preparation or modification of AFHM Plans during the period of development and initial implementation, i.e., through initial occupancy. The POD/FOD FHEO Director also is responsible on a day-to-day basis for the review and approval of AFHM Plans and for monitoring implementation of AFHM Plans and requirements.
- F. Field Office Director of Housing/Director of Loan Management/Director of Assisted Housing Management cooperates with the POD/FOD Division Director/Equal Opportunity Specialist in many aspects of administering the AFHM requirements, including:
  - 1. Informing applicants about AFHM requirements;
  - 2. Obtaining an acceptable AFHM Plan; and
  - 3. Assuring that outreach activities and all application processing activities, including residency preferences (where applicable) are conducted in accordance with the approved AFHM Plan, the AFHM Regulations and, where applicable, the affirmative marketing requirements of programs which do not call for the submission of a written AFHM Plan.

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Also, the Director or designee requests the attendance of the POD/FOD Director or designee at the pre-occupancy conference.

- G. Applicant is responsible for the development and the implementation of the AFHM Plan or affirmative marketing procedures. The applicant has the ultimate

responsibility for marketing and sales/rental transactions. Employment of a sales or management agent does not relieve the applicant of his/her responsibilities and the applicant must assure that such agents will carry out affirmative marketing and nondiscrimination requirements.

1-9. OTHER RELATED ACTIVITIES.

A. Voluntary Affirmative Marketing Programs. Section 809 of the Fair Housing Act authorizes the Secretary of HUD to undertake educational and conciliatory activities to further fair housing objectives. Voluntary affirmative marketing activities may be undertaken by private sector housing industry groups, business organizations and professional associations; and by state and local elected officials and public agencies in the areas of housing, planning and community development.

1. Voluntary Affirmative Marketing Agreements (VAMA) and Plans. Voluntary Affirmative Marketing Agreements and Plans commit signatory parties to collective action in support of affirmative marketing programs to achieve the goals of equal housing opportunity. Sectors of the housing industry which have executed such VAMAs at the national level with HUD include homebuilders, real estate agents, apartment managers and mortgage lenders. On the local level the VAMA serves as a substitute or alternative to the AFHMP. (See discussion at Paragraph 1-6B.).
2. Community Housing Resource Boards (CHRB). Community Housing Resource Boards are locally-based coalitions of fair housing groups, housing industry groups, lenders and other organizations that are involved in fair housing issues. These Boards undertake informational and other activities which serve to inform the public about the goals of fair housing and the VAMA; assess community fair housing needs; expand minority involvement in the housing industry at the local level; expand public awareness of housing opportunities in the

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community; and develop cooperative solutions to problems associated with the implementation of the VAMA. The CHRB also comments on the effectiveness of compliance with the VAMA when a signatory uses the VAMA as an exemption to the AFHM requirements.

- B. Comprehensive Housing Affordability Strategy (CHAS). Title I of the National Affordable Housing Act requires that States and localities applying for assistance under certain HUD programs have a HUD-approved housing strategy. The CHAS identifies a jurisdiction's overall needs for affordable and supportive housing and outlines a strategy to address those needs. The Act requires each jurisdiction's CHAS to contain fourteen elements that describe the jurisdiction's housing needs and market conditions, set out a five-year strategy that establishes priorities for meeting those needs, identify resources anticipated to be available for the provision of affordable and supportive housing, and establish a short-term investment plan that outlines the intended uses of resources. The CHAS replaced the Housing Assistance Plan (HAP) required for Community Development Block Grant Program funding and the Comprehensive Homeless Assistance Plan (CHAP) required by the McKinney Act Homeless Assistance Programs. The programs which are subject to the CHAS requirements are listed in Appendix 6, and several of these programs include requirements to submit AFHM Plans in accordance with 24 CFR Part 200, Subpart M. Other NAHA programs require the applicant to carry out affirmative outreach activities to groups of eligible persons identified as least likely to apply for the housing, but not submit a Plan for review and approval by HUD.

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CHAPTER 2. THE AFFIRMATIVE FAIR HOUSING  
MARKETING PLAN AND PROCEDURES

SECTION 1: INTRODUCTION

- 2-1. INTRODUCTION. This Chapter discusses the purpose, format and content of the AFHM Plan; the type of applicant required to submit the Plan, and, for each applicable housing program, the procedures for the preparation of the AFHM Plan. The Chapter also discusses the AFHM procedures required of applicants for programs such as HOME which do not require the submission of a formal Plan.

SECTION 2: THE AFHM PLAN

- 2-2. PURPOSE OF THE AFHM PLAN. The Affirmative Fair Housing Marketing Plan is a marketing strategy designed to attract buyers and renters of all majority and minority groups, regardless of sex, handicap and familial status to assisted and insured rental projects and sales dwellings which are being marketed by an applicant. It describes initial advertising, outreach (community contacts) and other marketing activities which inform potential buyers and renters of the existence of the units. The AFHM Plan remains in force throughout the life of a multifamily project mortgage and/or the period for which HUD subsidy is provided. For single-family dwellings located in subdivisions of five or more units, the Plan remains in effect until all the dwelling units are sold. No applications for mortgage insurance or subsidy under the applicable HUD-assisted programs may be funded without an approved Plan. Upon approval of the Plan by the HUD Regional or Field Office, applicants are required to make good faith efforts to carry out the provisions of the Plan. In formulating the Affirmative Marketing Program, the applicant must do the following:
- A. Targeting. Identify the segments of the eligible population which are least likely to apply for housing without special outreach efforts.
  - B. Outreach. Outline an outreach program which includes special measures designed to attract those groups identified as least likely to apply and other efforts designed to attract persons from the total eligible population.

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- C. Indicators. State the indicators to be used to measure the success of the marketing program.
- D. Staff Training. Demonstrate the capacity to provide training and information on fair housing laws and objectives to sales or rental staff.
- 2-3. WHO SUBMITS A PLAN. The following types of applicants are required to submit an AFHM Plan or VAMA certification:
- A. All applicants for subsidized and unsubsidized multifamily projects, mobile home parks and single-family subdivisions of five or more units, spaces or lots (24 CFR 200.610) which are funded or insured under any of the programs listed in Appendix 5. Each applicant in this category submits one Plan for each project. Each Plan should address the particular locational situation of the project. For example, the location of a project in a given housing market area affects the decision as to what segments of the eligible population, e.g., racial or ethnic groups, families with children, the elderly or the disabled are considered least likely to apply without special outreach efforts.
- B. Builders of individual single family units, i.e., scattered lot builders whose accumulated conditional commitments for FHA mortgage insurance/Direct Endorsement Statements of Appraised Value for the previous twelve months have amounted to five units or more.
- C. Builders of subdivisions consisting of five or more units, parts of which have already been built and sold. The Plan would be submitted for the part that had not yet been built or sold.
- D. Non-HUD Single-Family Programs. Builders of subdivisions of five or more units constructed under the single-family programs of the Farmers Home Administration or the Department of Veterans Affairs who subsequently offer HUD mortgage insurance on five or more units.

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- 2-4. PLAN SUBMISSION DEADLINES. The AFHM Plan is a submission required as part of the application for participation in

certain housing programs (See Appendix 7). The stage at which the Plan is submitted to the Field Office varies by housing program.

- A. Insured Single-Family Dwellings. The AFHM Plan is submitted with the Environmental Review Letter request. It is to be approved prior to the issuance of an Environmental Review Letter. However, for very large subdivisions expected to be marketed over a period of years, the AFHM Plan submitted with the application for an Environmental Review Letter may cover the marketing of the first section of the subdivision. The subdivision report shall stipulate that for all subsequent sections of the subdivision, the applicant must submit a separate Plan for approval.
- B. Insured Unsubsidized Rental Projects. The AFHM Plan is submitted with the application for a conditional commitment.
- C. Rental Projects Subsidized Under the Section 8 Housing Assistance Payments Program.
  - 1. Special Allocations. For projects assisted under the Additional Assistance Programs for Projects with HUD-Held and HUD-Insured Mortgages (24 CFR Part 886, Subpart A) the applicant submits a Plan as part of the application. With respect to the Section 8 Program for the Disposition of HUD-Owned projects (24 CFR Part 886, Subpart C) the AFHM Plan is submitted with the applicant's response to a proposed sale of a HUD-acquired project or group of five or more single family units.
  - 2. Projects Financed Under Section 202 of the Housing Act of 1959 (Elderly/Handicapped). The AFHM Plan for projects with loan reservations made prior to Fiscal Year 1991 is submitted with the final proposal.
  - 3. Projects Financed Under Section 515 of the Housing Act of 1949 by the Farmers Home Administration Section 8 Set-Aside. The AFHM Plan is submitted with the letter of application.

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- D. Applications for Funding under the Supportive Housing for Persons with Disabilities Program authorized under Section 811 of the NAHA and the Supportive Housing for

the Elderly Program Authorized Under Section 801 of the NAHA. The Plan is submitted by all applicants for the programs at the time of conditional commitment. The applicant is also required to certify that it will comply with the AFHM Regulation at 24 CFR 200.600 (Subpart M) when it submits its application for a fund reservation.

- 2-5. THE AFFIRMATIVE FAIR HOUSING MARKETING PLAN (FORM HUD-935.2). The Affirmative Fair Housing Marketing Plan Regulations (24 CFR 200.625) require each applicant to describe the AFHM Program on Form HUD-935.2, Affirmative Fair Housing Marketing Plan (Appendix 7). Paragraph 4-5D. lists materials that support the proposed program which owners must submit to the HUD Field Office along with the AFHM Plan, e.g., photographs of site signs, proposed newspaper advertisements, etc. The form must be filled out completely and signed by an authorized official of the sponsoring organization. In developing the Plan, the applicant may utilize the Field Office, civil rights organizations or CHRBS as sources of information and technical assistance.
- 2-6. DESCRIPTION OF THE APPLICANT AND THE PROJECT (PART 1 OF THE PLAN). The applicant must provide the following information:
- A. Name and address of both the applicant and proposed project.
  - B. Number of units and the application number.
  - C. Price or rent range of units.
  - D. Census Tract or Enumeration District number in which the project or subdivision will be located.
  - E. For multifamily rental units only, the household types to be served by the project, e.g., elderly, non-elderly, disabled.

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- F. The approximate starting dates for advertising to target groups and initial occupancy (For further discussion of initiation of marketing activities, see paragraph 4-4.). Advertising and outreach to those organizations and individuals identified as least likely to apply must begin in accordance with applicable program requirements.

G. Name of Managing/Sales Agent, if identified.

2-7. TYPE OF AFFIRMATIVE MARKETING PLAN (PART 2). The applicant should indicate in Part 2 of the Form whether the Plan is to be a Project Plan or an Annual Plan for a scattered site builder.

A. Project Plan. A Project Plan is submitted for a particular multifamily project or subdivision located on a single site.

B. Annual Plan. The Annual Plan covers all activity to be performed in the ensuing 12-month period. The builder applies for only one conditional commitment at a time and the location and exact number of units are not determined at the time the Plan is submitted.

NOTE: In most instances, the Annual Plan, regardless of type, should cover activities within a single housing market area. A housing market area can be defined in terms of all parts of the locality in which the project is located or the county in which it is located. In rural areas, the Plan also may cover activities in more than one county. Technical guidance may be sought from the FHEO POD/FOD if the applicant has a question as to what geographic area might constitute the housing market area for units being developed. (See Paragraph 1-7E. for a definition of the term "housing market area" and Chapter 3 for more detailed information on this type of technical assistance.)

C. Scattered Sites. Scattered sites should be grouped and marketed according to the racial and ethnic composition of the census tracts in which they are located. For example, if 50 out of 100 proposed scattered site units are located in a census tract that is predominantly minority, 25 more are to be in a racially-mixed tract

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and the remainder in non-minority tracts, separate marketing programs must be submitted for each group of units. The applicant should then indicate the types of census tracts or other areas with similar racial/ethnic populations for which each Annual Plan applies by checking the appropriate category: Minority Area, White (Non-minority) Area, or Mixed Area.

2-8. DIRECTION OF MARKETING ACTIVITY (PART 3 OF THE PLAN). The applicant shall identify the groups that are least likely to apply for housing. For these groups, special outreach is required to inform them of the upcoming housing opportunities. If the applicant believes that no single group will need special outreach, the applicant shall indicate in the Plan and explain the reasons for such determination. Appendix 8 contains illustrations of several common situations which confront applicants in the process of identifying target groups. In determining which groups may require special outreach, the applicant should consider the following factors:

A. Practices or Policies of Discrimination. The existence in that housing market area of practices or policies of discrimination on the basis of race, color, creed, religion, sex, handicap, familial status or national origin which historically have affected the ability of members of particular groups to obtain the housing of their choice. These practices or policies can include:

1. Exclusionary zoning practices which may have limited the construction of housing for lower income families;
2. Rental, sales, advertising, lending, appraisal and other practices which may have resulted in discrimination on the basis of race, color, creed, sex, handicap, familial status or national origin;
3. Site selection policies which may have led to the creation of areas excessively impacted by minority or lower-income families and by assisted housing; and

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4. Lack of attention to or enforcement of State or local guidelines relating to ensuring accessibility of housing units to disabled persons.

Information on these practices may be found in court decisions, compliance findings, analyses of impediments to fair housing prepared by CDBG Entitlement recipients; CHAS submissions, especially in the discussion of relevant public policies which affect the development of affordable housing; newspaper articles or other sources which illustrate fact patterns relating to these practices.

- B. Language Barriers. Any known facts about the effects of the language barrier upon potential renters/buyers whose native language is not English. Examples of such homeseekers include Hispanics, Vietnamese, Russians, or hearing-impaired individuals who use sign language to communicate.
- C. Racial/Ethnic Composition. The racial/ethnic composition of defined geographic areas and projects of comparable size within the housing market area. The information listed below may be found in U.S. Census Reports or occupancy reports in the HUD Field Office. The applicant should consider such factors as:
1. The neighborhood (census tract) in which the project is (or will be) located;
  2. The occupancy profiles and waiting list composition of other projects in the housing market area funded under the particular program for which the applicant is applying;
  3. In instances in which the project is to be brought into the Section 8 Additional Assistance Program or Loan Management Set-Aside, present occupants and persons on the waiting list for the project for which the AFHM Plan is being submitted; and
  4. Information on the income eligible population of the jurisdiction or of the housing market area, including racial/ethnic group members, households

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headed by single persons (gender of head of household), persons with disabilities, the elderly, families with children and those persons identified as expected to reside in the jurisdiction.

- D. Income Eligibility Requirements Vary According to Each Program. The statutory and regulatory requirements affect the selection of tenants/purchasers from the segments of the eligible population that might be targeted for special outreach and the marketing techniques to be used in attracting such persons to the housing.
- E. Marketing to Individuals with Handicaps. In most instances, individuals with handicaps are not likely

to apply for the housing without special outreach activities, because such persons may not "apply" for housing units especially reserved for them without special assistance. The AFHM Plan should include resources that have disabled persons of all racial/ethnic groups on lists of potential referrals. Such resources include social service agencies, hospitals or disabled organizations. The applicant, in planning its outreach activities to disabled persons, should also consider:

1. Whether the building is a newly constructed one which must conform to the design provisions of the Fair Housing Act and the accessibility provisions of Section 504 of the Rehabilitation Act of 1973, as amended;
2. How it plans to explain its policies on permitting reasonable modifications of the unit by the tenant; and
3. Its policies with respect to reasonable accommodations in rules, policies, practices and services.

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2-9. THE MARKETING PROGRAM (PART 4 OF THE PLAN).

- A. Basic Principles. The applicant shall describe the marketing program and outline the methods to be used in marketing to all segments of the eligible population. The program must include special outreach steps which will be taken to attract the groups identified in Part 4 of the Plan as persons least likely to apply for housing. When the applicant can produce a certification of being an active participant in a recognized VAMA, the VAMA's program may be substituted for this section.
- B. Commercial Media (Part 4A of the Plan). The applicant must indicate the commercial media to be used to advertise the availability of the housing, in particular, the commercial media that are customarily used by the applicant, including minority publications, publications targeted toward disabled persons, and other outlets which are available in the housing market area. If the applicant does not intend to use any commercial media, the Plan should indicate the reasons for not using such media. All advertising should be

consistent with the Fair Housing Advertising Regulations (24 CFR 109) and the Fair Housing Act Regulations at 24 CFR 100.75. (See Appendix 9 for examples of use of commercial media.)

1. Type of Media. The applicant should indicate the type of media to be used, including:
  - a. Newspapers of general circulation;
  - b. Radio and/or television stations; and
  - c. Other types of media including publications of limited circulation such as neighborhood-oriented weekly newspapers, religious publications and publications of local real estate industry groups.
2. Information Regarding the Media Selected. For each of the media identified, the applicant indicates:

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- a. the name of the media (e.g., Daily Press, WPKA Radio, Channel 5 TV).
  - b. the type (e.g., classified, display) and size of newspaper advertising and the initial date and frequency of its appearance. If copies of such advertising are available, the applicant shall submit them to the Field Office FHEO Division with the Plan. If no copies are available at the time the Plan is being prepared, the applicant shall submit them as soon as possible after the Plan has been approved;
  - c. the frequency and length of any radio and/or television advertising; and
  - d. the identity of the racial/ethnic groups within the audience or readership of the commercial media to be used.
3. Use of Minority-Owned Media. Applicants are encouraged to use minority-owned media as part of their overall marketing program to publicize the housing to all segments of the eligible population within the housing market area. Where Blacks,

Hispanics, and other racial/ethnic minority groups have been identified as special outreach groups, minority-owned media may be a particularly effective outreach mechanism. Whenever such groups are not being specifically targeted for special outreach efforts, the use of minority-owned media is recommended as part of the outreach to the general population. In such cases the applicant may consider factors such as data on the racial/ethnic composition of the majority-owned media's readership or audience, and the applicant's past experience in utilizing such media.

- C. Brochures, Signs and the HUD Fair Housing Poster (Part 4B of the Plan). Brochures, signs and the HUD Fair Housing Poster are to be integral parts of any successful affirmative marketing effort.

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Brochures. The applicant should consider using brochures as part of the total marketing program. Brochures can be tailored to meet the specific housing needs of those persons who are members of groups identified as least likely to apply for the housing. The brochure can also contain a greater quantity of information about the project or subdivision than that contained in the "mass" media advertising (e.g., newspapers, radio or television).

- a. A brochure may include a range of information which influences decisions regarding housing choice, e.g., price/rent; proximity to schools, transportation, shopping and employment centers; the availability of public services and recreational facilities both within the project and in the surrounding community; the availability of medical facilities for disabled persons; the accessibility of the project as a whole and the percentage of accessible units designed for persons with disabilities, as well as the degree to which the project is willing to make reasonable accommodation for disabled persons to ensure an equal opportunity to enjoy the privileges of living in the project or subdivision.
- b. The brochures should communicate the

applicant's equal housing opportunity policy. The brochure shall be consistent with the Fair Housing Advertising Guidelines, including display of the Equal Housing Opportunity Logotype and slogan; use of words, phrases and photographs; and human models.

- c. The brochure should where appropriate also contain information on the applicant's policy toward families with children and whether or not the project or condominium development is reserved for persons 55 years old and above or 62 years old and above as well as the project management promising that it will not discriminate against eligible families with children.

- d. The brochure should be distributed through the community contacts named in Part 5C of the Plan (See Paragraph 2-9D.), mailed to groups identified as least likely to apply, or kept in rental or sales offices for distribution to visitors.
2. Signs. The applicant must indicate the size of any existing or proposed permanent project site sign. The sign must include the Equal Housing Opportunity Logotype, and indicate the size of the logotype. A photograph of the project sign must be submitted with the AFHM Plan, or as soon as possible after erection of the sign.
  3. Fair Housing Poster. HUD's Fair Housing Poster must be conspicuously displayed wherever sales/rentals and showings take place. The applicant must indicate whether the poster will be displayed in the sales/rental office(s), the real estate office(s), model units and/or any other places.
- D. Community Contacts (Part 4C of the Plan). Community contacts can supplement formal communications media for the purpose of soliciting tenants and buyers. They should be individuals or organizations that have direct and frequent contact with those groups identified in Part 4 of the Plan as least likely to apply. The contacts should also be chosen on the basis of their positions of influence within the general community and

the particular target group.

1. Examples of suitable community contacts include:

- a. Fair housing organizations and local nonprofit housing associations, housing counseling agencies, regional tenant referral services;
- b. Minority organizations, for example, League of United Latin American Citizens (LULAC), National Association for the Advancement of Colored People (NAACP), Urban League, women's organizations, civil rights groups, editors of majority owned and minority-owned newspapers;

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- c. Local government agencies which are in a position to make referrals of potential homeseekers to the project or subdivision;
  - d. Real estate industry related groups such as local real estate boards and Community Housing Resource Boards (CHRBs) organized pursuant to HUD Voluntary Agreements with the National Association of Realtors and the National Association of Real Estate Brokers;
  - e. Local employment security offices, employment centers, including large industrial and commercial employers, labor unions, hospitals and educational institutions;
  - f. Organizations which advocate for individuals with disabilities or address issues relating to the housing needs of such individuals; and
  - g. Organizations which advocate for families with children or address issues relating to housing needs of such families.
2. In Part 5C of the Plan, the applicant shall give the following information about the community contacts:
- a. Name of the organization or individual;
  - b. The protected class identification of the group or individual;

- c. The approximate date the group or individuals are to be contacted. This date should be consistent with the requirements for advance marketing to those persons least likely to apply, where applicable;
- d. The address and telephone number of the person to be contacted;

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- e. Methods of contact, e.g., community meetings, briefing sessions by the applicant and community organizations, brochures, walking or bus tours of the proposed housing, radio talk shows; and
- f. The specific functions the group will perform.

2-10. FUTURE MARKETING ACTIVITIES FOR MULTIFAMILY RENTAL UNITS ONLY (PART 5 OF THE PLAN). The applicant must describe in this part the types of activities to be undertaken after the completion of initial occupancy of rental units in order to fill vacancies resulting from normal turnover. These activities shall be consistent with the provisions of the Fair Housing Act, Executive Order 11063 and the AFHM Regulations.

- A. AFHM Plan Modification. The applicant may undertake the same marketing activities which were performed during the initial occupancy period or may propose modifications to the Plan for HUD approval. In order to continue a marketing approach that is consistent with AFHM objectives, a modified Plan may reflect a reduced level of marketing activity as units are available only through turnover, as well as changes in the media, community contacts or procedures.
- B. Post-Initial Rent-up Activities. Examples of marketing activities which may be performed following the initial rent-up period are:
  - 1. The use of media advertising which might be targeted to the same groups previously identified as least likely to apply for the housing without special outreach, or to different groups chosen on the basis of the changing demographic makeup of the neighborhood surrounding the project or other factors not related to the composition of the applicant pool or tenant population. The media

advertising can be similar in content and format to that used during the initial rent-up period or can be changed by adjusting the scale of the advertising program.

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2. The applicant may use brochures and/or site signs to publicize the project after initial rent-up has been completed. The applicant may elect to eliminate community contacts altogether, periodically contact the community-based organizations previously cited in the AFHM Plan or use contacts such as employers, religious institutions, local businesses, civic groups, local government or individual community leaders as distributors of brochures or as information sources about the project. Participation in regional tenant referral clearinghouses operated by local real estate industry groups, Public Housing Authorities (PHAs) or fair housing groups or public agencies is also encouraged. Such services match prospective homeseekers with vacant units of suitable size or price.
- C. Accessibility. Some applicants are required to bring their older buildings into compliance with the Department's Accessibility Guidelines (24 CFR Part 40) and other programmatic requirements pertaining to accessibility for individuals with disabilities, e.g., Section 504 of the Rehabilitation Act of 1973, as amended. Upon completion of such renovations, the applicant should amend the project's AFHM Plan to reflect the undertaking of special outreach activities designed to:
1. Inform individuals with disabilities about the accessible units and about all reasonable accommodations that the applicant either has already made or will make for such individuals; and
  2. Encourage such persons to apply for those units.
- D. Families with Children. An applicant must implement a policy of nondiscrimination with respect to families with children and conduct marketing activities intended to attract such families to the project or subdivision, if it is not exempt from the provisions of the Fair Housing Act pertaining to housing for older persons.

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- 2-11. ASSESSMENT OF MARKETING EFFORTS. The applicant may describe the means by which it will assess the effectiveness of various components of the AFHM Plan such as the advertising methods and the outreach activities targeted toward the groups identified as least likely to apply or the use of community contacts. Indicators such as the anticipated racial/ethnic composition of the tenant population or applicant pool are not to be used as indicators of effectiveness of an AFHM Plan under any circumstances. The applicant is encouraged to use indicators based on good faith efforts, including the number of referrals by community organizations; the number of visits to the site or walk-ins due to outreach or advertising; or the representation of persons identified as least likely to apply as part of the potential buyer or renter group in comparison to the percentage of that group within the housing market area.
- 2-12. RESIDENCY PREFERENCES. The regulations of a number of HUD-assisted housing programs explicitly prohibit provisions which mandate that all the tenants of funded projects be residents of the community in which the project is located. Residency preferences are permitted by regulation for a number of HUD-assisted programs, including the Section 8 New Construction and Substantial Rehabilitation programs, the Section 202 Housing for the Elderly Program, the Housing Development Grant Program, and other HUD-assisted programs, as long as the preference is deemed consistent with the objectives of the AFHM Regulations and the AFHM Plan. Where used, residency preferences must operate in such a manner that housing opportunities will not be denied to any particular group, especially to those groups identified as least likely to apply.
- A. Permission from the Field Office. The applicant shall request from the Field Office permission to implement a residency preference. In formulating such a request, the applicant should calculate the size of the potential population of households eligible for the proposed housing by using the demographic

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characteristics of the area in which the project or subdivision is to be located, including the racial/ethnic composition of the neighborhood, jurisdiction and/or the housing market area. Where applicable under program regulations, the applicant should also include in the calculation those families expected to reside in the jurisdiction because of present or planned employment.

- B. Determining the Size of the Preference. After completing the calculation of the size of the potential eligible applicant population by race/ethnicity, the applicant should then compare the figures for the area surrounding the project and the entire housing market area. This comparison helps the applicant determine whether the eligible population within the locality is of sufficient size to: (1) warrant the conduct of affirmative marketing only within the project jurisdiction, and (2) grant the preference to all of the project's units or subdivision's houses. If the eligible population living within the jurisdiction is not enough to warrant a one hundred percent preference, the applicant should propose that special outreach be conducted throughout the housing market area and a partial preference be granted by the Department.
- C. Data Sources. In formulating the request for a residency preference, the applicant may use data on the housing assistance needs of particular segments of the eligible population contained in the locality's Comprehensive Housing Affordability Strategy, the Census Bureau's Census of Population and Housing reports which gives statistics of Metropolitan Statistical Areas (MSA) by race, or other locally compiled data sources.

- 2-13. STAFF EXPERIENCE AND INSTRUCTIONS FOR FAIR HOUSING TRAINING (PART 6 OF THE PLAN). The successful implementation of any affirmative marketing program depends in great measure upon the sensitivity of management and sales staff to the importance of conducting the marketing program in a nondiscriminatory manner. The proposed Plan should include the following material on staff training and experience:

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- A. Experience. The applicant shall indicate whether it has had any experience in marketing housing to the group(s) identified as least likely to apply.
  - B. Applicant's Training Responsibilities. Applicants are responsible for instructing all employees and agents in writing and orally concerning nondiscrimination in housing. Each applicant should clearly identify the requirements of applicable local, state and Federal fair housing laws and executive orders which staff must follow. Paragraph 3-11 states the specific civil rights laws and authorities on which sales and management staff should be trained. Instructions regarding fair housing requirements and objectives should also be a continuing part of the agenda of staff meetings or other activities carried out for sales and rental staff.
  - C. Submission of Material. The applicant shall submit as part of the Plan a copy of the instructions given to sub-management staff on fair housing concerns such as federal, state or local fair housing laws and the applicant's Affirmative Fair Housing Marketing Plan. The material shall also indicate the date established for conducting such training and the name and title of the person responsible for developing the fair housing training program.

- 2-14. SIGNATURE. An authorized official of the sponsoring organization shall sign the Plan. By signing the Plan, the applicant agrees to make any changes which may be required to assure continued compliance with the AFHM Regulations (24 CFR 200.620). The agreement to make changes is also applicable to Plans covering rental projects during the life of the mortgage. With respect to single-family subdivisions, the applicant may request changes to the Plan only during the initial sales period.

SECTION 3: AFHM SUBMISSIONS IN PROGRAMS NOT REQUIRING  
SUBMISSION OF AN AFHM PLAN

- 2-15. PROGRAMS NOT REQUIRING THE SUBMISSION OF THE PLAN. Appendix 5 lists several programs which require the preparation and/or submission of AFHM procedures by their applicants. The purpose of this section is to describe these procedures and the responsibilities of the applicant for their implementation.

2-16. HOME INVESTMENT PARTNERSHIPS PROGRAM. The HOME Investment Partnerships Program provides funds by formula for acquisition, rehabilitation and new construction of affordable housing and tenant based rental assistance.

A. Participating Jurisdictions (PJ). Section 92.351 of the Regulation requires each PJ to adopt affirmative marketing procedures and requirements applicable to projects of five or more HOME assisted units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing. The PJ also annually assesses its affirmative marketing program to determine the success of affirmative marketing actions and any necessary corrective actions. These procedures are not to apply to families with housing assistance provided by the PHA or families with HOME-funded tenant-based rental assistance. The affirmative marketing requirements and procedures adopted by the PJ must include the following:

1. Methods for informing the public, owners and potential tenants about federal fair housing laws; the PJ's affirmative marketing procedures and requirements;
2. Requirements which owners must adhere to in order to carry out the PJ's AFHM procedures and requirements;
3. Procedures to be used by owners to inform and solicit applications from those persons identified as least likely to apply without special outreach;
4. Records describing actions taken by the PJ and by owners to affirmatively market units and records to assess the results of these actions; and
5. A description of the means the PJ will use to assess the success of these procedures and what corrective actions will be taken where affirmative marketing requirements are not met.
6. The PJ is also required to keep records indicating its AFHM procedures and requirements.

FHEO Notice 92-4, Guidance for FHEO Review of HOME Investment Partnerships Program Descriptions contains the specific requirements for each of the criteria outlined above.

B. States. In addition to adopting affirmative marketing procedures as described above, States distributing HOME funds to units of general local government must require each local government to adopt affirmative marketing procedures and requirements that meet the requirements of 24 CFR 92.351. States must indicate:

1. The actions that the units of general local government must take to meet the affirmative marketing objectives;
2. The records and reports it will require of subrecipients; and
3. How States will assess the results of the unit of general local government's affirmative marketing efforts.

2-17. HOMEOWNERSHIP OPPORTUNITIES FOR PEOPLE EVERYWHERE (HOPE). The Notices of Program Guidelines for HOPE 1 (Homeownership for Public and Indian Housing Units), HOPE 2 (Homeownership for Multifamily Units) and HOPE 3 (Homeownership for Single Family Units) dated January 14, 1992 all require applicants for Implementation Grants under these programs to submit a strategy for identifying and selecting eligible families to participate in the homeownership program. The strategy shall:

- A. Describe activities planned to carry out the applicant's affirmative marketing responsibilities that apply whenever homeownership opportunities are made available to other than current residents of the property; and
- B. Describe the applicant's affirmative fair housing marketing activities, including the specific steps to inform potential applicants and solicit applications from eligible families in the housing market area who are considered least likely to apply for the program without special outreach.

- 2-18. SPECIAL NEEDS ASSISTANCE PROGRAMS FOR THE HOMELESS. Applicants for Special Needs Assistance Programs administered by the Office of Community Planning and Development must make known that use of facilities and services is available on a nondiscriminatory basis. When the procedures that a recipient intends to use to make known the availability of such facilities and services are unlikely to reach persons of any particular race, color, religion, sex, handicap status, familial status or national origin who may qualify for such services or facilities, the recipient or grantee must establish additional procedures that will ensure that:
- A. These persons are made aware of the facilities and services; and
  - B. Interested persons can obtain information on facilities and services that are accessible to handicapped persons. Appendix 6 lists the Special Needs programs to which these provisions apply.

CHAPTER 3. PROCESSING OF AFFIRMATIVE FAIR HOUSING MARKETING  
PLANS AND RELATED DOCUMENTS

SECTION 1: INTRODUCTION

- 3-1. INTRODUCTION. This Chapter discusses the responsibilities of FHEO staff in the review of AFHM Plans and related documents during the processing of applications for HUD's housing programs. The Chapter includes a discussion of:
- A. Actions prior to the submission of an AFHM Plan; and
  - B. Review and approval of the AFHM Plan, related documents and affirmative marketing procedures required under programs such as the HOME Investment Partnerships Program.

SECTION 2: ACTIONS PRIOR TO THE SUBMISSION OF AN AFHM PLAN

- 3-2. TECHNICAL ASSISTANCE TO APPLICANTS. The Field Office POD/FOD provides information and technical assistance on civil rights and equal opportunity matters to applicants for all HUD-assisted housing programs. Guidance may be given in individually scheduled meetings with applicants or through participation in Office-wide conferences where a number of the offices involved in the review and approval of program applications explain their respective roles and sets of requirements. Such guidance shall include the following:
- A. Explanation of AFHM Requirements. FHEO staff shall explain the objectives of the AFHM Regulations and the Plan; the submission requirements; reporting and recordkeeping requirements; the eligibility and any certification requirements.
  - B. Instructions for the Preparation of AFHM Plans and Strategies. FHEO staff shall provide technical assistance to:
    - 1. Applicants, i.e., nonprofit organizations, corporations, developers or individuals in preparing AFHM Plans; and

2. Applicants for programs for which an AFHM Plan is not required in developing comprehensive affirmative marketing strategies.

3-3. CONTENT OF TECHNICAL ASSISTANCE. For programs requiring the submission of an AFHM Plan, the Housing Division staff prepares a "developer's packet" which contains forms and documents to be submitted as part of an application for participation in a HUD housing program. This packet includes information on AFHM and other civil rights requirements. The POD/FOD shall cooperate with the Housing Division to ensure that copies of the AFHM Plan Form HUD-935.2 and the instructions are part of the developer's packet for each program. For programs for which AFHM Plans are not required, but which do require an AFHM strategy as part of the plan for identifying and selecting eligible families, instructions on preparing the strategy should be included in any application package to which the requirement applies.

3-4. REVIEW OF PAST PERFORMANCE. The Department reviews an applicant's past performance in the area of affirmative fair housing marketing in the following ways:

- A. Previous Participation Review. Individuals participating in HUD's multifamily housing programs must submit a Previous Participation Certificate, Form HUD-2530, with each application for Site Appraisal and Marketing Analysis for Insured Programs, in order to provide the Department with a full disclosure of the past experience of all principals involved in the proposed project. Principals subject to this review include applicants, sponsors, owners, managing agents, general contractors and consultants. As part of the Department's review, the POD/FOD shall obtain information about the applicant's record in civil rights and equal opportunity, including past experience and performance, if any, regarding the implementation of AFHM Plans and requirements. FHEO staff shall review monitoring reports and consult with the Regional FHEO Compliance Division regarding pending complaints

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and compliance reviews and charges issued by the Secretary under the Fair Housing Act. Where there are substantive deficiencies, FHEO staff shall inform the Director of the Housing Division. Appropriate sanctions may be imposed in accordance with the Department Handbook (1300.13) and Regulations (24 CFR

Part 24 - Debarment, Suspension and Ineligibility of Contractors and Grantees).

- B. Ranking and Review of Proposals. In programs where FHEO participates in the application review process FHEO evaluates each proposal based on the applicant's record in complying with civil rights laws and equal opportunity requirements, including affirmative marketing. FHEO reviews but does not rank proposals that are not funded because of insufficient funds in the prior years, since they have been previously ranked.

SECTION 3: REVIEW AND APPROVAL OF AFHM PLAN AND RELATED DOCUMENTS

3-5. PURPOSE OF AFHM PLAN REVIEW. The Director, Program Operations Division/Field Operations Division, has the responsibility for the review and approval of the AFHM Plan during the processing stages specified below for each program. The Director shall approve or disapprove the Plan based on the factors outlined in Paragraphs 3-7 through 3-11 below. The Director shall base the determination on the information found in the Review Record (Appendix 11).

- A. Effectiveness of Marketing Program. In reviewing the Plan, the Director shall determine:
  - 1. whether all required information has been included in the Plan;
  - 2. whether the marketing program has the potential for effectively attracting buyers or renters from the majority and minority groups, regardless of gender, represented in the population of the housing market area; and
  - 3. whether the marketing program has the potential to attract persons with disabilities and their families to the project;

- B. Fair Housing Instructions. The Director shall obtain a description and determine the adequacy of the fair housing instructions prepared for the staff of the developer, contract management company or sales firms; and
- C. Residency Preferences. In cases where the applicant submits a request for a residency preference, the

Director shall determine whether the residency preference is consistent with the objectives of AFHM and the goals of the Plan.

NOTE: At this time, the AFHM Regulations have not been amended to include handicap and familial status. When the amended Regulations are published in the Federal Register, the Form HUD-935.2 will be revised to reflect the need to consider these new classes in formulating and implementing any affirmative marketing program.

3-6. TIMING OF THE REVIEW. The AFHM Plan must be approved prior to a commitment to insure or otherwise fund housing. The Plan shall be reviewed at the following processing stages:

- A. Final Proposal Stage. For projects subsidized under the Section 8 Loan Management Set-Aside program, the Plan is reviewed with the final proposal.
- B. Conditional Commitment Processing Stage. For unsubsidized insured multifamily projects as well as projects funded under the Section 202/8 Direct Loan Program, the Supportive Housing for the Elderly Program and the Supportive Housing for Persons with Disabilities Program, the Plan is reviewed during the processing stage prior to the approval of the Conditional Commitment. For individual or Master Conditional Commitment applications involving five or more single family dwelling units, the Plan must be reviewed prior to the issuance of an Environmental Review Letter. Where applicable, the Certification of Intent Not to Market, Form HUD 935.3 (Appendix 26) must be submitted and accepted prior to issuance of the Environmental Review Letter. The FHEO Division shall obtain from the Housing Division and record on Form HUD-935.2 the name of the subdivision and the case or project number.

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NOTE: For the Supportive Housing for the Elderly and Supportive Housing for Persons with Disabilities Programs the review of an AFHM Plan does not have to occur at the time of the submission of an initial application. Reviewing the AFHM Plan may be unnecessary because the application containing the Plan may not be one of the applications eventually selected for funding. If the AFHM Plan is not reviewed, HUD shall note

such on the Notification of Selection for a Fund Reservation and state that the AFHM Plan is subject to approval prior to issuance of a Conditional Commitment.

C. Programs with No Final Proposal. The Plan for projects subsidized by Section 8 and funded under Section 515 of the Housing Act of 1949 is reviewed in accordance with the provisions of 7 CFR 1901.203 by the official authorized to approve the Farmers Home Administration insurance. The Plan for the Additional Assistance Program for the Disposition of HUD-Owned Projects (24 CFR Part 886, Subpart C), is reviewed with each bid submitted.

3-7. COMPLETENESS OF INFORMATION. The reviewer shall ascertain whether the applicant has supplied all the required information on Form HUD-935.2 (Appendix 7). The reviewer may use a checklist similar to that found in Appendix 10. The information shall be consistent with the provisions of the AFHM Regulations and this Handbook. The FHEO Division shall notify the applicant of any deficiencies in the information and shall give the applicant sufficient time to remedy the deficiencies.

3-8. DIRECTION OF MARKETING ACTIVITY. The reviewer shall determine whether the applicant has identified the appropriate group(s) for special outreach. In examining the basis for the choice, the reviewer should also note whether the selection of target group(s) is consistent with generally available facts and data regarding the factors described in Paragraph 2-8.

A. Least Likely to Apply. The following are examples of group(s) that might be identified as least likely to apply for the housing in given situations:

1. Non-minority persons for a project located in a predominantly minority area;

2. Minority groups for a project located in a non-minority area; and

3. Blacks and Non-Minorities for a project located in a neighborhood which is predominantly Hispanic.

B. Individuals with Disabilities. In cases where the owner has identified persons with disabilities as

requiring special outreach activities, the reviewer shall note whether the basis for such designation was appropriate.

3-9. APPROPRIATENESS OF THE MARKETING PROGRAM. The reviewer shall examine the information contained in Part 5 of the Plan and determine whether the proposed marketing program includes actions which are appropriate for attracting the target group(s) (Part 4 of the Plan) and whether the actions are likely to achieve the objectives of the Plan. The following factors should be considered in determining acceptability under the criterion:

A. Commercial Media and Brochures.

1. Whether the choice of commercial media is appropriate to the choice of groups identified as least likely to apply for the housing. Where Blacks, Hispanics, Asian-Americans or other racial/ethnic groups have been identified as requiring special outreach, and minority media are available in the housing market area, the reviewer should carefully review any Plan that proposes a marketing program which does not include use of such media. This review would determine whether the marketing program as a whole is likely to be effective without use of such outlets;
2. Whether the advertising is planned in languages other than English where FHEO believes it necessary to attract target groups, e.g., Hispanics;
3. Whether the advertising conveys an easily understood message that members of the target groups are welcome in the area in which the proposed project is located. For example, the brochures may include information about the proximity of schools, public facilities (e.g., recreation centers), public transportation, and

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community facilities. However, in stating this information, the advertising should not imply that the project area is restricted to persons of a particular race, color, creed, sex or national origin, or that families with children and handicapped persons would feel unwelcome;

4. Whether both majority and minority group models are represented where the applicant plans to use

pictorial advertising and whether women are depicted in such advertising in non-sex-stereotyped roles;

5. Whether the advertising conveys the message that families with children are encouraged to apply for the housing. For example, the brochures or site signs depict parents and children together in play areas or other gathering places;
  6. Whether the advertising depicts units which have been made accessible to individuals with disabilities or conveys the message that reasonable accommodations can be made so that individuals with disabilities can fully enjoy the project's services and facilities on the same basis as non-disabled individuals; and
  7. Whether the Equal Housing Opportunity Logotype and Slogan are displayed on all advertising materials.
- B. Community Contacts. To determine the potential effectiveness of the proposed community contacts, the following questions should be considered:
1. Do the community organizations or individuals identified as community contacts have frequent contact with the target groups?
  2. Are the functions that the community contacts are expected to perform in implementing the outreach program appropriate to their size and influence in the community?
  3. Where applicable, does the applicant utilize organizations which have contact with those persons identified as expected to reside in the community?
  4. In cases where organizations or individuals have previously served as community contacts, were these groups or individuals effective as such contacts?

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- 3-10. EVALUATING THE EFFECTIVENESS OF MARKETING EFFORTS. Applicants are encouraged to formulate their own methods of measuring the effectiveness of the Plan and FHEO staff shall review the appropriateness of such methods. Such measures might include a survey questionnaire or other method of gathering information and may relate to any of the issues described in Paragraph 3-9. The reviewer

shall assess the appropriateness of such indicators by using knowledge of the operation of the market and of how people hear about housing opportunities. The reviewer must conclude that the indicators are realistic and measurable.

3-11. ASSESSING AN APPLICANT'S FAIR HOUSING TRAINING PROGRAM.

FHEO staff is also responsible for assessing all written instructions to staff and the content of the applicant's fair housing training program as stated in Part 8 of the Plan. The assessment process is intended to produce information and data to be used by FHEO in making judgments about the adequacy of the applicant's fair housing training program. The following factors should be considered in making this determination:

- A. Manner of Instruction. Whether the applicant plans to instruct all employees and agents in writing and orally about the Department's fair housing policies through regularly scheduled sessions to assure the participation of all sales and rental staff;
- B. Legal Components. Whether the training includes an explanation of the following civil rights authorities as they relate to activities of sales and rental staff:
  - 1. The Fair Housing Act and 24 CFR Part 100;
  - 2. Executive Order 11063 and 24 CFR Part 107;
  - 3. The Affirmative Fair Housing Marketing Regulations, 24 CFR 200, Subpart M;
  - 4. Any state or local fair housing and equal credit opportunity law and its applicable complaint processing procedure;
  - 5. Title VI of the Civil Rights Act of 1964, where applicable;

- 6. Section 504 of the Rehabilitation Act of 1973, as amended, where applicable, and 24 CFR Part 8; and
- 7. Civil rights related program requirements relating to AFHM.

- C. Other Components. Whether the training is designed to

acquaint participants with the substantive requirements of the Fair Housing Act related to financing and advertising, expected real estate broker conduct, redlining and zoning practices and discriminatory appraisal practices.

3-12. APPROVAL OF THE AFHM PLAN. The POD/FOD Director shall approve or disapprove the Plan based upon an evaluation of each criterion for which FHEO must maintain an administrative record. An approved Plan must be acceptable in all areas. The POD/FOD Director shall notify the Housing Division Director and the applicant of the approval of the Plan. The letters of approval (see Appendix 13) for rental housing and for sales housing (Appendix 12) shall remind the applicant of the obligation to implement the Plan in accordance with 24 CFR 200, Subpart M, or other applicable program regulations. In the event that the review reveals deficiencies in the Plan, the POD/FOD shall notify the applicant of the nature of the deficiencies and request any additional information (see sample, Appendix 14).

A. Signature and Distribution. The POD/FOD Director shall sign the Plan and distribute it as follows:

1. Original to the applicant;
2. Copy to the Field Office central file;
3. Copy for the POD/FOD files; and
4. Copy to the Director of Housing Management.

B. Contents. The letter of approval to the applicant shall include information concerning:

1. Notifying the POD/FOD Division of the intent to begin marketing in accordance with 24 CFR 108.15 no later than 90 days prior to the commencement of marketing activities;

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2. Submission to the POD/FOD of copies of advertisements, project signs, brochures and letters used during the marketing period and developed as part of the marketing program; and
  3. Submission of recruited reports and training materials.

3-13. MANAGEMENT PLAN. The Department does not require owners to maintain a management plan as a recordkeeping requirement. It does, however, require owners to comply with the requirements set forth in the Management Certification, Forms HUD-9839-A (Project Owner's Certification for Owner-Managed Multifamily Housing Projects), HUD-9839-B (Project Owner's and Management Agent's Certification for Multifamily Housing Projects for Identity-of-Interest or Independent Management Agents) and HUD-9839-C (Project owner's/Borrower's Certification for Elderly Housing Projects Managed by Administrators). Under these certifications owners agree to comply with the Department's civil rights laws and regulations implementing those laws. These include the Affirmative Fair Housing Marketing Regulations. The owner also agrees to furnish the Office of Fair Housing and Equal Opportunity any reports and information required to monitor the project's compliance with fair housing and affirmative marketing requirements.

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CHAPTER 4. IMPLEMENTATION OF THE AFFIRMATIVE MARKETING  
PLAN - APPLICANT'S RESPONSIBILITIES

SECTION 1: INTRODUCTION

4-1. INTRODUCTION. This Chapter outlines the specific obligations of both the applicant and any management or sales agents of the applicant for implementing the HUD-approved AFHM Plan. It applies to all programs covered by the AFHM Regulations (24 CFR Part 200, Subpart M). It discusses the steps the applicant takes during each phase of the Plan's implementation. These steps include:

- A. Outreach to those groups identified in the AFHM Plan as least likely to apply for the proposed housing and to the general public; and
- B. Submission to the Field Office of documents related to the Plan, e.g., copies of media advertising, letters to community contacts, and HUD-approved reports such as the Report on Applicants for Multifamily Rental Housing, Form HUD-935.5 (Appendix 15) which is submitted at certain stages of the application taking cycle.

This Chapter also outlines activities relating to continued marketing of multifamily projects after initial rent-up has been completed and the Field office's role in assisting the applicant during the initial occupancy period.

SECTION 2: APPLICANT'S ROLE IN IMPLEMENTING THE PLAN

4-2. NOTIFICATION OF INTENT TO BEGIN MARKETING. The Compliance Procedures for AFHM Regulation (24 CFR 108.15) require the applicant to submit to the Field Office having jurisdiction over the area in which the proposed housing is located a Notice of Intent to Begin Marketing no later than 90 days prior to the commencement of any sales or rental marketing activities. The notification shall be in writing and shall state the date on which the applicant proposes to commence such marketing activities.

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4-3. PREOCCUPANCY CONFERENCE. The Compliance Procedures for

AFHM Regulations (24 CFR 108.15) state that upon receipt of the notification of intent to begin marketing, the FHEO Director may schedule a preoccupancy conference with the applicant and its advertising firm, rental and/or sales agent. The FHEO Division should coordinate its preoccupancy activities with those of Housing Management, e.g., by holding a joint conference. At this conference, according to Part 108, the previously approved AFHM Plan shall be reviewed with the applicant to determine if the Plan and/or its proposed implementation require modification prior to initiation of marketing activities.

- 4-4. INITIATION OF MARKETING. Regardless of whether a preoccupancy conference takes place, the applicant shall commence the actual implementation of the Affirmative Marketing Plan no later than 90 days prior to the commencement of initial occupancy. Purchasers of HUD-owned projects with mortgage insurance shall commence the implementation of the AFHM Plan upon assuming control of the property.
- 4-5. MARKETING FOR INITIAL SALES OR RENT-UP. In carrying out the provisions of the HUD approved Plan, the Applicant shall implement the following procedures:
- A. Pre-Marketing Activities. Prior to initiating general marketing, contact the commercial media, fair housing groups, employment centers, civil rights organizations and the community contacts which have been identified in the Plan as resources for attracting persons who are "least likely to apply" for the housing.
  - B. Outreach Documentation. Establish a system for documenting outreach activities and for maintaining records which provide racial, ethnic and gender data on all applicants for the proposed housing. The system should be consistent with any reporting and recordkeeping requirements stated in the Regulations governing HUD-assisted housing programs to which the AFHM requirements apply. It should include all documentation pertaining to:
    - 1. How the groups considered least likely to apply were identified;

- 2. The special outreach activities undertaken to attract these groups and the general public to the housing;

3. The training given to staff on Federal, State and local civil rights laws;
  4. The selection of the community contacts who assisted in implementing the AFHM program;
  5. The implementation of the Department's Fair Housing Advertising Regulations stated at 24 CFR Part 109;
  6. Race and ethnicity of all applicants for the housing; and
  7. Race and ethnicity of all individuals who visit the project or subdivision in person.
- C. Fair Housing Training. During the 90-day period prior to the commencement of taking applications or sales, provide training to all management or sales staff in Federal, State and local fair housing laws, AFHM objectives and the HUD-approved AFHM Plan. The timing of the training is entirely at the discretion of the applicant.
- D. Submission of Materials to HUD. Submit materials to the Field Office which document activities taken to implement the approved AFHM Plan. These submissions are required pursuant to the Regulations at 24 CFR 108.20(a) and include:
1. Copies of advertisements, brochures, leaflets, and letters to community contacts (community organizations, fair housing groups, major employment centers, referral services, and other contacts) utilized as part of the marketing program;
  2. Photographs of project signs;
  3. A copy of the instructions used to train sales/rental staff on Fair Housing laws; and
  4. Anticipated dates of advertising and occupancy.

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- E. Listing of Visitors. Prior to initiation of marketing, the applicant may compile a list of those persons who indicated an interest in applying for the housing by race, ethnicity and gender of the head of household.

Such persons shall not be considered applicants and placed in the applicant pool until they have filed a formal application during the regular, publicized application taking period.

SECTION 3: ACTIVITIES DURING INITIAL MARKETING

- 4-6. OVERVIEW. This section discusses the activities to be undertaken by the applicant after the commencement of marketing activities. These tasks include evaluation of both the Plan's effectiveness during and after implementation and the need for modification where appropriate; and recordkeeping and reporting.
- 4-7. ASSESSMENT OF THE PLAN'S IMPLEMENTATION. The applicant shall monitor and carefully evaluate the results of the special outreach and general marketing activities undertaken during the initial sales or rent-up period. Through such evaluation the applicant can determine whether the provisions of the Plan have been successfully implemented and how effectively the affirmative marketing program has helped attract buyers or tenants of majority and minority groups and, where appropriate, disabled persons and families with children. Examples of factors to be examined include:
- A. The racial/ethnic composition of the population that responded to the advertising used as part of the special outreach activities.
1. Definition. This population consists of all persons who responded to the outreach activities connected with the project or subdivision by:
- a. Visiting or inquiring about the project, and

- b. Basing a decision to apply formally for the project on that visit or inquiry. This data is recorded on the Form HUD-935.5 which is submitted periodically during the marketing period. (See paragraph 4-9A. for more detailed instruction on submitting these forms.)
2. Comparison with Designations of "Least Likely to Apply" Groups. The applicant should compare this data with the designations of the groups identified as least likely to apply without special outreach. If this group of respondents does not include

significant numbers from those groups identified as least likely to apply, the marketing program should be carefully reviewed to determine:

- a. Whether the designations of the groups as least likely to apply were appropriate in light of marketing experience related to the project in question; and
  - b. Whether the outreach effort was insufficient and adjustments in the advertising strategy or other outreach efforts are warranted.
- B. Measures relating directly to special outreach and other advertising techniques used in the marketing program. Such measures can include a running tabulation of responses to questions relating to the manner in which the prospective buyer or renter had heard about the housing. Through such techniques the applicant can determine whether:
1. Foreign language or minority media are effective marketing mechanisms;
  2. The Equal Housing Opportunity Logotype effectively conveys to such buyers or renters the message that they are welcome to apply and will not encounter discrimination;
  3. Community contacts used by the applicant are advertising housing effectively; and
  4. Members of groups targeted for special outreach activities are learning about the housing through informal means rather than commercial media.

- C. Consultation on changes. If the applicant concludes that changes to the Plan are necessary, it should, as early in the marketing process as possible, discuss such changes with the Director of FHEO and submit them for the Director's review and approval.
- 4-8. MODIFICATION OF THE HUD-APPROVED AFHM PLAN. Modifications to the HUD-approved AFHM Plan may be appropriate under certain circumstances prior to initial marketing, after commencement of initial marketing, or after rent-up is completed. Circumstances which may generate modifications in the HUD-approved AFHM Plan include:

- A. Significant changes in the parties implementing the Plan, e.g., sales company, management company or owner. If such changes occur, the owner should identify the new parties and inform HUD of such changes.
- B. Significant changes in the demographic, e.g., racial/ethnic characteristics of the neighborhood in which the housing is located. Such changes can affect the direction of outreach activities, i.e., the group or groups within the eligible population that have been identified as least likely to apply. For example, in a market area whose population was essentially Black and white at the time of application, in the original AFHM Plan, the applicant may have selected non-minorities (whites) as the group least likely to apply for a project located within a predominantly Black area. During the year in which the Department had been considering the applicant's request for project mortgage insurance, the locality had acquired a significant Hispanic population which did not exist even one year before. The applicant had to change its AFHM Plan in response to this demographic change by selecting Hispanics and non-minority whites as the groups considered least likely to apply and by translating its advertising materials into Spanish.
- C. New information with respect to community contacts which may be helpful in reaching the target groups, e.g., establishment of a Community Housing Resource Board since HUD approval of the Plan, or the dissolution of a housing referral service previously listed in the HUD-approved Plan.

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- 4-9. RECORDKEEPING AND REPORTING REQUIREMENTS. The Compliance Procedures for Affirmative Fair Housing Marketing (24 CFR Part 108), the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, as amended, Executive Order 11063 and the reporting and recordkeeping requirements stated in regulations for programs to which AFHM requirements apply all require the applicants to furnish certain data, in order that HUD may carry out its monitoring responsibilities under applicable civil rights laws. Accordingly, each applicant shall collect and maintain information relating to sales and rental activity, including documentation connected with the outreach program, and data by race, ethnicity, handicap and gender for both occupants and prospective renters/buyers. The

applicant shall maintain this data for the most recent three-year period of operation or portion thereof, if the project or subdivision has not been in operation for more than three years. In addition, the applicant shall submit periodic reports on the progress of the regular and special outreach activities (Form HUD-935.5) to the Field Office as part of the documentation required by 24 CFR Part 108.

Reporting instructions follow:

- A. Applicants for Multifamily Rental Housing, HUD-935.5 (Appendix 15). Form HUD-935.5 is applicable to all projects with a HUD-approved AFHM Plan that are conducting initial marketing activities. The report must be filed during the initial project rent-up period (following submission of the Notice of Intent to Begin Marketing--see Paragraph 4-2) as soon as either:

NOTE: Data on applications rejected (Section F of the form) is required only for insured subsidized projects.

1. The number of applications received is no more than one-half the number of units in the project;
2. One-half the application taking time period has passed; or
3. The application period has closed. (This may occur, at times, with such speed as to preclude a prior filing under paragraphs 4-9A.1. or 4-9A.2. above, as, for instance, when the number of applications received on the first day of an offering meets the maximum number needed to close the applicant pool).

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- B. Amended Reports. Amended reports are necessary when initial reports are filed pursuant to:
1. Paragraphs 4-9A.1. or 4-9A.2. above. Applicants file an amended report when the application period has closed, screening is completed or all eligibility determinations have been made; or
  2. Paragraph 4-9A.3. above. Screening and eligibility determinations were not included on the initial report (Section E of Form HUD-935.5, and, where applicable, Section F). While this process provides a flexible schedule for filing a report, a

final HUD-935.5 must be filed with HUD when 95 percent of the units are occupied.

- C. Section 8 New Construction and Substantial Rehabilitation Projects. Entities managing Section 8 New Construction, Substantial Rehabilitation and State Agency projects whose Housing Assistance Payments Contracts are still in force shall maintain, in addition to the types of data noted previously, data on the place of previous residency of applicants and approved eligible families. This data is collected in accordance with Section 8 Housing Assistance Payments Program for New Construction Regulation (24 CFR 880.603(b)(4) and 881.603(b)(4)) on the Form HUD-50059, Certification and Recertification of Tenant Eligibility.
- D. Documentation Relating to the Outreach Program (See paragraph 2-9).
- E. Annual Occupancy Reports. The applicant for mortgage insurance under insured unsubsidized multifamily programs submits Form HUD-949, Civil Rights Tenant Characteristics/Occupancy Report, Insured Unsubsidized Housing Programs, upon completion of initial occupancy activities. This report is due by the third Friday in October of each year.

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- 4-10. SELECTION OF HOMEOWNERS FOR FHA-INSURED SALES HOUSING. The applicant for single family mortgage insurance shall select homeowners in a manner consistent with the provisions of the Fair Housing Act, Executive Order 11063, Section 527 of the National Housing Act (which prohibits discrimination in the granting of Federally-insured mortgage loans based on sex and requires lenders to consider on an equal basis the income of both husband and wife in determining the creditworthiness of prospective buyers), and the provisions of the AFHM Plan. If the applicant employs a third party such as a sales agent or real estate broker to conduct the applicant's sales activities, the applicant may be directly responsible for the results achieved by the sales agent. Thus, the applicant should be aware of acts which may adversely affect ability of homeseekers to obtain housing of their choice and impair the achievement of the objectives of the AFHM Plan. The Regulations at 24 CFR 100, Discriminatory Conduct Under the Fair Housing Act, enumerate many illegal and discriminatory real estate marketing practices for

which the applicant can be held legally responsible if they are committed by its brokers or sales agents.

4-11. FUTURE MARKETING ACTIVITIES FOR RENTAL PROJECTS BUILT PRIOR TO 1988. Upon completion of initial rent-up, the applicant initiates appropriate marketing activities for filling vacancies resulting from normal turnover. The applicant may utilize the remaining list of prospective renter/buyers from the initial marketing effort as the waiting list for the project. The applicant is encouraged to contact the Field Office for assistance in adapting the AFHM Plan to the post initial occupancy period. The nature of this adaptation would normally depend on factors such as:

- A. Waiting List. The size and racial/ethnic composition of the waiting list, if one is maintained;
- B. Overall Assessment. The assessment by HUD and the applicant of the effectiveness of the initial marketing program, especially with respect to participation by members of those groups identified as least likely to apply; and
- C. Demographic. Any changes in the demographic and socioeconomic composition of the project area and the housing market area which occurred after the completion of the initial rent-up cycle.

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CHAPTER 5. MONITORING

- 5-1. INTRODUCTION. This Chapter provides policy guidance to POD/FOD staff for the management and conduct of monitoring connected with affirmative fair housing marketing requirements. As applied to AFHM, monitoring is carried out for the following purposes:
- A. Good Faith Efforts. To assess the effectiveness of the applicant's good faith efforts to carry out the provisions of the Plan and achieve the objectives of AFHM, and to enable HUD to provide timely technical assistance and suggest modifications to AFHM Plans where such efforts have not resulted in the expected applicant pool. Such efforts include special outreach activities to those groups identified as least likely to apply, the advertising program, the use of community contacts, and the training in civil rights laws given to sales and project management staff.
  - B. Relationship to Programmatic Requirements. To assess how the applicant's AFHM program carries out the objectives of the AFHM Regulations and requirements, especially in those instances where such requirements are a component of HUD-assisted housing programs. AFHM requirements are built into a number of such programs and are implemented as part of the tenant selection and assignment process.
  - C. Affirmatively Furthering Fair Housing. Where appropriate, to assess how effective Affirmative Marketing is as a tool for affirmatively furthering fair housing. In many instances, an applicant will submit both an Affirmative Fair Housing Marketing Plan and a certification to affirmatively further fair housing. This concept is especially relevant when evaluating AFHM in the context of a total project management monitoring exercise (See HUD Handbook 4350.1, REV-1, Multifamily Asset Management and Project Servicing Handbook, Chapter 9).
  - D. Review of Subsequent AFHM Plans. To help the FHEO POD/FOD Staff carry out its review of subsequent AFHM Plans submitted by the applicant for future assisted housing projects and programs, and its evaluation of:

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1. The acceptability of certifications of compliance with civil rights laws. This exercise is especially relevant for applicants for programs such as the Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons with Disabilities Program, both of which require signed certifications of compliance with the AFHM Regulations and requirements.
  2. The relative effectiveness of the past performance of applicants and their agents when rating and ranking proposals submitted in response to Notices of Fund Availability (NOFA), e.g., HOPE 1, 2 and 3; Supportive Housing for the Elderly; and Supportive Housing for Persons with Disabilities.

- E. Compliance Activities. Monitoring helps surface problems which may warrant further action by the Regional FHEO Compliance Division, usually in the form of a compliance review or a Secretary-initiated investigation under the Fair Housing Act.

NOTE: The Director, Regional Office of FHEO, should be advised when FHEO monitoring has surfaced problems with an applicant's carrying out its HUD-approved AFHM Plan, the AFHM Regulations (Part 200, Subpart M), affirmative marketing requirements in the Department's programs not covered by Part 200, or with the reporting requirements of 24 CFR 108. Although targeting of compliance reviews by the Regional Office of FHEO is not totally dependent upon Field Office activities, monitoring conclusions will greatly assist the Regional FHEO compliance staff in determining whether to conduct a compliance review and which activities to examine if a review is conducted.

- 5-2. EVALUATION OF GOOD FAITH EFFORTS. Judgments about an applicant's performance shall be based on a review of the actions taken or not taken to carry out the provisions of the approved AFHM Plan or strategy and related provisions of laws, executive orders and regulations. The purpose of the entire monitoring process is to assess:

- A. Execution of the Program. Whether the applicant carried out the AFHM Plan and program or affirmative marketing strategy approved by HUD; and

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- B. Attracting the Eligible Population. Whether the good faith efforts of the applicant have attracted a significant cross-section of the eligible population, especially significant numbers from those eligible identified in the Plan or strategy as least likely to apply for the housing without special outreach activities.
- 5-3. COMMENCEMENT OF MONITORING. The Regulations at 24 CFR 108 require that the applicant notify the Field Office FHEO Director of his or her intent to begin marketing no later than 90 days prior to engaging in any marketing activities. The notification must be in writing and made part of the file. When the notification is received, FHEO staff should begin monitoring marketing activities. For rental housing, FHEO staff should utilize HUD-generated reports to track the status of construction activity as a means of keeping informed as to when units will be available for occupancy. For home mortgage programs, fewer than 90 days prior notification may be called for, depending on the status of sales activities at the time HUD approves the AFHM Plan. For example, if marketing of units in a subdivision is initiated prior to an application for HUD insurance on the first unit, monitoring should begin as soon as possible.
- 5-4. COLLECTION AND ANALYSIS OF AFFIRMATIVE MARKETING-RELATED DATA. The data collection and analysis responsibilities of both the Department and the applicant relating to monitoring of an applicant's AFHM activities require the following:
- A. Departmental Information Collection. The Department collects the following types of information which helps it make judgments about the quality of the applicant's implementation of its Affirmative Marketing program. This information is collected during either on-site monitoring visits, during off-site monitoring prior to the on-site visit, or during the initial rent-up or sales periods:
1. HUD-approved documents and applications connected with the project or subdivision being monitored, including the approved AFHM Plan, the Management Plan which may include procedures relating to the implementation of a residency preference, and the CHAS.

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2. Field Office Generated Reports. Reports generated by Field Office staff which track the implementation of programs covered by the AFHM requirements. These reports include:
    - a. Those generated from the Department's data systems which track the progress of the implementation of HUD programs and the occupancy patterns of projects.
    - b. Reports from prior monitoring visits made by FHEO staff and Housing Management staff contain useful information. FHEO staff should review any letters to applicants regarding implementation of the approved Plans.
    - c. Pre-Occupancy Conference Reports. (Appendix 17).
  3. Regional Office Generated Reports, such as Regional FHEO Complaint Investigation or Compliance Review Findings against the applicant, if any; and resulting Agreement.
  4. Information Supplied by the Applicant as required by the Regulations at 24 CFR 108.20 which requires the submission of reports and other documentation of the implementation of the Plan, including the Form HUD-935.5.

NOTE: In collecting information from applicants subject to AFHM Regulations, FHEO staff shall utilize forms, questionnaires or other materials which (1) have been approved by the Office of Management and Budget in accordance with the provisions of the Paperwork Reduction Act (Public Law 96-511) and Executive Order 12291 or (2) have been approved by the Department as part of its Reports Management System. Only through these mechanisms are applicants required to respond to requests for identical information which would affect ten or more respondents. In cases where the specific information requested is limited to a particular owner or applicant, the Field Office may request additional information from that applicant.

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B. Review of Applicant's Reports and Other Documentation. The Regulations at 24 CFR 108.20 require that the applicant submit to the Field Office reports which document the implementation of the AFHM Plan. During initial rent-up and sales, all projects covered by a AFHM Plan shall be subject to "desk monitoring", which is the gathering, review and analysis of reports and other documentation submitted by the applicant to provide evidence of performance under the approved AFHM Plan. Copies of such documentation shall be forwarded to the Regional Director of FHEO, as requested. Documentation shall be reviewed as it is received to determine whether the applicant, in implementing the Plan, has met the standards outlined in paragraph 5-2. When the reports, e.g., the Form HUD-935.5, or other documents indicate that outreach efforts have been ineffective in informing persons identified as least likely to apply, FHEO staff shall contact the applicant to ascertain whether there are problems in the marketing program and to offer technical assistance. As a result of this technical assistance, the Department may recommend changes in the direction of marketing activity or the marketing methods. This assistance will hopefully result in increased participation of renters/buyers from the target groups and better performance by the applicant of marketing activities.

NOTE: If surveys are taken of persons who express an interest in the project or subdivision, including visitors and renters/buyers, the FHEO Division may request information about the results of the surveys from logs or other records which should include the racial/ethnic designations of all such visitors and renters/buyers. The results of these surveys should be discussed with the applicant and be used as the basis along with other information, for determining the need for changes in marketing activities.

5-5. PLANNING AND SCHEDULING MONITORING VISITS. Monitoring and compliance activities shall be closely coordinated in order to maximize the impact of HUD's reviews of the implementation of affirmative marketing efforts. The Field Office and Regional Office FHEO Directors shall share schedules of monitoring and compliance reviews to be undertaken. Appendix 16 outlines the factors to consider in scheduling monitoring reviews pertaining to AFHM. Prior to a visit, the FHEO staff should:

- A. Review all reports and other available documentation with respect to implementation of the AFHM Plan. (See Paragraph 5-4 for a description of pertinent reports.)
- B. Notify the applicant of the visit. The applicant should be given the date of the visit, the names of FHEO staff who will visit, the files or information which will be examined and who on the applicant's (or agent's) staff should be available for consultation during the visit.
- C. Schedule appointments to meet with persons, community organizations, employment centers and other groups which were identified in the marketing program (Part 5) of the approved Plan.

5-6. PROVISIONS OF THE PLAN TO BE MONITORED. A monitoring visit involves an examination of records, visual inspection of the project and interviews with rental/sales agents and staff, occupants, and community organizations identified in the Plan. Records which may be examined include applications (for both accepted and rejected renters or buyers), waiting lists, and documentation related to advertising. The provisions of the Plan to be monitored and the performance standards on which judgments are to be based include, but need not be limited to, the following:

- A. Indicators of Successful Implementation. FHEO staff should review available records of any surveys taken of responses to outreach activities by members of the groups identified by the applicant as least likely to apply. This review assists FHEO staff in determining the effectiveness of good faith efforts which are targeted to all segments of the eligible population and particularly to members of the group(s) identified as least likely to apply for the housing without special outreach activities.
- B. Advertising Through Commercial Media. In addition, FHEO staff should determine whether the advertising strategy as a whole conforms with the approved Plan and the Fair Housing Advertising Regulations (24 CFR Part 109), and whether the applicant has actually carried out the advertising activities specified in the Plan.

- 5-7. MONITORING MULTIFAMILY RENTAL PROJECTS IN CONTINUING OCCUPANCY. Although priority is given to monitoring projects which are in initial rent-up or sales, rental projects may be monitored throughout the life of the mortgage in the case of insured projects and throughout the duration of the Housing Assistance Payments Contract under the Section 8 programs.
- A. Review of Occupancy Reports. FHEO staff shall review the annual occupancy reports in order to ascertain whether the occupancy pattern existing after initial rent-up is consistent with the original expectations for occupancy or whether one or more groups appear to be underrepresented. The AFHM Plan should be updated and modified according to changes in the housing market area or project.
- B. Focus of Visit. The focus of the monitoring visit shall be those actions taken by the applicant to fill vacancies as they occur after the project has been initially occupied (Section 6 of the Plan).
- 5-8. LIMITED REVIEW BY STAFF OF THE HOUSING DIVISION. Chapter 9 of Handbook 4350.1 REV-1, Multifamily Asset Management and Project Servicing, entitled "Enforcement of Civil-Rights Related Requirements; Nondiscrimination Against Individuals with Handicaps in Employment", describes the limited role of the Field Office Housing Management Division in identifying possible signs of discrimination during a housing management review. It also provides for coordination between Housing and FHEO in resolving FHEO-related findings that also may be violations of Housing's program requirements. As part of its review, Housing Management ascertains whether an AFHM Plan is required for the project being reviewed; whether the owner has a HUD-approved AFHM Plan; and whether the owner or manager is following the Plan.
- 5-9. DOCUMENTATION OF MONITORING CONCLUSIONS. All monitoring conclusions must be properly documented, including those conclusions based on personal interviews and telephone conversations, as well as conclusions based on a review of written reports, project and HUD records and other material.

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- A. Compiling Record of Visit. After a monitoring visit, FHEO staff must document the names of all persons

interviewed, files examined, and other written evidence of performance reviewed (e.g., reports on applicant pool composition, brochures, newspaper advertisements). Appendix 18 contains a format for documentation of conclusions reached as a result of on-site monitoring visits.

B. Content of Monitoring Letters. Applicants are to be advised in writing within a reasonable time (not to exceed one month) of all conclusions reached as a result of monitoring. The letter to the applicant should include the following elements:

1. Name and number of project monitored;
2. Field Office staff who monitor;
3. Date of visit;
4. Purpose of visit;
5. Persons interviewed;
6. Monitoring conclusions, including findings and concerns;
7. Recommendations of corrective and/or remedial actions which may be taken by the applicant;
8. Offer of technical assistance, if appropriate; and
9. A warning that failure to comply with AFHM requirements will result in a referral to the Regional office of FHEO for possible compliance action, if appropriate. To follow up, FHEO staff should request that the applicant respond in writing by a specific date regarding the steps that will be taken to address identified deficiencies. FHEO staff also may schedule another visit.

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C. Distribution of Monitoring Letter.

1. A copy of all monitoring letters shall be sent to the Field office Manager, Attention: Field Office Director of Housing.
2. A copy of all monitoring letters that identify deficiencies in implementation of AFHM requirements

shall be sent to the Director, Regional Office of FHEO.

- 5-10. ACTIONS TAKEN ON MONITORING CONCLUSIONS. When on the basis of an applicant's performance it is determined that the applicant has not conformed with the approved AFHM Plan and/or AFHM Regulations, actions should be taken appropriate to the circumstances. In each instance, these actions should be designed to prevent a continuance of the nonconformance; to mitigate adverse effects of the deficiency (to the extent possible under the circumstances) and to prevent a recurrence of the same or similar deficiencies. The applicant must be given an opportunity to correct any identified deficiencies. Actions taken on negative monitoring conclusions include the following:
- A. Notification to the applicant of the deficiencies found as a result of monitoring with a request that the applicant submit additional information or a statement of steps which will be taken to correct the deficiencies and a timeframe for action;
  - B. Notification to the Director, Housing Division; and
  - C. Referral to the Regional Director of FHEO for possible compliance actions where deficiencies appear to raise question(s) appropriate for a compliance review.
- 5-11. FIELD OFFICE MAINTENANCE OF RECORDS. After initial occupancy (rent-up or sales) is completed, it is generally not necessary to retain a complete project file within the FHEO Division.

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- A. Purposes of Retention of Information. Certain information should be retained:
    - 1. for subsequent monitoring during continued occupancy of rental housing;
    - 2. for possible compliance activities;
    - 3. in the event of possible litigation; and
    - 4. for previous participation reviews of the applicant and the applicant's agents
  - B. The documents and correspondence listed below should

be retained.

1. The HUD-approved AFHM Plan. The Plan should be retained in the file on a permanent basis;
2. Record of the Preoccupancy Conference(s);
3. The most recent Annual Occupancy Report and the Form HUD-935.5 report submitted at the time initial rent-up was completed. Where an annual report is not required (sales housing), the final occupancy report received;
4. Samples of advertising--e.g., brochure, newspaper advertisements;
5. Monitoring checklists and monitoring letters to the applicant;
6. Letters from the applicant with respect to implementation of the AFHM Plan or related requirements;
7. Correspondence related to compliance actions by the Regional Office of FHEO; and
8. Administrative complaints or litigation connected with marketing or tenant selection in the housing.

NOTE: All other records may be discarded.

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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

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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

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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.)

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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.

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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

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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).)

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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.

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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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A P P E N D I C E S

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APPENDIX 1

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OTHER REGULATIONS IMPLEMENTING PROVISIONS OF THE  
FAIR HOUSING ACT AND EXECUTIVE ORDER 11063

1. Part 100, "Discriminatory Conduct Under the Fair Housing Act" provides the Department's interpretation of the coverage of the Fair Housing Act regarding discrimination related to the sale or rental of dwellings, the provision of services connected therewith and the availability of residential real estate transactions. The Regulations also address the issues of discrimination on the basis of handicap and accessibility of Federally-assisted housing to disabled persons and the exemptions of housing for older persons from the provisions relating to nondiscrimination on the basis of familial status.
2. Part 103, "Fair Housing Complaint Processing", contains the procedures established by the Department for investigation and conciliation of complaints filed under the Fair Housing Act after March 12, 1989 and based on discriminatory housing practices outlined in the statute and the Regulations.
3. Part 104, Administrative Proceedings Under Section 812 of the Fair Housing Act describes the rules of practice and procedure of the Department for administrative proceedings before an Administrative Law Judge connected with fair housing complaints.
4. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 1106311, establishes compliance and enforcement procedures to be used by HUD in implementing its responsibilities under the Executive Order.
5. Part 109, "Fair Housing Advertising", provides specific guidance for newspaper publishers, other publishers of advertisements and real estate firms, banks, savings and loan associations and other individuals, firms or corporations concerning nondiscrimination in advertising the sale, rental, financing or other services in connection with residential real estate, as provided in Section 804(c) of the Fair Housing Act.

6. Part 110, "Fair Housing Poster", contains the procedures established by HUD regarding the display of a fair housing poster by persons subject to the provisions of the Fair Housing Act with respect to discrimination in the sale or rental of housing, in the financing of housing or in the provision of brokerage and other services.

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REFERENCES TO DEPARTMENTAL PROGRAM REGULATIONS  
- AFFIRMATIVE FAIR HOUSING MARKETING PROGRAM

This Appendix lists the references to AFHM requirements found in the program regulations to which the AFHM Regulations apply. These references pertain to: (1) the submission and review of the Plan; (2) the marketing of units during the initial occupancy period; (3) the determination of eligibility and selection of tenants or homeowners in accordance with the provisions of the AFHM Plan. The complete list of programs to which AFHM applies is found in Appendix 5. However, specific references to AFHM requirements are not found in the Regulations for all of the programs, because the AFHM requirements applied originally only to the insured multifamily mortgage insurance programs. Thus, the following Affirmative Marketing requirements for other programs may be found in the regulations in Title 24 of the Code of Federal Regulations as follows:

- A. Section 8 Housing Assistance Payments Program (HAPP) - New Construction.
  - 1. 880.305(h) - Preliminary Proposal - Submission of Certification.
  - 2. 880.308(a)(5) - Final Proposal - AFHM Plan Submission.
  - 3. 880.308(a)(6) - Final Proposal - Statement of Advance Marketing Activities.
  - 4. 880.601(a)(1-3) - Responsibilities of Owner - Advance Marketing.
  - 5. 880.601(b) - Management and Maintenance of the Project.
  - 6. 880.603(b)(1) - Determination of Eligibility and Selection of Tenants.
  
- B. Section 8 HAPP - Substantial Rehabilitation, Housing Finance Agency Proposals Financed with HUD Mortgage Insurance, and Proposals Processed Under 24 CFR 886, Subpart B.
  - 1. 881.305(b) - Preliminary Proposal - Certification Submission.
  - 2. 881.308(a)(4) - Final Proposal - AFHM Plan Submission.

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3. 881.308(a)(5) - Statement of Marketing Activities Advance Marketing.
  4. 881.601(a)(1-3) - Responsibilities of Owner.
  5. 881.601(b) - Management and Maintenance of the Project.
  6. 881.603(b)(1) - Determination of Eligibility and Selection of Tenants.
  7. 881.603(b)(4) - Maintenance of Records.
- C. Section 8 HAPP - Additional Assistance Program for HUD-Held and HUD-Insured Mortgages.
1. 886.105(f) - AFHM Plan Submission.
  2. 886.107(a) - AFHM Plan is approvable.
  3. 886.119(a)(8) - Responsibilities of Owner-Compliance with Equal Opportunity Requirements.
  4. 886.121(a) - Marketing in Accordance with AFHM Plan.
- D. Section 8 HAPP - Disposition of HUD-Owned Projects.
1. 886.313(b) - Submission of AFHM Plan.
  2. 886.321(a) - Marketing.
  3. 886.321(b)(1) - Determination of Eligibility.
  4. 886.321(b)(5) - Maintenance of Records.
- E. Loans for Housing for the Elderly or Handicapped Under Section 202 of the Housing Act of 1959. Part 885.400 - AFHM Plan is reviewed with the request for a Conditional Commitment.
- F. Supportive Housing for the Elderly. Part 889.270(c)(18) requires a signed certification of compliance with AFHM Requirements and fair housing laws.
- G. Supportive Housing for Persons with Disabilities. Part 890.265(c)(17) requires a signed certification of compliance with AFHM Requirements and fair housing laws.
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- H. Section 8 Set-Aside for the Section 515 Rural Housing Program of the Farmers Home Administration.
1. 7 CFR 1901.203(c) - Farmers Home Administration Affirmative Action (AFHM).
  2. 884.118 - Compliance with EO requirements by Owner.
  3. 884.214 - Marketing of Units.
- I. HOME Investment Partnerships Program.
1. 92.351. Requirement to adopt Affirmative Marketing Procedures.
  2. 92.508. Recordkeeping requirements. Section (a)(5)(ii) requires the maintenance of records on affirmative marketing procedures and requirements.
- J. Homeownership Opportunities for People Everywhere (HOPE) Programs.
1. HOPE for Low-Rent Public Housing - HOPE 1.
    - a. Section 415(b)(5)(i)(A) - Application shall include a plan for identifying and selecting eligible families which includes the applicant's affirmative fair housing marketing strategy, including specific steps to inform potential applicants and solicit applications from eligible families who are least likely to apply.
    - b. Section 505(e) - Recipient shall adopt a Plan for informing and soliciting applications from people who are least likely to apply for the program without special outreach.
  2. HOPE Homeownership for Multifamily Units - HOPE 2
    - a. Section 415(b)(5)(i)(A) - same as Hope 1.
    - b. Section 505(e) - Same as HOPE 1.
  3. HOPE Homeownership for Single-Family Units - HOPE 3.
    - a. Section 415(b)(5)(i)(B) - same as HOPE 1 and 2.
    - b. Section 505(e) - Same as HOPE 1 and 2.
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CONTRACTUAL PROVISIONS RELATING TO  
AFFIRMATIVE FAIR HOUSING MARKETING

This Appendix lists the contract documents which contain specific provisions pertaining to Affirmative Fair Housing Marketing.

A. Insured Housing

1. Form HUD 93134 - Regulatory Agreement for Builder-Seller Mortgagors Under Section 236 of the National Housing Act, as amended, Section 13.
2. Form HUD 93135 - Regulatory Agreement for Non-Profit Mortgagors Under Section 236 of the National Housing Act, as amended, Section 11.
3. Form HUD 93136 - Regulatory Agreement for Limited Distribution Mortgagors Under Section 236 of the National Housing Act, Section 10.
4. Form HUD 93225A - Regulatory Agreement for Cooperatives Under Section 236 of the National Housing Act, Section 16.
5. Form HUD 93254 - Regulatory Agreement for Investor Sponsor Corporations Under Section 236 of the National Housing Act, Section 12.
6. Form HUD 92465 - Regulatory Agreement for Insured Multifamily Housing Projects (with Section 8 Housing Assistance Payments Contracts).

B. Section 8 Housing Assistance Payments Program,  
New Construction/Substantial Rehabilitation.

Form HUD 52520D, Part I of the Master Annual Contributions Contract, Private Owner/PHA Projects, Section 1.6.

C. Property Disposition Program for Multifamily Projects

Sample Multifamily Project Manager Service Contract, Section H1, issued May 1991.

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## HANDBOOK REFERENCES IN HOUSING PROGRAMS

This Appendix lists all references to: (1) the submission, review and approval of AFHM Plans and related documents; and (2) post-approval activities which are contained in Departmental Handbooks and Notices. These references serve as some of the source materials for the provisions of this Handbook.

## A. Section 8 Housing Assistance Payments Program.

1. New Construction Processing Handbook, 7420.1 REV.
  - a. 3-2c(7) - Preliminary Proposal.
  - b. 3-7e - Ranking Procedure for Preliminary Proposals.
  - c. 4-2c(1)(b) - AFHM Plan and Checklist Review.
  - d. 6-6a(2) - Preoccupancy Conference.
  - e. 6-6c(3) - Project Completion-Review of AFHMP Implementation.
  - f. Appendix 7 - Owner's Certification of Intent to Market Housing.
2. Substantial Rehabilitation Processing Handbook - 7420.2 REV.
  - a. 3-2c(7) - Preliminary Proposal - FHEO Review.
  - b. 3-7e - Ranking Procedure for Preliminary Proposals.
  - c. 4-2c(1)(h) - AFHM Plan and Checklist Review.
  - d. 6-6a(2) - Preoccupancy Conference.
  - e. 6-6c(3) - Project Completion Review of AFHM Plan Implementation.
  - f. Appendix 7 - Owner's Certification of Intent to Market Housing.

3. Section 8 Additional Assistance Program for Projects with HUD-Insured or HUD-Held Mortgages (HUD Handbook 4352.1).
  - a. Chapter 1, Paragraph 8f - AFHM Plan Submission.
  - b. Chapter 1, Paragraph 9a - AFHM Plan Approval.
4. Section 202 Direct Loan Program for Housing for the Elderly and Handicapped, Handbook 4571.1 REV.
  - a. Paragraph 1-4b(4) - Affirmative Marketing Requirements.
  - b. Paragraph 4-5a(8) Appendix 3, Page 5 - Certification of Assurance Application Package.
  - c. Paragraph 5-12 - Review of AFHM Plan by FHEO staff During Conditional Commitment Processing.
  - d. Appendix 4, Page 5 - Initial Screening Review Checklist.
  - e. Appendix 11 - Required Exhibits for Request for Conditional Commitment - New Construction.
  - f. Appendix 12 - Same as #5 but for Substantial Rehabilitation.
5. Section 811 Supportive Housing for Persons with Disabilities, Handbook 4571.2.
  - a. Paragraph 1-11B - Affirmative Marketing. The owner must determine the racial/ethnic groups least likely to apply for project occupancy, taking into consideration the location of the project and shall establish a Plan to inform and encourage such groups to apply.
  - b. Paragraph 1-11C7i - Certification of Compliance with AFHM requirements at 24 CFR 200, Subpart M and 24 CFR 108.
  - c. Paragraph 3-32 - Review of AFHM Plans.
  - d. Paragraph 3-72 - AFHM Plan Conditional Commitment Review.

- e. Appendix 23 - Certification in Connection with the Development and Operation of a Section 811 Supportive Housing Project for Persons with Disabilities.
6. Handbook 4571.3 - Section 202 Supportive Housing for the Elderly.
- a. Paragraph 1-9B. - Affirmative Marketing plan is required.
  - b. Paragraph 1-9C7i - Required signed certification of compliance with the AFHM requirements.
  - c. Paragraph 3-33 - AFHM Plan Review.
  - d. Paragraph 3-74 - AFHM Conditional Commitment Review.
  - e. Appendix 23 - Certifications in Connection with the Development and Operation of the Section 202 Supportive Housing for the Elderly Program.
- B. Insured Programs
- 1. Single Family Subdivision Processing Handbook (4135.1)
    - a. Paragraph 1-6 - AFHM Plan Submission.
  - 2. Occupancy Requirements of Subsidized Multifamily Housing Programs, dated 11/4/81 Handbook 4350.3.
    - a. Paragraph 3-2 - Advance Marketing at Rent-up
    - b. Paragraph 3-3 - AFHM Plan.
    - c. Paragraph 3-4 - Notifying HUD.
  - 3. Single-Family Direct Endorsement Program, dated September 1988, Handbook 4000.4 REV-1.
- C. Property Disposition Programs.
- 1. Property Disposition Handbook - One to Four Family Properties - Handbook 4310.5.
    - a. Paragraph 5-4 - AFHM Advertising Requirements.
    - b. Appendix 38 - Joint HUD-VA Nondiscrimination Certification.

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- c. Appendix 38 - Public Information Release Mailing List Request.
  - d. Appendix 38 - Equal Housing Opportunity Statement, Logo and Slogan.
2. Multifamily Property Disposition Handbook - Management Handbook 4315.1 REV-1, Paragraphs 6-2 and 6-3.
  3. Handbook 2210.16, Property Disposition Contracting (Reserved).
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THE DEPARTMENT'S HOUSING AND  
COMMUNITY DEVELOPMENT PROGRAMS AND AFFIRMATIVE  
FAIR HOUSING MARKETING

- A. Examples of programs which require the submission of a written AFHM Plan are:
1. One-to-Four-Family Mortgage Insurance for Homeowners under Section 203(b) and (i) of the National Housing Act of 1934;
  2. Homeownership Assistance for Low and Moderate Income Families Under Section 235 and 221(d)(2), as amended, of the National Housing Act;
  3. Condominium and Cooperative Housing under Sections 232, 234(c) and 213 of the National Housing Act;
  4. Mobile Home Courts under Section 207 of the National Housing Act;
  5. Multifamily Rental Housing under Sections 207, 220, 221(d)(3) and (4) of the National Housing Act;
  6. Lower-Income Rental Assistance under Section 8 of the United States Housing Act of 1937 Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages; and the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects;
  7. Direct Loans for Housing for the Elderly or Handicapped under Section 202 of the Housing Act of 1959, replaced by the Section 202 Supportive Housing for the Elderly Program;
  8. Nursing Homes and Intermediate Care Facilities under Section 232 of the National Housing Act, as amended by Section 115 of the Housing Act of 1959;
  9. Projects Financed by the Farmers Home Administration under Section 515 of the Housing Act of 1949 and Subsidized under the Section 8 Housing Assistance Payments Programs;
  10. Housing Development Grants Authorized by Section 17 of the United States Housing Act of 1937; and
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11. Supportive Housing for Persons With Disabilities  
- Authorized by Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA).
  
- B. Examples of programs covered by the nondiscrimination provisions of the Fair Housing Act, and Executive Order 11063 that are exempt from the submission of a written plan but require the applicant to conceive, implement and maintain records for its affirmative marketing efforts include:
  1. The Property Disposition Program under Section 203 of the Housing and Community Development Act of 1978, only for those projects sold with HUD mortgage insurance, a HUD purchase money mortgage or project-based Section 8 assistance;
  2. Mortgage Insurance under Section 223(f) of the National Housing Act;
  3. The Rental Rehabilitation Program authorized under Section 17 of the United States Housing Act of 1937;
  4. The HOME Investment Partnerships Program authorized by Title II of the NAHA;
  5. The Shelter Plus Care Program authorized by Title VIII of the NAHA;
  6. Housing Opportunities for People Everywhere (HOPE) 1 for Low-Income Public Housing Planning and Implementation Grants Program authorized by the NAHA;
  7. HOPE 2 for the Multifamily Units Planning and Implementation Grants authorized by the NAHA;
  8. HOPE 3 for Single Family Units Planning and Implementation Grants authorized by the NAHA; and
  9. Programs Authorized by the Stewart B. McKinney Act and administered by the Office of Community Planning and Development's Office of Special Needs Assistance Programs.

These programs require applicants to formulate written procedures or identify those groups within the eligible population that are least likely to apply for the housing without special outreach efforts and undertake appropriate steps to attract those persons to the housing.

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PROGRAMS WHICH ARE SUBJECT TO THE  
COMPREHENSIVE HOUSING AFFORDABILITY  
STRATEGY REQUIREMENTS

1. HOME Program.
  2. HOPE 1 (Public Housing Homeownership).
  3. HOPE 2 (Homeownership of Multifamily Units).
  4. HOPE 3 (Homeownership of Single-Family Units).
  5. Community Development Block Grant Entitlement and State Administered Programs.
  6. Low-Income Housing Preservation Program (State Administered only), as per Title VI of the NAHA, Section 227(b)(6)).
  7. Shelter Plus Care Program.
  8. Supportive Housing for the Elderly Program (Section 202).
  9. Supportive Housing for Persons with Disabilities Program (Section 811).
  10. Emergency Shelter Grants (ESG) Program.
  11. Supportive Housing Program.
  12. Moderate Rehabilitation SRO.
  13. Housing Opportunities for Persons with AIDS Program.
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APPENDIX 7

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Affirmative Fair Housing  
Marketing Plan

Form 935.2 is canceled.

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form HUD-935.2 (10/92)  
ref. Handbook 8025.1

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form HUD-935.2

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ILLUSTRATIONS OF AFFIRMATIVE MARKETING CONSIDERATIONS  
SELECTING RACIAL/ETHNIC AND OTHER GROUPS OF PERSONS  
ELIGIBLE FOR SPECIAL OUTREACH ACTIVITIES  
(Paragraph 2-8)

The following examples illustrate several common situations which applicants might confront when they choose target groups. These examples should be considered in tandem with the guidance found in Chapter 2 of this Handbook.

- A. A 100 unit Section 8 New Construction project is proposed for location in an area of minority concentration, which is 50 percent Black and 25 percent Hispanic. The tenant population of all assisted housing, including the conventional Low Income Public Housing and the four Section 8 New Construction projects already in occupancy, is also predominantly minority. Given these facts, the non-minority segment should be selected for special outreach. Since more than one minority group, i.e., Blacks and Hispanics, live in the area of the project, outreach should also be targeted to the minority group which does not predominate, i.e., the Hispanics.
  
- B. A 60 unit project to be funded under the Section 8 Substantial Rehabilitation program is to be located in a predominantly non-minority community. The assisted housing in the community and in the housing market area is predominantly non-minority. Outreach to minorities is thus appropriate.
  - 1. The extent of outreach depends on the size of the eligible minority population in the housing market area and in the jurisdiction and the location of such population. If the community has within it a large area of minority concentration, outreach may be targeted to that area.
  
  - 2. If there are no minorities in a community but an adjacent community has an area of minority concentration, outreach may be targeted to minorities in that area.

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ILLUSTRATIONS OF AFFIRMATIVE MARKETING  
CONSIDERATIONS: EXAMPLES OF THE UTILIZATION OF COMMERCIAL  
MEDIA IN AFFIRMATIVE MARKETING PLANS  
(Paragraph 2-9)

The following examples illustrate the use of commercial media as part of the affirmative marketing strategy:

- A. The Flower Valley Subdivision will contain 200 insured single family homes which are to be located in a non-minority suburban jurisdiction with a minority population of 5 percent (Black). The subdivision is adjacent to the predominantly Black (75 percent) central city. The applicant, who has also developed four other insured subdivisions in the same town as the proposed subdivision, has customarily used the daily newspaper of general circulation, the Daily Press, to advertise the availability of the housing. In response to a request by the applicant, the Circulation Department of the Daily Press indicated that 20 percent of its readership was Black. In addition, he conducted a survey of the minority homeowners who comprised 25 percent of the households in the other four subdivisions; the survey showed that more than 50 percent of the minority households had first learned about the housing opportunities through the Daily Press. Since the Daily Press had proven successful in attracting both majority and minority home seekers to comparable housing in the same housing market area, the applicant plans to use majority owned newspapers only, supplemented by community contacts with minority groups.
- B. The Apex Development Corporation is constructing a 75-unit project to be subsidized under the Section 8 Housing Assistance Payments program for New Construction. The project is to be located in a non-minority area of the locality with a minority population of 20 percent: 15 percent Black and five percent Hispanic. The applicant had identified Blacks and Hispanics as the groups which are least likely to apply for the units without special outreach efforts. Eligible persons for occupancy must also have incomes at 80 percent or below of the median income for the metropolitan area. The applicant examined data from the two daily newspapers of general circulation which revealed that readership among Black and Hispanic households was only 10 percent of the total. The applicant planned to advertise prominently (e.g., display advertisements) and frequently (weekly) in minority-owned newspapers and radio stations.

- C. The Metropolitan Baptist Church, predominantly Black, is sponsoring a 30-unit multifamily project for the elderly which is to be subsidized under the Section 8 Housing Assistance Payments program for Substantial Rehabilitation. The census tract is 40 percent Black and the jurisdiction as a whole is 15 percent Black. The census tract has experienced significant private reinvestment through the purchase and rehabilitation by affluent persons of dwellings formerly occupied by lower income persons. During the last ten years, according to recently published census figures the Black population in the census tract has declined from 75 percent to 40 percent. The applicant, therefore, had identified Blacks as the group requiring special outreach. This significant rate of racial change is expected to continue over the next five years. In this instance, both the local minority newspaper and the newspaper of general circulation would be used extensively as part of an affirmative marketing program designed to attract members of both majority and minority groups.
-



4. Marketing Program (Part 4 of the Plan).

a. Commercial Media.

- (1) Newspaper(s)/Publication(s) will be used. ( ) ( )
  - (a) Name of newspaper(s)/publication(s) has been given. ( ) ( )
  - (b) Racial/ethnic identification of major readers/audience has been given. ( ) ( )
  - (c) Description and size of newspaper advertisements has been given. ( ) ( )
  - (d) Nature and frequency of advertisements has been stated. ( ) ( )
  - (e) Copy of ad(s) has been attached to the Plan. ( ) ( )

(If not available at time of submission, indicate date of availability.)
- (2) Radio and TV will be used. ( ) ( )
  - (a) Radio station(s) has been identified. ( ) ( )
  - (b) Approximate frequency and description of use has been specified. ( ) ( )
  - (c) TV Station(s) has been identified. ( ) ( )
  - (d) Approximate frequency and description of use has been specified. ( ) ( )

b. Brochures, Signs and HUD's Fair Housing Poster.

The applicant must clearly describe the advertising sign(s), brochures, leaflets, handouts or other printed material to be used.

- (1) Description of project sign has been given. ( ) ( )
- (2) Description of brochures, leaflets, handouts have been given. ( ) ( )

(3) Copies of brochures, leaflets and handouts have been attached to the plan. ( ) ( )

(If not available at time of submission, indicate date of availability.) \_\_\_\_\_

(4) Size of the Equal Housing Opportunity Logotype has been indicated. ( ) ( )

(5) Photograph of project site sign has been submitted. ( ) ( )

(If not available at time of submission, indicate date of availability.) \_\_\_\_\_

(6) Location(s) of Fair Housing Posters has been indicated. ( ) ( )

c. Community Contacts.

(1) Name of groups or organizations expected to be in direct contact with the racial/ethnic group(s) has been identified. ( ) ( )

(2) Name of contact has been given. ( ) ( )

(3) Method of contact has been indicated. ( ) ( )

(4) Function group/organization will undertake has been indicated. ( ) ( )

(5) Copies of correspondence to be sent to community contacts have been enclosed. ( ) ( )

(If not available at time of submission, indicate date of availability.) \_\_\_\_\_

5. Future Marketing Activities (Rental Units Only) (Part 5 of the Plan). Marketing activities to fill vacancies have been indicated. ( ) ( )

6. Assessment of Marketing Efforts.

a. The applicant's means of assessing the success of the Plan's implementation have been described. ( ) ( )

APPENDIX 10

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- b. Residency Preferences. (To be completed if the applicant submits a separate request for an occupancy preference for residents of the community, including expected to reside.) A request for a residency preference is reviewed with the Affirmative Marketing Plan:
    - (1) Percent or number of units covered by the preference is indicated. ( ) ( )
    - (2) The preference involves residents of the locality. ( ) ( )
    - (3) Those persons identified as expected to reside are treated as residents for the purpose of the preference. ( ) ( )
    - (4) The applicant has submitted numerical data and other information to support the request for the preference. ( ) ( )
  - 7. Staff Instructions (Part 6 of the Plan).
    - a. Description of Fair Housing Training conducted for employees has been included. ( ) ( )
    - b. Copies of instructional materials have been submitted. ( ) ( )
  - 8. Additional Considerations (Part 7 of the Plan). Additional considerations have been included to attract persons not likely to apply for housing. ( ) ( )
  - 9. Signature. An appropriate duly authorized official of the applicant has signed, indicated title, and dated this AFHMP. ( ) ( )
-

AFFIRMATIVE FAIR HOUSING  
MARKETING PLAN  
SUGGESTED REVIEW RECORD

Instructions: This is a summary of the substantive review of the AFHM Plan. A review for completeness of the submission should precede this substantive review. Wherever there is a negative answer, explain the deficiency and the correction required.

- 1. Identification.
  - a. Project Name: \_\_\_\_\_
  - b. Project No. and Legislative Authority: \_\_\_\_\_  
\_\_\_\_\_
  - c. Number of Units: \_\_\_\_\_ Household Type: \_\_\_\_\_
  - d. Approximate Starting Date for Advertising is appropriate. ( ) Yes ( ) No
- 2. Type of Plan.
  - a. Type of Affirmative Marketing Plan indicated is appropriate. ( ) Yes ( ) No

Note: For scattered sites a separate Annual Plan must be developed for each type of area (Minority, Racially-Mixed, Nonminority) in which housing is to be built.

- b. Type of Area indicated is appropriate. ( ) Yes ( ) No
- 3. Direction of Marketing Activity - based on response to Item 3 of the Plan.
  - a. Is appropriate. ( ) Yes ( ) No
  - b. Includes all appropriate groups. ( ) Yes ( ) No

4. Commercial Media.

- a. The commercial media indicated are appropriate. ( ) Yes ( ) No
- b. Size and duration of ads/broadcasts are likely to achieve desired results. ( ) Yes ( ) No
- c. Frequency of ads in the various media are likely to achieve desired results. ( ) Yes ( ) No
- d. Description of Ads/Broadcasts conform with Fair Housing Advertising Regulations. ( ) Yes ( ) No

5. Brochures, Signs and Posters.

- a. The size of logotype is appropriate considering the size of the sign. ( ) Yes ( ) No
- b. The brochures conform with the Fair Housing Advertising Regulations. ( ) Yes ( ) No

Brochures to be submitted (Note Date of Availability).

- c. The description of the display of the Fair Housing Poster conforms with the Fair Housing Advertising Regulations (24 CFR Part 109). ( ) Yes ( ) No

6. Community Contacts.

- a. The Plan includes organizations and persons with frequent contact with the groups least likely to apply within the income eligible population. ( ) Yes ( ) No
- b. The functions to be performed by the group(s) listed are appropriate. ( ) Yes ( ) No
- c. The approximate date of contact with the groups is appropriate. ( ) Yes ( ) No

7. Future Marketing Activity (Rental Housing Only).  
The activities to fill vacancies are consistent with affirmative marketing objectives. ( ) Yes ( ) No
8. Indicators of Successful Implementation.  
The indicators relate to the definition of good faith efforts applicable to the implementation of a successful AFHM Plan. ( ) Yes ( ) No
9. Instruction to Sales/Management Staff.  
The instructions and training provided to staff are:
- a. Consistent with Federal, State or local fair housing laws. ( ) Yes ( ) No
  - b. Consistent with the HUD-approved AFHM Plan. ( ) Yes ( ) No
  - c. Planned in a manner which is likely to be effective. ( ) Yes ( ) No
10. Additional Considerations. Where applicable, the Plan's outreach activities to persons with disabilities are clearly articulated and reflect efforts to comply with the Fair Housing Act's provisions regarding accessibility and nondiscrimination. ( ) Yes ( ) No
11. Signature. An appropriate, duly authorized official of the applicant has sign the Plan. ( ) Yes ( ) No

SAMPLE APPROVAL LETTER  
SALES HOUSING

RE: Affirmative Fair  
Housing Marketing  
Plan: \_\_\_\_\_  
Project: \_\_\_\_\_  
Location: \_\_\_\_\_  
Number: \_\_\_\_\_

Dear:

We are pleased to advise you that the AFHM Plan (AFHMP) that you submitted for the project is approved as of the date of this letter.

As you know, the primary purpose of the affirmative marketing program is to promote a condition in which individuals of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of the individual's race, color, religion, sex, handicap, familial status or national origin. Accordingly, the Department has identified procedures which you are required to follow pursuant to the goals of the program, the approved AFHMP and the Department's regulations, as follows:

- (1) The approved AFHMP must be available for public inspection in your office.
- (2) The HUD Fair Housing Poster is required to be prominently displayed in all offices in which sales activity takes place; displayed from the start of construction; and properly maintained throughout the construction and sales period.
- (3) You must ensure that all advertising material related to this housing contains the Equal Housing Opportunity logo, slogan, or statement, in conformance with the HUD Fair Housing Advertising Regulations (24 CFR Part 109). Copies of materials sent to community contacts must be submitted to this office.
- (4) Notify the FHEO Division either by phone or in writing of the dates on which you plan to (a) commence general marketing activities; (b) accept applications; and (c) begin initial occupancy.

We encourage you to make every possible good faith effort to carry out the provisions and fulfill the objectives of the AFHM Plan. If you have any questions or need assistance, please call us at ( ) \_\_\_\_\_.

Director  
FHEO Division

Enclosures

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SAMPLE APPROVAL LETTER  
RENTAL HOUSING

RE: Affirmative Fair Housing  
Marketing Plan:  
Project:  
Location:  
Number:

Dear

We are pleased to advise you that the AFHM Plan that you submitted for the subject project is approved as of the date of this letter.

As you know, the primary purpose of the affirmative marketing program is to promote a condition in which individuals of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of the individual's race, color, religion, sex, handicap, familial status or national origin. Accordingly, the Department has identified procedures which you are required to follow pursuant to the goals of the program, the Department's regulations, and your approved Plan.

- (1) The approved AFHM Plan must be available for public inspection in your office.
- (2) The HUD Fair Housing Poster is required to be prominently displayed in all offices in which sales or rental activity takes place; displayed from the start of construction; and properly maintained throughout the construction and sales/rental period.
- (3) You must ensure that all advertising material related to this housing contains the Equal Housing Opportunity logo, slogan, or statement, in conformance with the HUD Fair Housing Advertising Regulation (24 CFR Part 109). Copies of materials sent to community contacts must be submitted to this office.
- (4) No later than 90 days prior to engaging in marketing activities you should notify the FHEO Division either in writing or by phone of the dates on which (1) you plan to start initial marketing activities; (2) accept applications; (3) and start initial occupancy. At this time a Preoccupancy Conference may be scheduled.

- (5) Begin diligent marketing activities in accordance with the agreement 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
- (6) Once initial rental begins on the project, you must file a report on Form HUD-935.5 with this office as soon as either (a) the number of applications received is no more than one half the number of units in the project; (b) one-half of the application taking period has passed; or (c) the application period has closed. The passage of the application period may occur, at times, with such speed as to preclude a filing under (a) or (b) above. When the application taking process is completed, a final Form HUD-935.5 must be completed.

We encourage you to make every possible good faith effort to carry out the provisions and fulfill the objectives of your AFHM Plan. If you have any questions or need assistance, please call us at ( )\_\_\_\_\_.

Director  
FHEO Division

Enclosures

SAMPLE DEFICIENCY LETTER

Affirmative Fair Housing  
Marketing Plan:  
Project:  
Location:  
Number:

Dear:

We have completed an initial review of the AFHM Plan (AFHMP) that you submitted. We have noted that additional information is needed to complete an analysis of this plan and to determine its acceptability.

Item

Item

Item

Item

Other:

As soon as this information is received and reviewed, we will write and advise you of the action we have taken on the Plan. Meanwhile, if you have any questions or need technical assistance in this matter, please feel free to contact our staff at

Sincerely,



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RISK FACTORS TO BE CONSIDERED  
IN PLANNING AFHM MONITORING ACTIVITIES

- A. Scheduling. Factors to consider in scheduling monitoring visits include the following:
1. Travel funds;
  2. Availability of staff;
  3. Date(s) on which marketing is to begin for a particular project or projects going into initial sales or rent-up;
  4. Workload as determined by when the Field Office anticipates the receipt of a large number of applications for community development and/or housing;
  5. Possibility of concurrent monitoring of several programs; e.g., Community Development Block Grants, Section 8 Existing Housing, and PHA Review; and
  6. Avoidance of overlapping reviews with the Regional Office of FHEO relative to specific projects (see paragraph 5-4b(3) below for further guidance).
- B. Selection of Projects to be Visited. Selection of projects to be visited shall be based on the current year's Management Plan and the following criteria:
1. Geographic Area. One or more housing market area(s) should be selected in which to coordinate the targeting of Field Office monitoring with Regional Office compliance reviews.
    - a. In determining how large a geographic region should be included in a given Housing Market Area (HMA), FHEO staff should include the locations of those existing and proposed projects, subdivisions and dwelling units which would offer real opportunities to persons regardless of the location of their current residence. FHEO staff should consult with the Field Office Economist in determining the boundaries of HMA(s).

- b. Factors which should be considered in the selection of HMA's which are to be targeted include, but are not limited to, the following:
- (1) Areas which have a known history of civil rights problems, particularly problems related to fair housing;
  - (2) Areas which have a demographic pattern which suggests highly exclusionary housing patterns, e.g., an urban county which has a low minority population and is located near a central city which has a significant minority population;
  - (3) Areas which have a large number of housing discrimination complaints;
  - (4) Areas which have a large number and broad range of HUD subsidized and unsubsidized housing units;
  - (5) Areas which include recipients of Community Development Block Grant funds which have FHEO monitoring findings related to implementation of the CHAS;
  - (6) Areas which include more than one jurisdiction; and
  - (7) Areas which have interjurisdictional agreements connected with subsidized housing programs.
2. Housing Types. Individual projects visited should include a broad range of housing programs, types of projects and locations. Examples include:
- a. Sales (including condominium and cooperative housing) and rental housing;
  - b. Single-family housing, mobile homes and multifamily structures;
  - c. Housing for elderly households and housing which serves nonelderly family households;

- d. Projects that have identified non-minorities as the group least likely to apply; projects which have identified minorities as the group least likely to apply; projects which have more than one minority group as least likely to apply without special outreach;
  - e. Projects that are in the initial marketing or rent-up stages and projects which have completed rent-up. Priority, however, should be given to the two former stages;
  - f. Projects financed by a State Housing Finance Agency.
  - g. Projects for which the Department has granted a residency preference, i.e., has allowed the applicant to reserve housing units for residents of the community in which the project was located; and
  - h. Projects with significant populations of persons with handicaps and families with children.
3. Avoidance of Duplication of Effort. To avoid duplication of HUD resources and a perception of harassment by applicants, the same project should not be subject to a monitoring visit and an on-site compliance review within a single fiscal year unless:
- a. A monitoring review reveals evidence that the Field Office believes may indicate noncompliance with the regulations. In this instance, the evidence should be referred to the Regional Office for compliance action; or
  - b. A compliance review reveals that the applicant needs technical assistance in modifying and/or implementing the approved Plan. In this instance, the Regional Office may request that the Field Office provide technical assistance to the applicant. Monitoring and compliance should be mutually reinforcing. Therefore, Regional Offices are encouraged to honor requests by Field Offices for compliance reviews; Field Offices are encouraged to honor requests by the Regional Office for technical assistance.

4. Projects with Known or Suspected Problems. Attention should be given to the projects where there is information, received orally or in writing, which suggests that the objectives of the AFHM Regulations may not be achieved.
  - a. Information which might suggest problems in the implementation of AFHM requirements includes the following:
    - (1) Administrative or citizen complaint;
    - (2) Sales or rental or other documentation report which indicates the absence or minimal participation (as applicants or tenants) of persons identified in the plan as least likely to apply without special outreach;
    - (3) Documented evidence of local opposition to the project at the time of HUD approval (e.g., newsclippings, letters); and
    - (4) Evidence of harassment of those identified as least likely to apply for the project, or of the owners of the project, or the sales or rental staff.
  - b. Written complaints alleging a violation(s) of the AFHM Regulation, or information ascertained in the absence of a complaint indicating an applicant's failure to comply with an AFHM Plan and written or oral complaints alleging denial of housing on the basis of race, color, creed, religion, sex, handicap, familial status or national origin shall be referred immediately to the Director of the Office of Regional FHEO.
5. Projects Owned or Managed by Persons or Companies Which do Substantial Business with HUD. If the previous participation of an applicant, or the sales or management agent is substantial, FHEO staff can reasonably expect future involvement in HUD's housing programs. Information gathered as a result of a monitoring visit may assist in the review of subsequent applications (see Chapters 3 and 4).

PRE-OCCUPANCY CONFERENCE REPORT

DOCUMENTATION

Requested that other materials checked be submitted by \_\_\_\_\_.

Received copies of all items checked.

Housing Ads

Picture of Project Sign

Copy of Brochure

Employment Ads

Fair Housing Posters

Occupancy Report

Other (Specify)

OTHER ITEMS DISCUSSED:

\_\_\_\_\_ Written Fair Housing Instructions to Staff, inc/AFHMP;

\_\_\_\_\_ AFHMP at rental/sales office

\_\_\_\_\_ Fair Housing Advertising Regulations

\_\_\_\_\_ Submission of Occupancy Reports

Additional Comments:

FH & EO Representative \_\_\_\_\_

Applicant's Representative \_\_\_\_\_

Management/Sales Co.  
Representative \_\_\_\_\_

Other HUD Staff  
Present \_\_\_\_\_

Name of Person Preparing  
Report \_\_\_\_\_

Date Report Prepared \_\_\_\_\_

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DOCUMENTING MONITORING CONCLUSIONS  
- AFFIRMATIVE FAIR HOUSING MARKETING PLANS  
(Sample Format)

Date: \_\_\_\_\_  
Project No: \_\_\_\_\_  
City: \_\_\_\_\_  
County: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Sponsor/Developer: \_\_\_\_\_

Rental/Sales Agent: \_\_\_\_\_

Management Agent: \_\_\_\_\_

Person Interviewed: \_\_\_\_\_ Title: \_\_\_\_\_

A. Occupancy

1. Total Housing units on approved AFHMP: \_\_\_\_\_

2. Results of Affirmative Marketing:

	W	B	H	Asian	Indian	Total
Applications Accepted						
Applications Rejected						
Waiting List						
Total Applications						

B. AFHMP. Was the AFHMP available for public inspection? ( ) Yes ( ) No

C. Fair Housing Poster.

1. Was the Poster displayed in the Sales/Rental Office?  Yes  No
2. Was the Poster displayed in the model unit?  Yes  No
- D. Billboards/Signs.
1. Was the outdoor sign prominently located on site?  Yes  No
2. Was the EO logotype properly included?  Yes  No
3. If human models were used, did they reasonably represent both majority and minority races?  Yes  No  
 Not applicable
- E. Community Contacts. Did the applicant actually make contact with the organizations listed in the approved AFHM Plan?  Yes  No
- F. Training. Did the owner instruct the management/sales staff regarding fair housing laws and the approved AFHM Plan?  Yes  No
- G. Availability of the Plan. Was a copy of the approved Plan available at the project?  Yes  No
- H. Recordkeeping and Reporting.
1. Did the applicant submit a monthly occupancy report in a timely manner?  Yes  No

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APPENDIX 18

2. Did the applicant maintain data by race/ethnicity and gender of persons applying for occupancy (in cases of Section 8 Projects)?  Yes  No
3. Did the applicant maintain data on the race/ethnicity composition

of the tenant population?

Yes

No

APPLICANT NOTIFICATION OF POSSIBLE NONCOMPLIANCE  
FOLLOWING PRELIMINARY REVIEW

Certified Mail - Return Receipt Requested

On \_\_\_\_\_ this office conducted a preliminary compliance review of your Affirmative Fair Housing Marketing (AFHM) Plan implementation. The review and a thorough analysis of all data indicated possible noncompliance with your approved Plan and the AFHM regulation. The enclosed list will provide you with the deficiencies cited.

Please contact this office within the next seven (7) days to respond to the issues raised. If our concerns cannot be alleviated by submission of information, we will schedule a compliance meeting.

Failure or refusal to comply with this request shall be a basis for initiation of an on-site compliance review or referral of the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for further enforcement action.

Thank you for your cooperation in this matter.

Sincerely,

Director, Office of Regional FHEO.

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APPLICANT NOTICE OF COMPLIANCE MEETING

Certified Mail - Return Receipt Requested

Project Name(s): \_\_\_\_\_  
Project No.

This is to inform you that a compliance meeting regarding the above project(s) will be conducted by this office pursuant to the AFHM Regulations. The meeting is scheduled for \_\_\_\_\_(date)\_\_\_\_\_ at (place).

We request that the following documents be forwarded to this Office by (date) for your review prior to the meeting:

List Documents

Please note that you have the right to respond within seven (7) days to this request. If you have any questions regarding this review, please contact (EOS) at (Telephone No.).

Sincerely,

Director, Office of Regional FHEO.

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APPLICANT NOTIFICATION OF ON-SITE COMPLIANCE REVIEW

Certified Mail - Return Receipt Requested

Project Name(s) \_\_\_\_\_  
Project Number(s) \_\_\_\_\_

This letter is to inform you that an on-site compliance review of the above-captioned project(s) will be conducted by our office on (date) at (time). The purpose of the on-site review is to determine your compliance with the Affirmative Fair Housing Marketing regulation and requirements issued pursuant to the Fair Housing Act and Executive Order 11063.

This on-site review is being conducted:

as a result of the recent compliance meeting held on (date);

due to our receipt of a complaint filed by (complainant) on (date);

pursuant to the Director, Office of Regional FHEO's authority to initiate compliance reviews. (See 24 CFR 108.40(b))

Please contact (EOS) at (Telephone #) to confirm the above date and time. We will be interviewing you and your staff as well as reviewing all relevant information and records which document your affirmative marketing activities. If you have any questions regarding the compliance review process, please call.

Thank you for your cooperation in this matter.

Sincerely,

Director, Office of Regional FHEO

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APPLICANT NOTIFICATION OF POSSIBLE  
NONCOMPLIANCE FOLLOWING AN ON-SITE  
COMPLIANCE REVIEW

Certified Mail - Return Receipt Requested

Project Name(s) \_\_\_\_\_  
Project Number(s) \_\_\_\_\_

This is to inform you that we have completed our on-site compliance review and have made the following findings:

List Deficiencies

These issues must be addressed and resolved within 10 days of receipt of this letter. If the matters cannot be resolved, the case will be referred to the Assistant Secretary for Fair Housing and Equal Opportunity with a recommendation for the imposition of sanctions.

Please contact (EOS) at (phone number) within the next few days for assistance in resolving these deficiencies.

---

APPLICANT NOTIFICATION OF REFERRAL TO THE  
ASSISTANT SECRETARY FOR FAIR HOUSING  
AND EQUAL OPPORTUNITY

Certified Mail - Return Receipt Requested

Project Name(s) \_\_\_\_\_  
Project Number(s) \_\_\_\_\_

This is to advise you that our compliance review findings for the referenced project(s) have been forwarded to the Assistant Secretary for Fair Housing and Equal Opportunity. This case was referred due to our inability to resolve the deficiencies cited.

Once the Assistant Secretary has made a determination of compliance or noncompliance, you will be so notified.

Sincerely,

Director, Office of Regional FHEO

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AFFIRMATIVE FAIR HOUSING MARKETING  
COMPLIANCE REVIEW RECORD  
FACT SHEET

Compliance Review No:

Applicant/Sponsor:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

Project Reviewed:

Project Number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

Phone No.: \_\_\_\_\_

No. of Units \_\_\_\_\_ Legislative Authority: \_\_\_\_\_

Management Company/Sales Organization:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State: \_\_\_\_\_

Phone Number: \_\_\_\_\_

President: \_\_\_\_\_

EEO Officer: \_\_\_\_\_

FHEO Compliance Review History:

Date Letter of Notification Sent of Site Review: \_\_\_\_\_

Date of On-Site Review: \_\_\_\_\_

Date Letter Sent of Notification of Preliminary Findings of  
On-Site Review \_\_\_\_\_

Name of Reviewer: \_\_\_\_\_

Date of Report \_\_\_\_\_

Report Prepared by \_\_\_\_\_

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APPENDIX 24

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MEMORANDUM TO THE FILE

Re: Recommended Determination Of Compliance Review Findings

Compliance Review Number:

Applicant/Sponsor:

A. Major Findings

1. Finding:

Proposed Corrective Action:

2. Finding:

Proposed Corrective Action:

3. Finding:

Proposed Corrective Action:

B. Minor Findings

1. Finding:

Proposed Corrective Action:

2. Finding:

Proposed Corrective Action:

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APPENDIX 24

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3. Finding:

Proposed Corrective Action:

C. Interim Action(s) Taken by Applicant:  
(Narrative Statement)

D. Recommended Determination of Compliance/Noncompliance

(Cite specific regulations and civil rights requirements and/or statutes violated)

---

Date

---

Reviewer

I concur/do not concur with the recommended determination.

---

Date

---

Branch Chief

I concur/do not concur with the recommended determination.

---

Date

---

Director of Compliance

I concur/do not concur with the recommended determination.

---

Date

---

Director, Regional Fair  
Housing and Equal Opportunity

E. Statement(s) of Nonconcurrency:

PART I. General On-Site Observations

A. Billboards and Signs

1. Are there signs or billboards which advertise the development?  
How many?  Yes  No
2. Do any of them use the Equal Housing Opportunity logo, statement or slogan? Circle appropriate one.  
  
Is it readily seen?  Yes  No
3. Are human models used in drawings, photographs, or other graphic techniques? If yes, circle which.  Yes  No
4. If models are used, do they reasonably represent both minorities and non-minorities and (where appropriate) handicapped persons.  Yes  No
5. If there is a site sign indicating Federal construction, did it display the HUD-approved Equal Opportunity logo, slogan, or statement?  Yes  No

B. Required HUD Approved Fair Housing Poster

1. Was the Poster displayed in the sales or rental office?  Yes  No
2. Was it in a conspicuous location?  Yes  No
3. Was the Fair Housing Poster displayed conspicuously in all required locations?  Yes  No

C. Advertisements and Other Promotional Materials in Sales/Rental Office.

1. Are there any pictures, signs, posters (other than HUD poster with logo) in the sales/rental office or model homes which advertise the development?  Yes  No

If so, how many?

2. Do any of them use the Equal Housing Opportunity logo, statement or slogan?  Yes  No

3. Are human models used in these advertisements? (photographs, or other graphic techniques)? If yes, circle which is used.  Yes  No

4. If models are used, do they reasonably represent minorities, non-minorities and (where appropriate) handicapped persons?  Yes  No

5. Do the brochures and other promotional materials contain the Equal Housing Opportunity logo, slogan or statement?  Yes  No

If yes, circle which is used.

(Obtain copies of brochures and other promotional material and attach to this form.)

D. Affirmative Marketing Plan.

1. Was the Affirmative Marketing Plan made available to you?  Yes  No

2. Was it the same as the plan approved?  Yes  No

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PART II. PERSONS INTERVIEWED

A. Identity of Persons Interviewed.

Name

Name

Race      Position

Race      Position

Name of Company

Name of Company

Address

Address

How long employed

How long employed

Duties/Responsibilities

Duties/Responsibilities

Attach list of other persons interviewed.

B. Content of Interviews. Interview sales, rental and other employees to determine if they have received the following:

- 1. Written instructions on the fair housing laws. If yes, attach to this form. ( ) Yes      ( ) No
- 2. Training sessions for all employees on:
  - a. Implementation of the fair housing laws. If yes, describe: ( ) Yes      ( ) No
  - b. Implementation of the affirmative fair housing marketing plan. ( ) Yes      ( ) No

C. Contents of Advertising.

- 1. Does the developer's plan include newspaper advertising? ( ) Yes      ( ) No  
If yes, obtain copy and list frequency of placement.
  - a. Does the advertising use the HUD logo? ( ) Yes      ( ) No
  - b. Is the slogan used without the logo? ( ) Yes      ( ) No

- c. Are other logos used? ( ) Yes      ( ) No
- d. Is the HUD logo the only

- logo used? ( ) Yes ( ) No
- e. Is the HUD logo conspicuous? ( ) Yes ( ) No
- f. Are human models used (drawings, photographs, or other graphic techniques)? ( ) Yes ( ) No
- g. If models are used, do they reasonably represent both minorities, non-minorities and (where appropriate) handicapped persons. ( ) Yes ( ) No
2. Did the sponsor advertise in newspapers designated in the Plan? ( ) Yes ( ) No
3. Did the sponsor advertise as frequently as the plan requires? ( ) Yes ( ) No
4. Did the sponsor fail to comply in some other manner? If yes, describe. ( ) Yes ( ) No

D. Community Contacts. Developers are directed to contact community group representative of that segment of the population for which the plan requires special outreach efforts. Obtain copies of letters if any, sent to these groups.

1. List community organizations and individuals named in the plan. Contact them and note after each if, in fact, it has been contacted, the nature of the contact, the actions taken and results, if any.
2. Verification of contacts with community groups:
  - a. Date:
  - b. Persons Interviewed.

E. Results of Marketing Efforts.

1. Number of present occupants?

White      Black      Hispanic      Asian      Amer. Indian

If no occupants, how many applications (or buyers) have been accepted/approved for occupancy? State by race/ethnicity.

2. Date Marketing began?

3. Date of initial occupancy?

4. Describe in detail and/or attach the written criteria for tenant selection or owner eligibility.

5. Describe in detail or attach the application processing procedure together with timetable for same.

6. Are applications maintained and reviewed when a vacancy occurs? How long?

7. Total number of applicants on waiting list?  
(By race, ethnicity, handicap and familial status)

8. Total number of applications rejected?  
(By race, ethnicity, handicap and familial status)

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F. Reporting. Indicate whether the applicant has failed to submit a Form HUD-935.5.

G. Other HUD-Insured or Subsidized Activity.

1. List other HUD-insured or subsidized developments the developer has currently under construction, being rented or sold, or in development stages:

2. To your knowledge does the developer do HUD-FHA work in other States? If yes, identify project(s) and location(s).

H. If the plan has thus far been ineffective or unworkable, did the developer notify the Director, FHEO Program Operations Division/Field Office FHEO Division?

( ) Yes      ( ) No

If no, state applicant's(s') justification.

PART III: Summary.

- A. Is the developer complying with the approved plan? ( ) Yes      ( ) No
- B. If the developer is not, describe what has been omitted.
- C. Describe proposed action for bringing the developer into compliance.
- D. Is the developer doing more than is required? If yes, describe:

Reviewer(s):

Date:

File No. \_\_\_\_\_

CONCILIATION AGREEMENT

Between  
The United States of America  
Department of Housing and Urban Development  
and

Applicant

NO. Street

City State Zip Code

Name and Location of Housing Project:

A compliance review of the applicant's marketing practices having been conducted by the Department which raised the issue as to whether or not the applicant is fully complying with the Department's Affirmative Fair Housing Marketing Regulation, and the matter having been conciliated by the parties hereto it is agreed that a settlement be entered into under the following terms and conditions:

1. It is understood that this agreement does not constitute an admission by the applicant of a violation of the Department's Affirmative Fair Housing Marketing Regulation.

2. The applicant agrees to:

- a. \_\_\_\_\_  
\_\_\_\_\_
- b. \_\_\_\_\_  
\_\_\_\_\_
- c. \_\_\_\_\_  
\_\_\_\_\_

d. \_\_\_\_\_

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3. Applicant agrees that the Regional Director of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, or designee, may review compliance with this agreement and as part of such review, may require written reports concerning compliance, inspect the housing project, examine witnesses and examine and copy pertinent records of the applicant at any reasonable time between the date of this agreement and \_\_\_\_\_.

For the purpose of this paragraph the Regional Administrator shall determine whether the applicant has complied with the terms of this agreement.

4. The applicant is making the required monthly reports to this Department, on the Implementation of the approved affirmative marketing plan, will indicate the manner in which the applicant is carrying out the terms of this agreement.
5. This agreement shall become effective on the date it is signed by the Director, Regional Office of Fair Housing and Equal Opportunity or the Director's designee in the Department of Housing and Urban Development.
6. Reports shall be sent to:

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTIFICATION OF INTENT NOT TO MARKET

INSTRUCTIONS: The applicant who buys raw land, puts in streets, drainage, sewers and other improvements and then sells pieces of land to builders who build groups of houses for sale on the land, must provide assurances and certify to the following:

The applicant hereby assures and certifies that it does not intend to build or to market housing in the subdivision named below or pursuant to the subdivision analysis requested in the application number listed below.

(Date)

(Title)

To be Completed by the Field Office Fair Housing and Equal Opportunity Division:

(Application Number)

Form HUD-935.3

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VOLUNTARY AFFIRMATIVE MARKETING AGREEMENTS

- A. The Department has Voluntary Affirmative Marketing Agreements with the following national real estate industry trade associations:
1. The National Association of Realtors.
  2. The National Association of Home Builders.
  3. The National Association of Real Estate Brokers
  4. National Association of Real Estate License Law Officials
  5. National Apartment Association.

These organizations all encourage their state and local affiliates to enter into voluntary affirmative marketing agreements and plans, so that the objectives of the Fair Housing Act relating to nondiscrimination and equal housing choice and opportunity can be achieved through the efforts of all segments of the community, both within and outside of the real estate industry.

- B. Major responsibilities of VAMA signatories are:
1. To affirmatively further fair housing through voluntary efforts;
  2. To conduct outreach programs to attract classes of people most likely to encounter housing discrimination to rent or purchase housing marketed by the signatories;
  3. To follow the Department's Fair Housing Advertising Regulations in advertising housing for sale or rent;
  4. To recruit, train and hire persons protected under the Fair Housing Law as real estate professionals;
  5. To take protective measures against racial steering; and
  6. To undertake other appropriate efforts designed to ensure that housing will be marketed on an equal opportunity basis.