

Supporting Statement for Paperwork Reduction Act Submissions

Affirmative Fair Housing Marketing (AFHM) Plan-Multifamily Housing- HUD-935.2A and Affirmative Fair Housing Marketing (AFHM) Plan-Single Family Housing HUD-935.2B

The Department of Housing and Urban Development (HUD) is requesting that the Office of Management and Budget (OMB) approve the revision of form HUD-935.2 Affirmative Fair Housing Marketing Plan. This revision consists of creating a form to be used for Multifamily Housing (MFH) and a second form to be used for Single Family Housing (SFH). The current form has several instances where there are alternative directions. The major difference in the proposed forms is that the Office of Fair Housing and Equal Opportunity (FHEO) will have approval authority for the form-HUD 935.2A to be completed by MFH users while SFH will have approval authority for the form-HUD-935.2B to be completed by SFH users.

A. Justification

1. Circumstances that Make the Information Collection Necessary

The Fair Housing Act (the Act) requires the Department of Housing and Urban Development (HUD) to administer its program in a manner to affirmatively further the Act's objectives. Executive Order 11063 requires Federal agencies to take all necessary and appropriate steps to eliminate discriminatory practices involving Federally insured and subsidized housing. Under the AFHM Regulations (24 CFR Part 200, Subpart M) issued pursuant to these provisions, all applicants for HUD-insured and subsidized multifamily projects and builders who intend to sell five or more properties in a subdivision where a lender is submitting initial applications for HUD mortgage insurance must submit an AFHM Plan on a prescribed form. No application for any multifamily project insured under the HUD's insured housing program could be funded without an approved Plan. The AFHM Plan remains in effect throughout the life of the multifamily project mortgage. AFHM Plan requirements do not apply to programs assisted under the United States Housing Act or the HOME Investment Partnership Program.

a. Statutory and Executive Authority

- (i) The Fair Housing Act (42 U.S.C. 3601), Section 808(e)(5), requires the Secretary of HUD to administer HUD's programs in a manner to affirmatively further fair housing. Section 808(e)(6) of the Act requires HUD to report to Congress annually and make available to the public data on the race, color, religion, sex, national origin, age, disability and family characteristics of persons and households who are applicants for, participants in or

beneficiaries or potential beneficiaries of programs administered by the HUD. This provision also requires the Secretary to collect such information relating to these characteristics as the Secretary determines to be necessary and appropriate.

- (ii) Section 562 of the Housing and Community Development Act of 1987 requires the collection of data on racial and ethnic characteristics of persons eligible for, assisted or otherwise benefiting under each community development, housing assistance, mortgage and loan insurance, and guarantee program administered by the Secretary to assess the extent of compliance with HUD's fair housing requirements. This Section also requires the Secretary to send to Congress a summary and evaluation of the data collected.
- (iii) Executive Order 11063, as amended by Executive Order 12892, requires all federal agencies to take appropriate action to eliminate discriminatory practices in housing programs administered by such agencies.

b. Regulatory Authority

- (i) Affirmative Fair Housing Marketing Regulation (24 CFR Part 200, Subpart M).
- (ii) Compliance Procedures for Affirmative Fair Housing Marketing (24 CFR Part 108).
- (iii) Fair Housing Poster Regulations (24 CFR Part 110).
- (iv) Single Family Regulation, 24 CFR 203.12(b)(3).

2. Uses of Information

a. Purpose of Affirmative Fair Housing Marketing

The Regulation at 24 CFR 200, Subpart M, states the purpose of Affirmative Fair Housing Marketing as follows:

“ . . . as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, disability, familial status or national origin.” (24 CFR 200.610)

To achieve this purpose, HUD requires applicants for insured and subsidized housing to submit an AFHM Plan, in which:

- (i) the applicant describes the affirmative steps it plans to take to attract prospective buyers or tenants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability, or familial status.
- (ii) HUD assesses the potential effectiveness of the methods to be employed by the applicants in marketing their housing in accordance with the statutes and regulations listed above. Prior to HUD approval of the final application, the actions indicated must be deemed by HUD to be appropriate marketing techniques for the size, type and location of units to be sold or rented and to attract groups least likely to apply for housing in the housing market area.

b. Revised Forms

HUD-935.2A Affirmative Fair Housing Marketing (AFHM) Plan-
Multifamily Housing

HUD –935.2B Affirmative Fair Housing Marketing (AFHM) Plan-
Single Family Housing

Multifamily Housing (MFH): During negotiations with the Office of Housing (MFH) and FHEO for the Civil Rights Front-End and Limited Monitoring Review Protocol, it was decided that the form HUD-935.2 and its instructions would be modified. were too complex and should be done by FHEO staff.

Single Family Housing (SFH): During negotiations with the Office of Housing (SFH) and FHEO for Civil Rights Front-End and Limited Monitoring Review Protocol, SFH field staff stated that they wanted to continue reviewing and approving the AFHM Plans of builders/developers. SFH felt that awaiting FHEO’s review would result in SFH not meeting deadlines for mortgage insurance approvals.

In order to accommodate the request of SFH, FHEO has revised the current form and created form HUD-935.2B specifically for SFH. FHEO is also developing the Protocol with a more extensive review checklist than is used by MFH. The SFH staff review very few AFHM Plans each year; the estimate is approximately 30 for the entire country. Most of the SFH builders/developers may not be required to submit the AFHM Plan form because: (a) they have not sold five or more houses in a 12 month period or do not intend to sell five or more housing in the next 12 months with HUD mortgage insurance; (b) are signatories in good standing to a Voluntary Affirmative Marketing Agreement (VAMA); (c) already have a current HUD-approved AFHM Plan; and/or (d) have a contract with an agency that meets one of the criteria in (b) or (c) above to market the houses.

c. Historical Prospective: Affirmative Marketing and Single Family Housing

In an effort to streamline the Affirmative Fair Housing Marketing process and to lessen the burden on single-family homebuilders/developers, HUD revised the Builder's Certification of Plans, Specification, & Site form HUD-92541 (2502-0496). This form is completed for all newly constructed properties.

(i) In 1995, HUD issued HUD Mortgagee Letter 95-18, dated April 27, 1995 that described the circumstances under which builder/developers of subdivisions were exempted from filing the form HUD 935.2. The builder/developer must meet at least one of the following requirements for exemption: (a) is a signatory in good standing to a Voluntary Affirmative Marketing Agreement (VAMA), (b) has an approved AFHM Plan, (c) has contracted with a third party to market the houses. The form HUD-92541 was revised to add block 11 that contained the above AFHM Plan information. The builder/developer could complete block 11 to certify compliance with AFHM Plan requirements, instead of completing the HUD 935.2.

(ii) In 2001, HUD issued HUD Mortgagee Letter 2001-09, dated April 2, 2001 that announced a new option to satisfy the AFHM requirements. This option became available to single-family homebuilders that sold five or more units in the past 12-month period or planned to sell five or more units in the next 12-month period with Federal Housing Administration (FHA) insured financing. The form HUD-92541 was revised to add the new option "d" to block 11. Builder/developers are allowed to self-certify compliance with the AFHM Regulations by checking block "11d", instead of completing the HUD 935.2.

d. Affirmative Marketing and HUD 2020 Management Reform

Since 1999, when HUD adopted a protocol pursuant to its Management Reform 2020 process, the Office of Housing was given the lead responsibility for reviewing and approving AFHM Plans. In 2003, a revised protocol was approved, which retained the Office Housing's responsibility for reviewing and approving AFHM Plans. The Office of Fair Housing and Equal Opportunity's (FHEO) retains the responsibility for ensuring compliance with the AFHM Regulation at 24 CFR Part 108.

3. Improved Information Technology to Reduce Burden

This information collection has not been automated because the total reporting burden is only 8,390 hours, it is not cost effective to automate this form.

4. Duplication

There is no similar information submitted by applicants to HUD in other forms or application packages that can be used in place of the AFHM Plan. This form is the only instrument that collects information on the methods used by the sponsors and developers of insured and subsidized multifamily and single-family housing to make their housing available to all segments of the housing market area on a nondiscriminatory basis.

5. Small Businesses or Other Small Entities

In order to minimize the burden on single family homebuilders/developers, HUD has provided these small entities an exemption from completing the AFHM Plan-Single Family Housing (HUD-935.2B). Single family homebuilder/developers can check block 11 on the Builder's Certification of Plans, Specifications, & Site form (HUD-92541) to self certify compliance with HUD's Affirmative Fair Housing Marketing Regulations. Single family homebuilders/developers must also maintain records of their affirmative fair housing marketing activities and make them available to the HUD upon request. If a builder opts to check block 11, they no longer need to submit an individual AFHM Plan –Single Family Housing (HUD-935.2B) to HUD for approval.

6. Frequency

If this information was not collected, it would interfere with the objective to assure that builder/developers who are benefiting from HUD programs undertake steps to provide information on housing availability to all parts of the housing marketing area regardless of race, color, religion, sex, national origin, disability, or familial status. The AFHM Plan-Single Family Housing (HUD – 935.2B) form is completed only once during the single family application process. The AFHM Plans-Multifamily Housing (HUD-935.2A) remains in effect for the life of HUD's mortgage assistance. The AFHM Plan-Multifamily Housing (HUD-935.2A) should be reviewed every 5 years and updated as needed to ensure continued compliance with HUD's AFHM Regulations (24 CFR 200.620).

7. Consistency with 5 CFR 1320.6

The Affirmative Fair Housing Marketing Plans for multifamily housing projects remain in effect for the life of HUD's mortgage assistance (24 CFR 200.620(a)). These Plans should be reviewed every 5 years and updated as needed to ensure continued compliance with HUD's AFHM Regulations (24 CFR 200 Subpart M).

8. Public Comments on Information Collection

Comments on this proposed information collection were solicited through

Federal Register Notice dated July 31, 2006 (Volume 71, Number 146, Page 43205).

There were no public comments received for this collection of information.

9. Payments or Gifts to Respondents

There are no payments or gifts provided to respondents in this collection of information.

10. Confidentiality

There are no assurances of confidentiality provided in this collection information, however, the form contains no question of a confidential nature.

11. Sensitive Information

There are no questions of a sensitive nature asked in this collection of information.

12. Estimate of Collection Burden

Number of Respondents	Frequency of Responses	Est. Average Response Time	Est. Annual Burden (Hours)
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AFHM Plan-Multifamily Housing HUD-935.2A

300 (New MFH Projects)	1 hr	3 hrs	900 hrs
6,200 (Review-20% of MFH inventory reviewed every 5 years)	1 hr	1 hr	6,200 hrs
1,200 (Updates-20% of MFH reviews will need updating)	1 hr	1 hr	1,200 hrs

AFHM Plan-Single Family Housing HUD 935.2B

30 (New SFH Dev.)	1hr	3 hrs	<u>90 hrs</u>
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There are approximately 6,530 potential respondents for this collection of information collection per year (300 new MFH + 6200 MFH reviews + 30 new SFH=6,530). There are approximately 1,530 annual responses to this information collection (300 new MFH + 1,200 MFH Updates + 30 new SFH = 1,530).

AFHM Plan – Multifamily Housing – HUD-935.2A

This includes an estimated 300 new multifamily housing projects, 6,200 Multifamily Housing to be reviewed every 5 years, and 1,200 Multifamily Housing Plan will need to be updated. There are approximately 31,000 multifamily housing insured and subsidized projects in HUD’s inventory. Since the AFHM Plan-Multifamily Housing (HUD 935.2A) should be reviewed and updated every 5 years it is estimated that 20 percent of the multifamily housing projects inventory (6,200) will review their AFHM Plans each year. It is also estimated that slightly less than 20 percent of the reviewed AFHM Plans (approximately 1,200) will need to be updated.

AFHM Plan-Single Family Housing-HUD-935.2B

It is estimated that approximately 30 new single family housing project will submit form HUD-935.2B, because most of these builders will take advantage of the exemption and use the options on form HUD-92541-Builder’s Certification of Plans, Specifications, & Site –Block 11, to self certify compliance with HUD’s Affirmative Fair Housing Marketing Regulations.

One professional staff person:

New (MFH): at \$35.00	
per hour for approx. 2 hours:	\$ 70.00 x 300 = \$ 21,000.00

New (SFH): at \$35.00	
per hour for approx. 2 hours:	\$ 70.00 x 30 = \$ 2,100.00

Reviews (MFH): at \$35.00 per hour for approx. 1 hour:	\$ 35.00 x 6,200 = \$217,000.00
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Updates (MFH): at \$35.00 per hour for approx. ½ hour:	\$ 17.50 x 1,200 = <u>\$ 21,000.00</u>
	Subtotal: \$261,100.00

One Secretary to perform

clerical duties:

New (MFH): at \$16.00
per hour for approx. 1 hour: \$ 16.00 x 300 = \$ 4,800.00

New (SFH): at \$16.00
per hour for approx. 1 hour: \$ 16.00 x 30 = \$ 480.00

Updates (MFH): at
\$16.00 per hour for approx.
½ hour: \$ 8.00 x 1,200 = \$ 9,600.00
Subtotal: \$ 14,880.00

Mailing costs for one first class
Package MFH and SFH
@ \$1.25 per report: \$ 1.25 x 1,530 = \$ 1,912.50

TOTAL COST TO RESPONDENT: \$277,892.50

13. Estimates of Annualized Costs to the Respondent

None other than costs reported in item 12.

14. Estimates of Annualized Cost to the Government

One GS-12/5 to review and
recommend approval/initial
rejection of AFHM Plans:

New (MFH): at \$35.32
per hour for approx. 1 hour: \$ 35.32 x 300 = \$ 10,596.00

New (SFH): at \$ 35.32
per hour for approx. 1 hour: \$ 35.32 x 30 = \$ 1,059.60

Updates (MFH): at
\$35.32 per hour for approx.
1 hour: \$ 35.32 x 1,200 = \$ 42,384.00
Subtotal: \$ 54,039.60

One GS-5/5 to perform
clerical duties:

New (MFH): at \$16.08
per hour for approx. ½ hour: \$ 8.04 x 300 = \$ 2,412.00

New (SFH): at \$16.08
per hour for approx. ½ hour: \$ 8.04 x 30 = \$ 241.20

Updates (MFH): at

\$16.08 per hour for approx.

½ hour:

\$ 8.04 x 1,200 = \$ 9,648.00
Subtotal: \$ 12,301.20

: TOTAL: \$ 66,340.80

15. Program Changes

This is a revision to a currently approved collection. A second form has been created for Single Family Housing (SFH). The current form (Multifamily) has several instances where there are alternative directions. Both forms are estimated to take three hours to complete. Overall this ICR has a decrease in the total burden but an increase in the number of respondents and responses. The adjustment to the number of respondents and responses is due to an increase in the number of projects. The decrease in burden hour is because an update was erroneously listed as three hours whereas it updates takes only one hour. This submission more accurately reports the number of respondents and total burden hours.

16. Publication of Data

The results of this collection of information will not be published.

17. Display of Expiration Date

The OMB approval number and expiration date will be displayed on the form.

18. Exception to Certification

There are no exceptions to the certification statement identified in Item 19 of form OMB 83-I.

B. Collections of Information Employing Statistical Methods.

The collection of information will not be used for statistical purposes.