

## Ensuring NAHMA Members Receive the Latest News and Analysis of Breaking Issues in Affordable Housing

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NAHMAanalysis 2014-1113

### Recommendations for Improving the Affirmative Fair Housing Marketing Plan (AFHMP) Process

#### **Background**

According to HUD's Form HUD-935.2A, "Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing:"

"All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (see 24 CFR 200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR 200.625, and in accordance with the requirements in 24 CFR 200.620. The purpose of this AFHMP is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning should be part of all new construction, substantial rehabilitation, and existing project marketing and advertising activities."

On September 22, 2014, HUD Deputy Assistant Secretary for Multifamily Housing Programs Ben Metcalf released a memo, "[Clarification on Affirmative Fair Housing Marketing Plan Review and Approval Guidance](#)." This guidance clarifies when multifamily O/As must review their existing AFHMPs, and it describes the conditions under which O/As must submit updated AFHMPs to HUD for FHEO review and approval.

An ongoing area of concern, however, is inconsistent guidance provided to O/As about the required content for their AFHMPs. NAHMA's actions to help solve this problem are the focus of this NAHMAanalysis.

#### **Improving the AFHMP Process**

NAHMA supports affirmative fair housing marketing.

Inconsistencies in the approval process across the different HUD FHEO offices, however, can create significant challenges in effectively managing an affordable housing portfolio. These concerns were raised during NAHMA's March 2014 HUD Forum Meeting, which was attended by Bryan Greene, the General Deputy Assistant Secretary for the Office of Fair Housing and Equal Opportunity (FHEO) and HUD Deputy Assistant Secretary for Multifamily Housing Programs Ben Metcalf. NAHMA members highlighted some conflicting feedback and information that members had received from HUD offices across the country.

As a follow-up to this meeting, NAHMA sent a survey to our Fair Housing Committee members asking them to share their experiences and provide examples of conflicting or inconsistent AFHMP instructions that they have received. Additionally we asked for some constructive recommendations to share with HUD about improving consistency in implementation and approval of the AFMPs. The specific survey and members' responses follow this NAHMA analysis.

Using these responses, NAHMA identified some specific areas of AFHMP guidance that need clarification from HUD FHEO. We also developed some constructive recommendations for FHEO to ensure O/As know what is expected, low-income families are aware of housing opportunities, and the administrative time of limited HUD staff is used most efficiently.

Specific aspects of AFHMP plan that need further clarification include:

- **Targeted populations for AFHMP marketing:** Members who responded felt that current AFHMP instructions don't reflect HUD's intent on targeting populations. They asked whether HUD has some population percentage / threshold in mind which would require AFHMP marketing? If so, what is it?
- **What is the "market area" and "extended market area?"**
- **Who or which entities are acceptable "community contact(s):"** Respondents commented some organizations are helpful with reaching targeted populations, but HUD does not accept them as community contacts because the organization does not focus on a specific population or HUD does not believe they focus heavily enough on housing outreach. Other questions asked who or which organization is an appropriate community contact for marketing to Caucasians? Can churches or religious organizations fill this role?
- **User friendliness of the census website:** Members emphasized the site is not user-friendly, and O/As have to extrapolate information from the census data.

NAHMA also made the following policy recommendations based on members' survey feedback:

- **Response time:** NAHMA requested a 30-day turnaround timeframe for plan approval from HUD. If there are problems, HUD should inform the O/A of specific corrections needed within that 30 day period. Additionally, we request that HUD staff acknowledge plan submissions upon receipt.
- **Provide more upfront census data for the O/A:** It would expedite the AFHMP drafting process if HUD would provide more census data upfront rather than leaving O/As to make educated guesses about sub-populations in their community by extrapolating data.

- **Safe Harbor:** NAHMA recommended that HUD develop a “safe harbor” which will be considered strong evidence of the O/A’s compliance with the AFHMP requirements. There is precedent for this option; a safe harbor is provided in regards to printed language materials for Limited English Proficiency (LEP) requirements.

On October 2, 2014, NAHMA staff and leaders of our Fair Housing Committee met with FHEO General DAS Bryan Greene and other senior FHEO officials to discuss our survey and recommendations for resolving the AFHMP inconsistencies. The meeting was productive, and FHEO was very interested in our feedback.

NAHMA will continue to follow up with HUD-FHEO, and we will update members on the status of its progress in improving the AFHMP review and approval process.



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## Consistency in Implementation and Approval of the Multifamily Affirmative Fair Housing Marketing Plans

As a follow-up to the Fair Housing discussions during our 2014 March conference, NAHMA sought to provide some constructive recommendations to HUD about improving consistency in implementation and approval of the multifamily Affirmative Fair Housing Marketing Plans (AFHMP). NAHMA sent the following questions to our Fair Housing Committee for member feedback on specific examples of conflicting information or delayed servicing.

Please note that the ‘commenters’ are consistent throughout the document (i.e. Commenter #1 is the same in each table).

<p><b>Question 1:</b> Please provide examples of conflicting or inconsistent AFHMP instructions that you have received from different HUD offices;</p> <ul style="list-style-type: none"> <li>• List the AFHMP question for which you received the conflicting/inconsistent instruction and how those instructions differed from the written instructions on the <a href="#">AFHMP form</a>.</li> <li>• Which offices gave you the conflicting/ inconsistent instructions.</li> </ul>	
<p><b>Commenter #1</b></p>	<ol style="list-style-type: none"> <li>1. Mississippi initially wanted them all [AFHMPs] on the most recent form and then I started dealing with a new person there and she told me to stop sending them until they were expired. I do not recall who I was dealing with at the time.</li> <li>2. Kentucky only had us review the existing plan and if there were no changes necessary we were not required to submit a new plan even though the form had changed.</li> <li>3. Another issue was that depending on who at the office got the plan they may require a more or less intense marketing efforts. One person would say that your current marketing efforts must be working because your property reflects the local population and another would say that does not matter you still need specific material for that group even though you are apparently reaching them with your other material.</li> <li>4. I was told by someone at the Mississippi office that if a group represented at least 1% of the area population that we had to have marketing to reach that group specifically. There is no mention of this anywhere in the instructions</li> </ol>

	for creating the plan.
<b>Commenter #2</b>	<p>We do receive a lot of conflicting or inconsistent AFHMP instructions from different HUD offices. Specifically with Worksheet 1, 2, 3, and 4 (listed below with titles), which directly affects #3b (Targeted Marketing Activity) and your community contacts.</p> <ol style="list-style-type: none"> <li>1. <b>Problem One: Determining the targeted market:</b> Some HUD offices compare the “Project’s Residents” column to the “Census” or other columns. Then the percentage seems to change as to what constitutes a need to market that demographic. It doesn’t seem to be consistent within a HUD office as the 1st Reviewer will tell you to change your target group from what you selected to different groups and then it gets to the second/final approval and they want you to change it back to what you originally imputed or even something different. It seems to be very inconsistent across the board on how to determine the targeted market based off of the percentages on Worksheet 1. (or worksheet 2 for a newly build property)</li> <li>2. <b>Problem Two: Project Applicant Data:</b> Some HUD offices require the project’s applicant data and some will let you put N/A if it’s not collected at time of application for the applicant to be added to the wait list. Some want the entire applicant list (which includes current residents) and some just want the waitlist data. If there isn’t a waitlist then you wouldn’t have “applicant data” as they are all captured in “resident data” but some will kick back applicant data filled out with “N/A” or “no waitlist” as an answer and some accept it. Once again this isn’t even consistent within a HUD office.</li> <li>3. <b>Problem Three: Community Contacts:</b> It is difficult to find a “white/Caucasian” community contact and HUD may kick back religious based organizations like the local Jewish Community Center for a white community contact. There are inconsistencies if a community contact can be used for multiple demographics or if they can be used at all. Some will allow us to use social services but only for the demographic “People with Disabilities” or “Families with Children under 18” and some won’t allow it because they do not specifically work with JUST that demographic. Goodwill gets turned down by some and not others for the same reason- they don’t specifically work with one demographic, they help multiple.</li> <li>4. <b>Problem Four: Length of Time for Approval:</b> They have gotten better about this and tend to turn them around in 2 to 4 months. However, the improvement happened in Virginia when they brought a new person in to the position that they recently transferred to Texas. Since the person was transferred (over a month ago) we have not received a single approval or correction or any other contact. All the ones that were turned in prior to 2014 that seem to still be sitting in limbo or they have lost them or will not approve because they updated the form in May 2014 and they no longer are on the correct form even though when you turned them into HUD; they were on the correct form. We have five AFHMPs that were submitted in 2012 which we</li> </ol>

	<p>still haven't received approval on. We have 17 that were submitted in 2013 that we still haven't received approval on. We submitted 16 between January and July of this year that still haven't been approved. Of all of these AFHMPs; twelve (12) were sent directly to HUD in the past 2.5 years that we have not received from HUD and seventeen ( 17) were sent to the local HOME field office and approved and then were sent to the HUD field office for signature which we haven't received back as of yet. When contacting HUD regarding this issue they let us know that we "just need to be patient" as they are short staffed.</p> <p>5. <b>Problem Five: HOME representative approving and sending to HUD for final Signature of Approval:</b> In the past several months, we have submitted seventeen (17) Fair Housing plans to HOME representatives that have been approved and then HOME sent them to the HUD Field Office for final approval and signature that we still have not received back from HUD. When you contact HUD regarding the plan they don't seem to even know what you're talking about.</p> <p>6. <b>Problem Six: Housing/Expanded Housing Market Areas (1e):</b> it's not consistent as to when the Housing Market area is the County or when the County is the Expanded Market Area. Clear definition of what constitute an expanded market area would be helpful.</p> <p>7. <b>Problem Seven: To whom should Approval and other correspondences concerning this AFHMP be sent (1i):</b> Despite what you put in this spot, they sometimes send it to the property itself, the owner, or even previous owner and not to the person listed in the plan. Consistency here would be nice.</p> <p>8. <b>Problem Eight: Worksheet 4 (Method of advertising):</b> Some field offices require you to advertise in a separate paper if you are targeting Latino, Hispanic, or Asian demographics. It doesn't seem fair to have a 10 unit property take out ads that are costly and HUD won't accept a craigslist ad and flyers. Also, some will not accept an ad without a TTY number on it and some will. Some require the Fair Housing logo and some are fine with the "EHO" being placed in the ad or fully writing out "equal housing opportunity."</p> <p>9. For our HUD properties we deal with Florida and Virginia. For our HOME properties we deal with Virginia, Florida, Kentucky, and North Carolina.</p>
<p><b>Commenter #5</b></p>	<p>1. They have now changed their website [www.census.gov]. The webpage is totally different from several weeks ago when I was working on an AFHMP. Now the tip sheet and the instructions do not match the website at all.</p> <p>2. The old website was hard to navigate and would lock up. Trying to get a map to show on the screen and the information to appear took 3 – 5 minutes most of the time. The information on worksheet 1 could be found in various places</p>

	<p>on the website.</p> <p>3. The Alabama HUD office required all the flyers turned with the AFHMP to be in English and in Spanish. No other HUD office asked for multiple flyers in different languages.</p>
<b>Commenter #6</b>	<p>1. The length of the plan and some areas as to wait list and reasons for updating unclear.</p> <p>2. In determining market area, some are being told that if is a certain percentage (.5 to 3%) in the area, there is no need to market. There are a lot of subjective decisions made in the area of contacts and the amount of information required.</p>
<b>Commenter #7</b>	<p>1. If a population is less than 1% of the expanded market area, do not target.  If a population is less than 3% of the expanded market area, do not target.  If a population is less than 5% of the expanded market area, do not target.  If a population is not a majority of the property, but is greater than the population in the market area, you must target. Example:</p> <ul style="list-style-type: none"> <li>a. Population in property – 30%</li> <li>b. Population in exist list? – 10%</li> <li>c. Population in market area – 1%</li> <li>d. Population in expanded market – 3%</li> </ul> <p>Instructed that we must target the population. Implication is we are supposed to try to draw people into the expanded market area so as to increase the population in property. Is this our responsibility?</p> <p>2. Requiring more than one community contact/organization for outreach to population (plan instructions stipulate only one).</p> <p>3. Requiring community contact organization, because their website doesn't specifically say they outreach for housing even when we have provided copious detail that this group has a need to assist us in our efforts.</p> <p>4. Telling us we should not be outreaching to white population when property is 20% white and the market area is 90% white because "whites are already well represented in the property".</p> <p>5. The above example are from Houston, Dallas, Alabama, South Carolina, and Florida</p>

<b>Question 2:</b> How long it is taking to get AFHMPs approved?	
<ul style="list-style-type: none"> <li>• On average?</li> <li>• What has been the longest wait, and were reasons given for the delay?</li> </ul>	
<b>Commenter #1</b>	<ul style="list-style-type: none"> <li>• There was no consistency to how quickly they were getting approved. The time frames were all over the place. This was mainly for Mississippi. It might take one month for a plan, or it could take one year.</li> <li>• More than one year.</li> </ul>
<b>Commenter #2</b>	<ul style="list-style-type: none"> <li>• They have gotten better about this and tend to turn them around in 2 to 4 months.</li> </ul> <p>However, the improvement happened in Virginia when they brought a new person in to the position whom they recently transferred to Texas. Since the person was transferred (over a month ago) we have not received a single approval or correction or any other contact. All the ones that were turned in prior to 2014 that seem to still be sitting in limbo or they have lost them or will not approve because they updated the form in May 2014 and they no longer are on the correct form even though when you turned them into HUD; they were on the correct form.</p> <ul style="list-style-type: none"> <li>• We have five AFHMPs that were submitted in 2012 which we still haven't received approval on. We have 17 that were submitted in 2013 that we still haven't received approval on. We submitted 16 between January and July of this year that still haven't been approved. Of all of these AFHMPs; twelve (12) were sent directly to HUD in the past 2.5 years that we have not received from HUD and seventeen ( 17) were sent to the local HOME field office and approved and then were sent to the HUD field office for signature which we haven't received back as of yet. When contacting HUD regarding this issue they let us know that we "just need to be patient" as they are short staffed.</li> </ul>
<b>Commenter #3</b>	<ul style="list-style-type: none"> <li>• Most of the AFHMPs we have worked on have been reviews and those come back in 1-3 days. When we submit an AFHMP for new construction or a new acquisition, we rarely see them returned for corrections.</li> <li>• No major delays currently being experienced.</li> </ul>
<b>Commenter #4</b>	<ul style="list-style-type: none"> <li>• N/A</li> <li>• We have had plans submitted since February 7<sup>th</sup> that are still not approved. We currently have 25 HUD plans pending approval at this time.</li> </ul>

<b>Question 3:</b> How many staff hours are devoted to preparing the AFHMP?	
<b>Commenter #1</b>	1. 4 or more hours
<b>Commenter #2</b>	1. Each plan tax approximately two to three hours from beginning to end



	<p>provided that the person preparing the plan has everything they need from the site. Site time takes two to three hours. If the Community Contacts change and depending on the target demographic and field office you are dealing with; it can take anywhere from 10 minutes to an hour to find an appropriate contact for that demographic which the field office will approve.</p>
<b>Commenter #3</b>	<ol style="list-style-type: none"> <li>1. 5-6 hours per plan</li> </ol>
<b>Commenter #4</b>	<ol style="list-style-type: none"> <li>1. An average of 2 hours. Time involved is working with the manager and/or regional to collect the needed documents, confirm all contact information provided by the manager and make sure addresses and phone numbers are correct.</li> <li>2. PLUS the time the manager has in pulling together advertising, community contact letters, photographing site sign, pulling together race/ethnicity and disability information for residents and applicants (they have to go thru each application to pull this information) needs to be added in. Sometimes our occupancy specialist gets involved in running a report for the demographic information.</li> </ol>

<p><b>Question 4:</b> Do you have any recommendations to streamline / improve the AFHMP process that you would like NAHMA to consider advocating?</p>	
<b>Commenter #1</b>	<ol style="list-style-type: none"> <li>1. There should be specific guidelines for when a group must be targeted for marketing efforts. This should be based on how much of the total area population they represent and the demographics of your property. You may have no one from a certain group at your property but it may not be statistically significant even though to one person it seems significant. Right now this seems to be up to each individual's personal opinion and is not driven by any real data. Each person that reviews the plan can pick some arbitrary number and that is what you have to work with. If this is not the case they should better communicate that to us. Put the guidelines in the instructions. If the requirement is any group that makes up at least 2% of the population must be targeted then that should be in the instructions.</li> <li>2. For properties in very rural areas it is often very difficult to get the demographics for the area using the census website. The addresses many times do not even appear on the map. They should allow some other source to be an acceptable form of reporting these figures in the plan. If this is not an option maybe they could work with the Census Bureau on improving the accessibility of their system.</li> <li>3. Are they using any metrics to measure the effectiveness of these plans? If they are not, they should and we should have access this data. This would let us know if the plans are doing what they are intended for and if we need to make improvements to make these plans even more useful.</li> </ol>

	<p>4. Electronic submission. This could cut cost and even improve responsiveness and efficiency of the entire process.</p>
<b>Commenter #2</b>	<p>1. Consistency in approvals. Clear guidelines as to what constitute a need for a demographic to be marketed. Clear guidelines as to the community contacts and what is and isn't authorized. HOME offices being able to approve and sign the form as well would also help since when they send it to HUD it doesn't seem to go anywhere.</p> <p>2. Clear and consistent guidelines on advertisements would be helpful so properties don't spend money and then find out that it's not an acceptable ad because it says "equal housing opportunity" and the person reviewing it mandates having the logo instead.</p>
<b>Commenter #3</b>	<p>1. More clear, concise direction as to when/why AFHMPs need to be redone, reviewed, etc...; the time frame for continued use and who they need to be sent to.</p>
<b>Commenter #4</b>	<p>1. I don't think the Census website is very user friendly. Much of my time is spent on pulling the information from this website. You can only pull up either the census tract or the housing market area at a time. Also, I would think that the requested maps could be eliminated. Quite honestly, I think everyone is aware of who the "least likely to apply" is and much of this census research isn't really necessary.</p>
<b>Commenter #6</b>	<p>1. Date marketing began or will begin needs to be clarified, especially when most agents have not retained the information.</p>