

## Background

Affirmative Fair Housing Marketing Plans (AFHMP) and affirmative marketing procedures are required to be included in applications for Ohio Housing Finance Agency Multifamily Housing Programs including state and federal funds. Affirmative marketing is not a separate marketing program, and is an integral part of the overall project marketing effort. Through an affirmative marketing plan, a developer indicates what special efforts will be made to attract racial or ethnic groups who might not normally seek housing in their project or those “least likely to apply”.

### Affirmatively Furthering Fair Housing (AFFH)

The Fair Housing Act has two goals: To end housing discrimination, and to promote diverse, inclusive communities. The first goal prohibits practices or policies of discrimination. For example: exclusionary zoning practices; any rental, sales, advertising, lending, appraisal, or other practices resulting in discrimination. The second goal is referred to as Affirmatively Furthering Fair Housing, and it embodies values of fair access and equal opportunity. Affirmatively Furthering Fair Housing includes:

- Taking proactive steps – not simply combating discrimination.
- Fostering more inclusive communities.
- Providing access to community assets for all persons protected by the Fair Housing Act.
- Addressing significant disparities in access to community assets.
- Overcoming segregated living patterns.
- Ending racially and ethnically concentrated areas of poverty.
- Ensuring compliance with civil rights and fair housing laws. The Fair Housing Act established seven federally protected classes:

Color	Race	Sex	National Origin
Religion	Disability	Familial Status	

In addition to these protected classes, the Ohio Fair Housing Law ([Ohio Revised Code Section 4112](#)) offers legal protection based on:

- Ancestry: A person's place of origin cannot disqualify them from access to housing.
- Military status: Status as a veteran or active service military member cannot factor into a landlord's decision to rent a project.

**There may also be additional protected classes for your local jurisdiction.** For more information on protected classes review the advocacy and other resources at the end of this document.

### Violence Against Women Reauthorization Act

The Affirmative Fair Housing Marketing Plan provides a mechanism to demonstrate the Fair Housing Act is being followed, although fair housing is not as simple as the formulation of an AFHMP. There are many other related laws and regulations, which govern or impact fair housing. [Violence Against Women Reauthorization Act of 2013 \(VAWA\)](#) and the [Violence Against Women Reauthorization Act of 2022](#) are not directly part of the requirements of the AFHMP but impacts fair housing. VAWA changes in 2013 expanded the federal HUD programs covered in the Act and IRS requires that VAWA is followed at Housing Tax Credit properties. For more information on this and other regulations related to fair housing, review the Fair Housing Laws and Regulations section at the end of this document.

## Projects Requiring AFHM Plans

Projects that are financed with the Ohio Housing Finance Agency (OHFA) multifamily funding including but not limited to Housing Tax Credits (HTC), National Housing Trust Fund, Ohio Housing Trust Fund, and HOME fund are required to have an AFHMP. Recipients of Federal funds: Section 8, 202, 236, BMIR projects, or USDA-RDS Section 515 are required to have an AFHMP. Federal regulations for Affirmative Fair Marketing are in [24 CFR Part 200, Subpart M](#). Additional guidance and requirements for AFHMP come from the following resources:

- a) **IRS Regulation 1.42-5 (3) (c) (V)** - Certification and review provisions  
All units in the project were for use by the general public (as defined in Sec. 1.42-9), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601- 3619, occurred for the project.
- b) **Memorandum of Understanding between the IRS, HUD, and DOJ**  
The United States Departments of the Treasury (IRS), Housing and Urban Development, and Justice enter into this memorandum of understanding (**MOU**) in a cooperative effort to promote enhanced compliance with the [Fair Housing Act \(Act\), 42 U.S.C. §§ 3601 et seq.](#), for the benefit of residents of low-income housing tax credit projects and the general public.
- c) **2015 Final Rule on AFFH**  
This final rule on Affirmatively Furthering Fair Housing provides additional guidance by HUD on effectively and efficiently incorporating into their planning processes the duty to affirmatively further the purposes and policies of the Fair Housing Act.
- d) **HUD Program and Assisted Units**  
An AFHM program, shall be in effect for each multifamily project throughout the life of the mortgage (24 CFR 200.620(a)). The AFHMP ([Form-935.2A](#)), once approved by HUD, must be made available for public inspection at the sales or rental offices of the respondent (24 CFR 200.625) and may not be revised without HUD approval.
- e) **USDA and Rural Development Projects**  
If a USDA-Rural Development project has five or more units, the owner is required to prepare and maintain an AFHMP using [Form HUD 935.2](#). Rural Development requires the submission of a complete, updated Affirmative Fair Housing Marketing plan every 5 years throughout the life of the mortgage or federal subsidy.

## Compliance Monitoring

Affirmative marketing procedures must continue throughout the compliance and affordability period. All recipients and sub recipients of funds for projects containing five or more units must comply with the affirmative marketing requirements to receive assistance. For single family homeownership dwellings, the plan remains in effect until the dwelling units are sold.

OHFA utilizes the [OHFA Affirmative Fair Housing Marketing Plan \(PC-E45\)](#) form to fulfill the affirmatively furthering fair housing and marketing plan requirements of multifamily properties it funds. OHFA multifamily funded projects, including, but not limited to Housing Tax Credits, National Housing Trust Fund, Ohio Housing Trust Fund, and HOME funds must submit the Affirmative Fair Housing Marketing Plan (PC-E45) at the time of funding, or prior to the Compliance Next Steps (CNS) meeting, and every 5 years during the compliance and affordability period of the project. If the project is located in multiple census tracts, review the Importance of Current and Accurate Demographics information in the next section: Completing the AFHMP.

On April 14, 2014, HUD's Office of Fair Housing and Equal Opportunity (FHEO) published a memorandum clarifying when updated AFHMPs need to be submitted to FHEO for review and approval of HUD funded projects. **HUD provided clarification that existing AFHMP must be reviewed by the Owner when:**

- a) Five years have elapsed since the last review; OR
- b) The local jurisdictions' Consolidated Plan is updated; OR
- c) Significant demographic changes have occurred in the housing market area.

**If the Owner's analysis finds that the plan is satisfactory**, including demonstrating that the current marketing/outreach is targeting diverse areas where individuals least likely to apply for housing currently live, then submitting an updated plan for approval is not required. OHFA requires submission of the [OHFA Review Verification \(PC-E46\)](#) form. The completed PC-E46 form is to be submitted with the current Fair Housing Training certificates, and must be attached to the AFHMP, and available for review.

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

## For OHFA Funded Projects

**Revised/updated AFHMPs should be submitted to OHFA 60 days prior to expiration of the previous AFHMP** (5 year anniversary of the plan). This will allow sufficient time for OHFA to review and, if necessary, request additional materials prior to review of the plan.

Note: properties with USDA Rural Development funding must submit the USDA approved plan with the OHFA PC-E46 Review Verification form, and current Fair Housing Training certificates. *The [HUD-935.2A Form](#) is submitted to USDA for approval.*

*Projects with HUD funding must submit the HUD approved plan with the HUD approval letter, OHFA PC-E46 Review Verification form, and current Fair Housing Training certificates*

**The approved AFHMP must be available for public inspection**, and the owner or agent responsible for marketing must annually maintain correspondences with the community contacts responsible for Marketing and Outreach throughout the affordability period of the project. The current correspondences and current Fair Housing Training certificates must be available for review with the Affirmative Fair Housing Marketing Plan.

The HUD Fair Housing Poster/local 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.

## For HUD or USDA-RDS Funded Projects Receiving New OHFA Funding

Applicants owning a project with project based Section 8 or HUD Section 236, must submit a HUD approved Affirmative Fair Housing Marketing Plan and the approval letter, with current Fair Housing Training certificates and OHFA PC-E46 Review Verification form to satisfy the OHFA funding requirement.

Applicants owning a USDA-RDS funded project must submit the current approved USDA-RDS plan and OHFA PC-E46 Review Verification form with the application. If the USDA-RDS plan was approved more than 2 years prior to submission to OHFA, current Fair Housing Training certificates must also be submitted. NOTE: All USDA-RDS funded projects are required to submit completely updated Affirmative Fair Housing Marketing Plans to Rural Development every 5 years.

If an approved HUD or USDA-RDS plan is not already in place, the application for OHFA funding must include a complete OHFA Affirmative Fair Housing Marketing Plan (OHFA Form PC-E45) with all supporting mandatory documentation.

## Action to be taken for Non-Compliance

### Outdated or Unverified Plan

- If the plan is outdated or does not comply with requirements listed above, the OHFA project Auditor will make a note in the Compliance Audit Report (CAR) citing the need for an updated plan, and notify the Compliance Review Coordinator. If owner fails to address the citation, OHFA will list the owner as Not in Good Standing.

### Fair Housing Violation on Site Review

- If a Fair Housing violation in advertising is found during the review, for example: failure to utilize the Equal Housing logo on all advertising and the project monument sign(s), or language in written or published documents is problematic, the Auditor will list the infraction in the audit report. Management will then document efforts to change their ads or literature to include the needed verbiage and, if applicable adhere a permanent EHO logo or slogan to all project monument signage, and provide documentation of the efforts to OHFA for review. Any other irregularities would also be written in the report including, but not limited to: irregularities with the waiting list, clustering of residents by race, familial status, etc. Any suspected violations of the Fair Housing Act should be discussed with the Fair Housing compliance designee, or the manager for verification or clarification if there is any doubt. Management's failure to correct or address the issues would result in the Auditor sending a letter to the Fair Housing Agency in the county of the infraction.

### Adverse Decision in a Fair Housing Complaint from HUD

- If the Agency receives notification of an adverse decision in a Fair Housing complaint from HUD, the DOJ, a federal court or a local or state Fair Housing authorized Agency, the project will be cited for noncompliance with OHFA multifamily funding programs. If it has HTC as part of the funding an 8823 will be issued, and sent to the IRS. A project's Annual Owner Report (AOR), is a good source document for use by Auditors to check for notification of a Fair Housing complaint/violation. The Auditor must discuss the issues and findings of the notifying Agency with their manager to assure that the violation meets the non-compliance criteria for the OHFA multifamily funded programs at the project.

## Completing the AFHMP

The Affirmative Fair Housing Marketing Plan provides a way to document marketing efforts and steps being taken to affirmatively further fair housing. This section focuses on the parts of the AFHMP form that can be challenging to complete, but are vital to having a successful marketing plan.

### Key Considerations as you begin working on the AFHMP

- **INCLUSIVE AND DIVERSE** — Strive to have similar or greater demographics as the housing market area. Balance to ensure that the majority, regardless of race or ethnicity, is accompanied with minorities and underserved populations.
- **ATTRACT TARGETED APPLICANTS** — Ensure that all persons have knowledge of housing opportunities and are offered housing without discrimination for persons who qualify.
- **ONGOING DIRECT MARKETING** — Demonstrate meaningful attempts to increase underserved populations (Race, ethnicity, Persons with Disabilities, Households with Minor Children, etc.)
- **REVIEW AND ADJUST** — Review demographics by making a conscious effort to understand the community and changes in underserved populations then adjusting, if needed, after the initial plan has been completed and approved.

## Selecting a Housing Market Area

When completing the marketing plan, demographics for the Housing Market Area must be defined. This is typically defined as the census tract, city, county, or even possibly the MSA where the project is located. The area that is covered for marketing is highly dependent on the density of the population in an area. For a higher density region the area will typically be the Census Tract where the project is located. A lower density area will typically include a whole city or county as the Housing Market Area.

When a project is located across multiple sites, a list of census tracts should be included. If demographics vary dramatically across census tracts, a summary of demographics should be included. If the demographics are fairly consistent, city or county level demographics can be used for the Housing Market Area.

### Importance of Current and Accurate Demographics

The more current the demographics information collected is, the more likely the AFHMP will be an effective tool over the five years that it is in place. The US Census Bureau is the primary source for gathering demographics information that is required to complete the marketing plan, or evaluate the accuracy of an existing marketing plan (<https://data.census.gov/cedsci/>). Refer to the [OHFA AFHMP Census Guide](#) for steps on using the Census website. Alternatively, contact a local planning office, or other official source for current demographic information.

## Determining Demographic Groups Least Likely to Apply

By comparing the project demographics (including waiting list) to the Housing Market Area the demographics groups that are least likely to apply at the project are determined. These groups will need additional outreach and/or marketing efforts. Least Likely to Apply information is completed in section one of the Affirmative Fair Housing Marketing Plan form.

*In addition to the federally required populations included in the Fair Housing Act, space is provided on the plan to identify any state or local protected classes as a population that is least likely to apply.*

### Majority/Represented Populations

The highest percentage of a race, ethnicity, or other demographic is the majority population. In addition, if a project is designated as a senior (55+) or disabled project, there is no need to identify designated project groups as least likely to apply. The majority will not need special outreach because general advertising methods and word of mouth reach the majority population. These populations will typically be represented at the project.

## Least Likely to Apply/Underserved Populations

Least Likely to Apply populations have lower percentages. These populations will typically not be represented at the project. Evaluate the demographics using a reliable method of measure. **Keep in mind that checking all groups that are least likely to apply does not mean identifying every group as least likely to apply.** When considering which groups are “Least Likely to Apply” keep in mind that typically:

**1% or Greater and Under Represented = MARKET SPECIFICALLY TO  
Less Than 1% = No Specific Marketing Required\***

- \* Generally, there is not sufficient opportunity to directly reach populations with less than 1%, but there may be reasons to target those identified as less than 1% of the population. Some possible reasons to include those identified as less than 1%:
  - If demographics do not show underserved populations with 1% or greater, then expand the demographic area to find a population of greater than 1% or include those identified as less than 1% but greater than 0.5 percent as least likely to apply. This should be done based on what makes the most sense for the area.
  - If an underserved population is known to exist in the housing area, yet the demographics do not represent them in the census data, expand the market area. In addition, your knowledge of the community may be considered for direct marketing opportunities.

All selected groups/Least Likely to Apply groups shall be identified in the community contact and advertising method sections of the AFHMP. The Targeted Population(s) columns of both 2b and 2c are to be completed using the Least Likely to Apply groups identified in the tick boxes on page one of the Affirmative Fair Housing Marketing Plan.

## **Marketing Program and Fair Housing**

### Equal Housing Opportunity (EHO) Advertising

All advertising of residential real estate for sale, rent, or financing should contain an EHO logo, statement, or slogan as a means of educating the home seeking public that the project is available to all persons. The choice of logo, statement or slogan will depend on the type of media used (visual or auditory) and size of the advertisement. See HUD's [Part 109 Fair Housing Advertising](#) for additional information on use of EHO and fair housing with marketing. NOTE: All projects with project monument signage must include the EHO logo or slogan on that signage.

### Section 504 and Accessibility Requirements

**Section 504** of the Rehabilitation Act of 1973 makes it illegal for federal agencies, programs or activities that receive federal financial assistance, or are conducted by a federal agency, to discriminate against qualified individuals with disabilities. Requirements under Section 504 include reasonable accommodation for employees with disabilities, program accessibility, effective communication with people who have hearing or vision disabilities, and accessible new construction and alterations. HOME, National Housing Trust Fund, Ohio Housing Trust Fund, and HTC projects are required to meet or exceed Section 504 accessibility requirements in that 5% of the total units must be fully accessible for mobility impairments and 2% of the total units must be accessible for persons with visual and hearing impairments. Accessible facilities which meet the Uniform Federal Accessibility Standards (UFAS) 4.1 Minimum Requirements may use the international symbol of accessibility.

### Language Barriers

Advertising and marketing language barriers can have a significant impact. The use of alternative formats or multiple languages can help make housing more accessible; with materials that can reach a more diverse group. Possible options include Braille, large print, multiple languages, or other alternatives.

### Advertising Methods

As advertising is reviewed and considered, here are a few tips and suggestions for having effective advertising to populations underserved:

- When possible list each targeted population separately.
- Advertising methods used for each targeted population selected should be listed.
- Advertising sources should be known to reach targeted populations prior to advertising.
- Use local advertising sources, if any, before moving to county, region or state level advertising.
- Will alternate format(s) be used? (Example: Braille, large print, multiple languages)
- For advertising on the internet, will this reach underserved populations?



## Community Contacts

Community contacts for outreach are an important part of having effective marketing to underserved populations. Here are some considerations for community contacts:

- When possible list each targeted group separately.
- Use local contacts, if any, before moving to county, region or state contacts.
- Develop positive relationships and have continued communication with these contacts.
- Consider maintaining a file of contacts, to help establish:
  - How you determined what outreach was needed.
  - What was done to make an effective effort to market to the groups identified as least likely to apply
  - When actions were taken.
  - Why decisions were made to change or expand efforts.

## **Staff Trainings**

Any employees or agents involved with marketing must be provided verbal and written instructions regarding policies of non-discrimination and fair housing. The training should include federal regulations for Affirmative Fair Marketing found in [24 CFR Part 200, Subpart M](#) and compliance with the [Fair Housing Act](#) (Act). The AFHMP requires basic information about the trainings that are attended and who attended the trainings. Copies of training materials should be kept, and the certifications received are required as part of the [AFHMP](#) or the [AFHMP Review \(PC-E46\)](#) completed every 5 years. Fair Housing Training is required to be completed prior to employment at any OHFA project. In addition, the Fair Housing Training is to be updated every two years, and the Fair Housing Training certificates are to be submitted to OHFA with the PC-E46 Review Verification form, if the Affirmative Fair Housing Marketing Plan is not due for an update.

## **Common Errors!**

### Identifying Least Likely to Apply

- All Race and Ethnicity boxes were checked. Please review your demographic data. It is highly unlikely that *direct* marketing will be done for all demographic groups. FYI: When reviewing the demographics of the project, wait list, and the Housing Market Area (HMA), when the project and wait list demographics are greater than 0.5% but less than 5%, and the HMA data is greater than 5%, the group would be considered Least Likely to Apply.

### Community Contact Table

- Target Population(s) column - The groups identified as 'Least Likely to Apply' are entered into this field
- Contact information for outreach is incomplete or explanation is not provided as to why the organization is well suited for targeting the population identified. *Note: Low income does not describe experience working with a specific Race, Ethnicity, Persons with Disabilities, etc.* Explain how they will assist you to reach the populations identified.

### Methods of Advertising Table

- Underserved population is generalized or listed as "All" for every media used. List specifically which underserved population is being targeted.
- Copies of advertising methods not attached.

### Evaluation of Marketing Activities

- Information provided in this section does not describe how marketing is evaluated. This section should clearly convey steps involved with evaluation of marketing efforts and how this will impact future marketing.

NOTE: Comparison of project, wait list, and housing market area demographic data is essential to determine the effectiveness of the marketing activities utilized. Identifying the staff evaluating the marketing, and the staff's assessment process is necessary to determine the efficacy of the evaluation. Finally, enumerating the changes made to improve the effectiveness of marketing facilitates increasing housing opportunities for those identified as 'Least Likely to Apply' at the project.

## Staff Training Samples and Dates

- The only training provided does not include a sufficient quantity of fair housing related information.  
*NOTE: OHFA Tax Credit Compliance Trainings cannot be used as staff training for the AFHMP.*
- Samples or proof of training were not provided.
- NOTE: Fair Housing Training certificates are to be attached with the supporting documentation for the plan. Only the names of the attendees and the dates of the trainings are to be entered into the response. Do not add detailed explanations of the trainings.

## Signature and Date

- The Affirmative Fair Housing Marketing Plan is not signed or dated. The person responsible for implementing and reviewing the plan is required to sign and date the plan prior to review.
- NOTE: Do not "lock" the Affirmative Fair Housing Marketing Plan once it is digitally signed.

## Supplement - Fair Housing Laws and Regulations – affecting multifamily housing programs.

If project is subject to more than one law and the requirements differ, the most stringent requirements will be followed.

Referenced in this policy:

- [Fair Housing Act](#) – amended in 1988 – which prohibits discrimination in housing
- [IRS Regulation 1.42-5 \(3\) \(c\) \(V\)](#)
- [Memorandum of Understanding IRS, HUD, & DOJ](#) – August 2000
- [Section 504 of the Rehabilitation Act of 1973](#)
- [24 CFR Part 200, Subpart M—Affirmative Fair Housing Marketing Regulations](#) – HUD regulation on affirmative fair housing marketing
- [Final Rule on Affirmatively Furthering Fair Housing \(AFFH\)](#) – July 31, 2021
- [Violence Against Women Reauthorization Act of 2013 \(VAWA\)](#)
- [Violence Against Women Reauthorization Act of 2022 \(VAWA\)](#)
- [Current VAWA Implementation in HUD Housing Programs](#)

Additional laws and regulations:

- [Title II of the Civil Rights Act of 1964](#) – prohibits discrimination in certain places of public accommodation
- [Title VI of the Civil Rights Act of 1964](#) – prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance
- [Age Discrimination Act of 1975](#) – prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance
- [Executive Order 11063](#) – November 1962, amended by [Executive Order 12259](#) December 1980 – Non-discrimination and Equal Opportunity in Housing
- [Uniform Federal Accessibility Standards](#) – August 1984
- [Executive Order 12892](#) – January 1994 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing
- [Executive Order 12898](#) – February 1994 – Environmental Justice
- [Housing of Older Persons Act](#) – December 1995
- [Group Homes, Land Use, and the Fair Housing Act](#) – August 1999 – Joint Statement of the Department of Housing and Urban Development and the Department of Justice
- [Service Members Civil Relief Act](#) – October 1940, amended 2003
- [Reasonable Accommodations under the Fair Housing Act](#) – May 2004 – Joint Statement of the Department of Housing and Urban Development and the Department of Justice
- [Reasonable Modifications under the Fair Housing Act](#) – March 2008 – Joint Statement of the Department of Housing and Urban Development and the Department of Justice
- [Equal Credit Opportunity Act \(ECOA\)](#) – March 1976, amended 2010
- [Religious Land Use and Institutionalized Persons Act](#)
- [Americans with Disabilities Act \(ADA\)](#) – update [Revised Regulations](#), September 2010, includes ADA Standards for Accessible Design
- MOU between the Consumer Financial Bureau and the United States Department of Justice Regarding [Fair Lending Coordination](#) – December 2012

- [Guidance for PHAs and Owners on Excluding the Use of Arrest Records](#) – November 2015
- [HUD Guidance on Fair Housing Act Standards to the Use of Criminal Records](#) – April 2016
- [Equal Access Final Rule](#) - March 2012, amended by Equal Access To Housing Final Rule – September 2016
- [HUD Press Release Reaffirming its Commitment to Equal Access](#) to Housing, Shelters, and Other Services Regardless of Gender Identity

## Supplement - Advocacy and Contacts

- HUD Fair Housing and Equal Opportunity (FHEO) Ohio Offices – <https://hud.gov/states/ohio/offices>
- Ohio Association of Area Agencies on Aging: <http://ohioaging.org/>
- Ohio Civil Rights Commission: <https://crc.ohio.gov/>
- Ohio Civil Rights Commission Regional Offices: <https://crc.ohio.gov/aboutus/regionaloffices.aspx>
- Ohio Legal Help: <https://ohiolegalhelp.org/>

Ohio private fair housing agencies: Central Ohio Fair Housing Association; Miami Valley Fair Housing Center, Inc.; The Fair Housing Center; Fair Housing Contact Service; Fair Housing Center for Rights and Research; Clark County Fair Housing; Stark County Fair Housing; Mansfield Fair Housing; Fair Housing Resource Center; Coalition on Homelessness and Housing in Ohio; Canton Fair Housing Department; Tuscarawas Fair Housing NAACP regional offices: <https://naacp.org/our-work/working-your-region>

National Fair Housing Alliance Resources: <https://fairhousingresourcecenter.wordpress.com/>

Examples of Word Choice in Advertising:

<https://fairhousinginstitute.com/fair-housing-advertising-guidelines/>

<https://www.nar.realtor/fair-housing-corner/create-advertisements-with-fair-housing-in-mind>

<https://nationalfairhousing.org/responsibleadvertising/>

<https://www.hud.gov/sites/dfiles/FHEO/documents/BBE%20Part%20109%20Fair%20Housing%20Advertising.pdf>