

## **Supporting Statement for Paperwork Reduction Act Submissions**

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

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

### **Affirmative Fair Housing Marketing (AFHM) Plan-Condominiums or Cooperatives HUD-935.2C**

The Department of Housing and Urban Development (HUD) is requesting that the Office of Management and Budget (OMB) approve the extension of forms: HUD-935.2A Affirmative Fair Housing Marketing Plan-Multifamily Housing, HUD-935.2B Affirmative Fair Housing Marketing Plan-Single Family Housing, and HUD-935.2C Affirmative Fair Housing Marketing Plan-Condominiums or Cooperatives.

#### **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. If this information was not collected, it would inhibit the civil rights objective of ensuring that builders/developers who are benefiting from HUD programs take 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. Under the AFHM Regulations (24 CFR Part 200, Subpart M) issued pursuant to these provisions, all applicants for HUD-insured and subsidized multifamily projects must submit an AFHM Plan on a prescribed form. In addition builders and developers of single family housing or cooperative or condominium units, who intend to sell five or more properties in the next year, or sold five or more properties in the past year, and where a lender is submitting initial applications for HUD mortgage insurance, must submit one of several agreements or statements, among which is an AFHMP on a prescribed form.

##### **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 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 from any 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.

### 3. Improved Information Technology to Reduce Burden

Although this information collection has not been automated in the past, HUD is actively considering automating the forms for the efficiency of the agency and for the benefit of applicants.

### 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, single-family, and cooperative and condominium 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 or Condominium or Cooperative (HUD 935.2B or C) to HUD for approval.

### 6. Frequency

Single family housing developers complete the AFHM Plan only during the application process and the AFHM Plan is in effect through full initial occupancy. Condominium/cooperative developers complete their AFHM Plan only during the application process and the AFHM Plan is in effect through full initial occupancy. The AFHM Plan for multifamily housing projects must be

reviewed at least once every five years, and updated as needed to ensure continued compliance with HUD's AFHM Regulations.

7. Consistency with 5 CFR 1320.6

The AFHM Plan for multifamily housing projects remain in effect for the life of HUD's mortgage assistance (24 CFR 200.620(a)). These multi-family housing project plans must be reviewed at least every 5 years and updated as needed to ensure continued compliance with HUD's AFHM Regulations (24 CFR 200.600 Subpart M).

8. Public Comments on Information Collection

Comments on this proposed information collection were solicited through Federal Register Notice dated October 20, 2009 (Volume 74, Number 201).

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 of 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

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

300 (New MFH Projects)	1	6 hrs	1800 hrs
7, 750 (Review-25% of MFH inventory of 31,000. This is comprised of 20% of the inventory (6200) for	1	2 hrs	15,500 hrs

mandatory 5 year reviews and an additional 1,550 due to projected demographic changes).

4,030 (Updates—52% of those MFH that were reviewed and will need updating). This is comprised of 40% of the AFHMPs that had five-year reviews (2480) plus 100% of those reviewed prior to five years (1550)	1	2 hrs	8,060 hrs
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AFHM Plan-Single Family Housing HUD 935.2B and Cooperative/Condominiums HUD 935.2C

30 (New SH and Coop/Condo. Dev.)	1	6 hrs	<u>180 hrs</u>
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TOTAL COLLECTION BURDEN 25, 540 hrs

There are approximately 8080 potential respondents for this collection of information per year (300 new MFH + 7750 MFH reviews + 30 new SFH and condo/coops = 8080). There are approximately 4,360 annual responses to this information collection: 300 new MFH + 4,030 MFH Updates + 30 new SFH/Condo/Coop.

AFHM Plan – Multifamily Housing – HUD-935.2A

There are approximately 31,000 multifamily housing insured and subsidized projects in HUD’s inventory.

The AFHM Plan-Multifamily Housing (HUD 935.2A) must be reviewed at least every five years and updated if needed. It is estimated that 20 percent of the multifamily housing projects’ inventory (6,200) will conduct five-year reviews of their AFHM Plans each year while 1550 additional plans are expected to be reviewed annually, prior to five-years. There are approximately 300 new multifamily housing projects each year.

It is also estimated that 4030; 40 percent of the 5-year reviewed AFHM Plans (approximately 2480) will have to be updated while an additional 5% (1550) will review and update their Plans due to demographic changes in the community or for other reasons.

AFHM Plan-Single Family Housing and Condominium or Cooperative HUD-935.2B and 935.2 C

It is estimated that approximately 30 new single family housing and condominium/cooperative projects will submit form HUD-935.2 B and HUD-935.2C to HUD. This small number reflects the estimate that many builders rely on an 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.

13. Estimates of Annualized Costs to the Respondent

One professional staff person:

New (MFH): at \$35.00  
per hour for approx. 4 hours:                   \$ 140.00 x 300 = \$ 42,000

New (SFH or condo/coop): at \$35.00  
per hour for approx. 4 hours:                   \$ 140.00 x 30 = \$ 4200

Reviews (MFH): at  
\$35.00 per hour for approx.  
2 hour:   \$ 70.00 x 7,750 = \$ 542,500

Updates (MFH): at  
\$35.00 per hour for approx.  
2 hours:   \$ 70.00 x 4,030 = \$ 282,100  
Subtotal:   \$870,800

One secretary to perform  
clerical duties:

New (MFH): at \$16.00  
per hour for approx. 2 hour:                   \$ 32.00 x 300 = \$ 9,600

New (SFH or Condo/Coop): at \$16.00  
per hour for approx. 2 hours:                 \$ 32.00 x 30 = \$ 960

Updates (MFH): at  
\$16.00 per hour for approx.  
2 hours:   \$ 32.00 x 4,030 = \$ 128,960  
Subtotal:   \$ 139,520

Mailing costs for one first class  
Package MFH and SFH/Condo/Coop  
@ \$1.25 per report:                             \$ 1.25 x 4,360 = \$ 5,450

TOTAL COST TO RESPONDENT:   \$ 1,015,770

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. 3 hour:                   \$ 105.96   x 300 = \$ 31,788

New (SFH/Condo/Coop): at \$ 35.32  
per hour for approx. 3 hour:                   \$ 105.96   x 30 = \$ 3178.80

Updates (MFH): at  
\$35.32 per hour for approx.  
3 hours:   \$105.96   x 4030 = \$ 427,018.80

Subtotal:       \$ 461,985.60

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/Condo/Coop): at \$16.08  
per hour for approx. ½ hour:                   \$ 8.04   x 30 = \$ 241.20

Updates (MFH): at  
\$16.08 per hour for approx. 1/2 hours  
:   \$ 8.04   x 4030 = \$ 32,401.20

Subtotal:       \$ 35,054.40

TOTAL:   \$ 497,040

15. Program Changes

HUD has modified the three forms to enhance their clarity for the benefit of applicants. In the case of form 935.2A, HUD has also modified the form to require additional submitted information on demographics, residency preferences, and proposed marketing activities, which provide HUD with a clearer and more comprehensive means of assessing the applicant's affirmative marketing plan and a better way for the applicant to organize and to present their affirmative marketing planning activities. Based on input from HUD field staff and applicants, HUD has revised its estimate of the burden hours necessary to

complete all three AFMH Plan forms to reflect a more realistic estimate of the number of hours needed to complete, review, and update the forms.

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.