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# **Affirmative Fair Housing Marketing Plan**

## **Guide for Managing Agents, Owners, and Developers**

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# Understanding Affirmative Fair Housing Marketing

Recipients of federal funds from the U.S. Department of Housing and Urban Development (HUD) are required to comply with the Fair Housing Act (FHA) and its requirements to affirmatively further fair housing (AFFH). The purpose of AFFH is to reduce segregation and encourage integration in housing by promoting fair housing choice regardless of one's protected characteristics under federal and New York State fair housing laws. The Affirmative Fair Housing Marketing Plan (AFHMP) requirement is one part of that effort.

Through its AFHMP, an HCR-funded development indicates what efforts it will undertake to advertise the development to potential applicants who might not otherwise apply for the housing. This requires that the managing agent/owner/developer select a primary housing market area, identify the least likely to apply target populations and design methods to reach out to these populations.

HCR is committed to providing technical assistance to managing agents, owners, and developers to help develop, implement and assess their AFHMP. This manual summarizes AFHMP policy and procedures as required by HCR and provides instructions concerning how to develop an effective AFHMP.

## Overview

### **NEW YORK STATE HOMES AND COMMUNITY RENEWAL AFFIRMATIVE FAIR HOUSING MARKETING PLAN (AFHMP) POLICY**

HCR requires that each multifamily development receiving financial assistance carry out a marketing strategy to attract prospective renters, regardless of race, creed, color, national origin, sexual orientation, military status, sex, gender identity, age, disability, marital status, or familial status.

In addition to general marketing efforts, each development must also engage in an affirmative fair housing marketing program, which provides the opportunity to target specific groups who may need special outreach in order to be made aware of and apply for the housing. These affirmative fair housing marketing efforts are meant to target persons identified as least likely to apply (“LLA”) and make them aware of available affordable housing opportunities.

The creation of an AFHMP can be broken down into the following four (4) areas:

- 1. Targeting:** Identify the racial and ethnic demographic groups within the primary/secondary housing market area which are least likely to apply for housing without special outreach efforts. The primary/secondary housing market area is the area where you will reasonably expect to find tenants who wish to apply for units at the property. This can be a town, village, city, or community board. Once the primary/secondary housing market area is defined, review the demographic information to determine what groups of people living in this area are the least likely to apply to live in the project without actively seeking them out with this marketing plan.
- 2. Outreach:** Once you have identified the groups you need to target, then you must develop an outreach program which includes special measures designed to attract those groups, in addition to other efforts designed to attract persons from the total population. This requires that you identify media outlets and groups that have direct contact with the LLA populations that you are trying to reach. Appropriate community contacts include, but are not limited to, social service agencies, religious bodies, advocacy groups, community centers, and HCR-funded Neighborhood and Rural Preservation Companies.
- 3. Assessment:** Develop a plan for what information you are going to track that will allow you to measure the plan’s effectiveness. Examples of methods that can be used include:
  - Determining if the marketing effort effectively attracted applicants who are from the majority and minority groups, including persons with disabilities and families with children, as represented in the total population of the housing market area.
  - Tracking how many referrals are received from the community contact groups you utilized.
- 4. Staff Training:** Management and sales staff must receive training on federal, State and local fair housing laws. HCR’s Fair and Equitable Housing Office is committed to being a resource for project owners regarding fair housing compliance.

# HCR AFHMP GUIDELINES

The following outline identifies areas of significant interest to the agency in its review and approval of marketing plans for finance and development projects. These areas must be addressed by all applicants to the greatest extent applicable in the preparation of a marketing plan for submission, review, and approval.

To submit your project's AFHMP, download and complete the AFHMP Fillable Form, available at <https://hcr.ny.gov/fair-housing>. All other forms, including a draft Notice of Intent to Market can be found here.

## **I. PROJECT IDENTIFICATION & DESCRIPTION**

Provide a description of the project including project name and address, number of units, managing agent/owner/developer's contact information, address where correspondence relating to the project should be sent, and identify person and entity responsible for marketing.

If the project is co-funded by New York City through Housing Preservation and Development (HPD) and/or Housing Development Corporation (HDC), consult with your HCR representative about a different HPD-specific form before continuing.

If the project has age-restricted units, you must obtain a waiver pursuant to the New York Human Rights Law through the New York Division of Human Rights.

Please ensure all relevant attachments are included.

## **II. MARKETING PROGRAM & DIRECTION OF MARKETING ACTIVITY**

Projects must submit an Affirmative Fair Housing Marketing Plan (AFHMP) to their HCR Representative to be reviewed and approved by the Fair and Equitable Housing Office (FEHO). The AFHMP must be submitted 240 days (8 months) before anticipated occupancy. This allows time for projects to address comments made by FEHO attorneys and to include a 60-day marketing and application period as well as a 10-day post-application period before the lottery is run. Relevant forms are available here: <https://hcr.ny.gov/marketing-plans-policies>. The most updated form must be used.

Unless waived by HCR, before proceeding to marketing and opening the application period, projects must have an approved AFHMP, have conducted a pre-occupancy conference with representatives of the Asset Management Unit, and must post the availability to NYHousingSearch.org and HCR Lottery page for at least 60 days. Work with your HCR representative to ensure that the ad is posted to the Lottery page.

All marketing materials must include the applicable fair housing logos, including the Equal Housing Opportunity and Accessibility logos.

The project must be registered on [www.NYHousingSearch.gov](http://www.NYHousingSearch.gov), a free service provided by New York State to advertise and search for affordable and accessible housing. The service is also available through a toll-free, bilingual call center at **1-877-428-8844**. Representatives are available to assist with listings and searches.

### **III. DEMOGRAPHICS OF PROJECT'S HOUSING MARKET AREA**

Identify the housing market area (town/city/community board) from which the owner/agent intends to draw applicants (hereinafter, "Primary Market Area").

Identify the expanded housing market area (city/county) from which the owner/agent intends to draw applicants to increase the diversity of individuals to be reached by its marketing efforts (hereinafter, "Secondary Market Area").

Use the most recent American Community Survey 5-Year Estimates (<https://data.census.gov/cedsci/table?q=United%20States&g=0100000US&tid=ACSDP5Y2018.DP05&vintage=2018>, modified to your market area) to identify those racial and ethnic demographic groups who are "least likely to apply" (LLA), because those populations are currently underrepresented in the project's Primary Market Area or underrepresented on the waiting list. Populations under 1% do not need to be listed as an LLA population.

Affirmative fair housing marketing should attract applicants outside the community who are underrepresented in the Primary Market Area's demographics. A good marketing strategy will cast a wide net. HCR requires the use of Primary and Secondary Market Area civic organizations, grassroots and religious bodies, labor unions, disability advocates, civic organizations, HCR-funded Neighborhood and Rural Preservation Companies, and/or other groups and individuals in the community that have direct contact with the LLA populations.

The AFHMP must describe development and distribution of leaflets and brochures which are to be produced in English, Spanish and other languages as reflected by the LLA populations.<sup>1</sup> The AFHMP shall include Spanish language marketing material to serve the Spanish-speaking population that is Limited English Proficient ("LEP"). Distribution should include circulation to the organizations and community-based groups serving LLA populations.

Marketing requirements may vary by development size with "small project" developments of 1-4 units and all low-cost measures. Developers of larger developments must conduct all described marketing activities as indicated.

#### **a. Community Contacts**

The AFHMP should provide that homeownership<sup>2</sup> counseling agencies and/or community

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<sup>1</sup> To address the needs of Limited English Proficient (LEP) population, alternative resources should be sought to address the need, such as opening an account with a "Language Line" or alternative provider that provides 24/7 translators which can be accessed as needed by marketing staff to assist in serving all LEP persons.

<sup>2</sup> Any AFHMP that includes homeownership must provide that the potential home purchasers receive homeownership counseling and education through a HUD-certified housing counseling agency and may also utilize

contacts are to be notified through letters, emails, and/or information packets that include leaflets/brochures and copies of the advertisement, followed by personal contact conducted by the developer or marketing agent.

Upon initiation of the marketing period, a letter must be sent by regular mail or email to each of the homeownership counseling agencies and/or community contacts listed in the AFHMP requesting that they advise their constituencies and clients of the availability of these units and encourage them to take advantage of this housing opportunity.

The AFHMP must describe the follow-up efforts with regard to each letter, such as calls to the contact person to explore the most effective outreach approach to their respective constituencies and clients (*i.e.*, community contact follow up with specific actions, community contact providing a list of names for direct contact or community contact hosting event where the owner, developer, and/or marketing agent may present information to potential applicants).

Correspondence (letter/emails etc.) to be sent to community contacts should be attached to the AFHMP. The AFHMP should also provide for how the abovementioned efforts will be documented, including for example maintenance of call logs and email correspondence.

b. Commercial and Print Media

Advertisements will describe the name and location of the housing development; number of units available; size and purchase prices or monthly rental cost of the units; income requirements; list of building features and amenities; a community profile with resources and features; and contact information for obtaining an application and/or additional information.

Advertisements must include the following logos: NYSHCR, Equal Housing Opportunity, and Accessibility. Advertisements must also state that the project is posted online at NYHousingSearch.gov. Advertisements should also be in the proper language for the target population. Firm date(s) and deadlines for advertising must be documented.

c. Web-based Media

In addition to NYHousingSearch.gov, free housing services sites should be utilized to advertise the Development.

The AFHMP must anticipate that information on the development will be posted on Developer's or Project Owner's website, and other social media outlets if such exist. It is expected that NYSHCR may also post links to such information on its social media outlets upon being provided with the materials in electronic format. The AFHMP must provide that the Developer will request community contacts and other outlets to distribute information through their social

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the housing counseling agency to provide the homeownership counseling. The Owner, Developer, and/or Managing agent may also use the counseling agency to provide the homeownership counseling and education, so long as such services are delivered in accordance with HUD regulations. Housing counseling staff involved in counseling and qualifying residents shall not be involved in marketing activities and the selection of residents.

networks.

#### **IV. SUPPORTIVE HOUSING & SPECIAL NEEDS PREFERENCE UNITS**

“Supportive Housing Units” are units for which there is service and operating funding awarded for supportive services through such sources as the Empire State Supportive Housing Initiative (ESSHI) or OPWDD, or who otherwise have HCR Supportive Housing Opportunities Program funding. Since these units are filled exclusively by a centralized referral system, it is not required that they be publicly marketed. (“N/A” can be entered in all fields that involve public marketing with respect to these units)

“Special Needs Preference Units” are those for which the developer committed in its application for funding to create a priority in tenant selection for persons with specific special needs. These are units that do not have an operating/supportive services award to fund the supportive services. An experienced service provider shall refer prospective tenants with Special Needs to the project and provide some level of supportive services pursuant to a written agreement approved by New York State. Unless otherwise approved by FEHO, these units must still be marketed to the general population since members of the public who are in the Special Needs population should also be able to take advantage of the admissions preference.

“Accessible Units” refer to units that, pursuant to the terms of the Project’s HCR funding, are fully accessible, adapted and move-in ready for applicants with mobility or hearing/visual impairments. This term also refers to units that must be built pursuant to the 5% and 2% accessibility design requirements under Section 504 of the Rehabilitation Act of 1973. These units are subject to marketing and outreach requirements.

Records of correspondence with supportive service provider(s) must be available on-site to document compliance with appropriate outreach for the units these units pursuant to the approved written agreement.

#### **V. OCCUPANCY PREFERENCES**

All occupancy preferences are subject to fair housing laws and must be approved by FEHO.

##### **a. Local Preference**

Indicate if the project requests a community residency preference. If a local community preference is sought:

- i. Describe the geographic scope<sup>3</sup> of the community preference.
- ii. State the reason for the requested preference. For example, what is the documented need for the community preference?
- iii. Describe the extent of the preference (*i.e.*, will the preference be effective only at initial lease-up; what percentage of units will be designated for the preference).

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<sup>3</sup> Durational requirements are not permitted under any circumstances. (*i.e.*, applicant must be a resident for a certain time frame.)



- iv. Provide demographic information<sup>4</sup> supporting that the proposed preference would not have a discriminatory effect on protected classes in violation of the Fair Housing Act and New York State Human Rights Law.<sup>5</sup>

b. Municipal Worker Preference

If a municipal worker preference is requested,

- i. Describe the scope of the municipal worker preference.
- ii. State the reason for the requested preference.
- iii. Describe the extent of the preference (*i.e.*, will the preference be effective only at initial lease-up; what percentage of units will be set aside for the preference).
- iv. Provide demographic information<sup>6</sup> supporting that the proposed preference would not have a discriminatory effect on protected classes in violation of the Fair Housing Act and New York State Human Rights Law.<sup>7</sup>

c. Other Type of Preference

Identify any other requested preference and provide responses to the following questions:

- i. Describe the type and scope of the preference.
- ii. State the reason for the requested preference.
- iii. Describe the extent of the preference (*i.e.*, will the preference be effective only at initial lease-up; what percentage of units will be set aside for the preference).
- iv. Provide demographic information<sup>8</sup> supporting that the proposed preference would not have a disparate impact on protected classes in violation of Fair Housing Act and New York State Human Rights Law.<sup>9</sup>

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<sup>4</sup> Appropriate documentation includes, but is not limited to, the most recent American Community Survey 5-Year Estimates for the geographic area receiving the occupancy preference and the surrounding geographic areas from where likely applicants are reasonably expected to reside.

<sup>5</sup> HCR's approval of a project's AFHMP that contains a tenant selection preference is not intended to establish or to serve as legal advice. Through its approval of a project's AFHMP, HCR is not providing its imprimatur of legality concerning the project's tenant selection preference or policies. It should be noted that local residency preferences—even when not intentionally discriminatory—may in practice deny equal housing opportunity or perpetuate segregation without justification and thus be prohibited by the Fair Housing Act and the New York State Human Rights Law.

<sup>6</sup> See above note 4.

<sup>7</sup> See above note 5.

<sup>8</sup> See above note 4.

<sup>9</sup> See above note 5.

## **VI. TENANT SELECTION PROCEDURES**

### **a. Lottery**

The initial selection process must be made on a random basis through the use of a lottery and not on a first-come first-served basis, with certain exceptions that must be approved by FEHO. (*e.g.*, when full rent-up of the premises is expected to take in excess of six months or if the project is occupied and rehabilitation will occur with tenants in place.)

Lottery notice and applications must be available in English, Spanish and other languages as reflected by the LLA populations.

The lottery should be conducted at a previously announced date and time and at an accessible public/community facility that is reasonably accessible to public transportation.<sup>10</sup> Through marketing and advertising materials, the public should be informed of the date, time, and location of the lottery drawing, and invited and encouraged to attend. The housing provider must advertise any housing lottery for the duration of the approved marketing period, as established by FEHO. Ask your HCR representative about Covid-related modifications to the in-person public lottery requirement.

The AFHMP must include in the description of the lottery the procedure to draw and announce those selected through the lottery. For example, each applicant's name will be announced as their name is drawn and their information will be entered in a lottery database in sequential order.

The AFHMP must also provide for the method of notification of applicants of their lottery status. For example, applicants may be notified of their lottery ranking by telephone and U.S. mail, or whatever other means of notification has been requested by the applicant and accepted by the Owner, Developer, or Marketing Agent.

The AFHMP must describe the steps to process the applications in lottery order, and that this work will be conducted by trained and experienced staff of the Owner, Developer, or Marketing Agent. This description should explain the process to identify any information or documentation that is either missing or needs to be updated in the application, process to contact applicant to request such information, and timeframe the applicant must respond. For example, applicants are given seven days in which to provide this information.

Describe steps to be taken if an applicant either withdraws or is deemed ineligible. For example, he or she will be informed of such by a letter from the Owner, Developer, or Marketing Agent of their status as ineligible or acknowledgement of withdrawal. The AFHMP must also provide applicants who do not submit complete applications an opportunity to cure before the lottery takes place. The lottery must be held at least 10 business days after the application deadline. This will allow applicants to cure any defects in their initial submissions. Additionally, this will ensure that all applications postmarked by the deadline will have time to arrive before the lottery

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<sup>10</sup> Projects that utilize the NYC Housing Connect system are exempt from the HCR requirement that the lottery take place in a location open to the public.

is held.

Detail what will be done with the applications of any qualified applicants in excess of the number of available units. For example, they could be put on a waiting list in the order in which their names were selected during the lottery, and on a first come, first served basis after all the lottery-drawn names have been exhausted, as provided in the above; or receive notification of future marketing.

Detail efforts that will be undertaken by the Owner, Developer, or Agent to ensure the confidentiality of the information provided by applicants, especially with respect to sensitive and personal information (examples include credit reports, criminal records, disability status and child support payments).

Online applications are acceptable and encouraged as long as applicants are also able to access paper and non-electronic versions as well. Links to the application or the electronic application form must be provided to NYSHCR so that it can be made available on NYSHCR's website, if appropriate. Indicate the application period and when it will close. Include instructions to applicants of who to submit applications to, the location and deadline for application submission. The application must be available upon initiation of the marketing program.

In addition to the requirement to post the project on NYHousingSearch.gov set forth earlier in this document, it is a NYSHCR requirement that all projects be listed on the NYSHCR Housing Lotteries website for a minimum of 60 days prior to the tenant application date. The Owner, Developer, and/or Managing Agent must ensure that the final FEHO-approved advertisement announcing the lottery is posted on this website *at least* 60 days prior to the tenant application date. Contact your HCR representative to ensure that this process is completed.

The AFHMP should anticipate posting the application on the Owner, Developer, and/or Managing Agent's website, as well as the Housing Development-specific website, if applicable.

b. Fees

Under New York State law, housing providers may not charge fees in connection with the processing, review, or acceptance of a prospective tenant's application, except for fees in connection with a background check or credit check. Background check and credit check fees, to the extent they are allowed pursuant to the credit policy described in Subsection e, below, are limited to the lesser of \$20, cumulatively, or the actual cost of the credit and background check. If a prospective tenant provides the housing provider with a copy of a background check or credit check conducted within the past 30 days, the housing provider must waive these fees.

c. Tenant Eligibility

State the target income ranges as defined by HCR/HUD and adjusted for household size for all affordable units.

Describe how tenant eligibility will be determined. (*e.g.*, income certification, employment

verification, creditworthiness, background check.) It should be noted that when conducting a background check of an applicant, the housing provider must use a reputable background check company. Further, the housing provider must comply with the requirements of the New York State Housing Stability and Tenant Protection Act of 2019, the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 *et. seq.* and HCR tenant selection policies including, but not limited to, the ones described below with respect to justice involvement, credit and the Violence Against Women Act.

Records about tenant selection or rejection (including copies of all rejection letters) must be kept in the project file.

Detail the appeals process for an applicant who is denied admission. Specifically, how is the tenant notified of the reason for their denial; how is the tenant notified of their right and the process to appeal; and what is the timeline for requesting and resolving appeals.

Indicate name and staff position responsible for tenant selection and appeals process (this should be two different staff persons/positions).

#### d. Assessing Justice-Involved Applicants

HCR prohibits its housing providers from utilizing tenant selection procedures with blanket exclusions of applicants based on their criminal history. Tenant selection procedures may only consider convictions or pending arrests for offenses that involved physical danger or violence to persons or property or that adversely affected the health, safety and welfare of other people.

Even where convictions for such offenses exist, those convictions cannot be an automatic bar to the applicant being selected for housing. The housing provider must do an individualized assessment of all applicants pursuant to HCR's Guide, Worksheet and Webinar Tutorial for Applying New York State's Anti-Discrimination Policies When Assessing Justice-Involved Applicants for State-Funded Housing. See <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement--assessment-policies>.

The individualized assessment is not an appeal process. Instead, it must be conducted *prior* to an initial determination of an applicant's eligibility. In certain instances in which a conviction or pending arrest was for an offense that is deemed to involve physical danger or violence to persons or property, or that adversely affected the health, safety and welfare of other people, the applicant will need to provide additional information so that an individualized assessment may be conducted. A sample request letter for additional information is included at the end of these Guidelines.

Additionally, at the time the housing provider requests additional information from an applicant with criminal convictions or pending arrests, the housing provider must provide the applicant with an application that includes information that explains the procedures and policies with regard to background checks, the applicant's right to review, contest, and explain the information contained in the background check, and the applicant's right to present evidence of rehabilitation. Compliance with this requirement shall be demonstrated by providing applicants

with HCR’s “Know Your Rights: New Anti-Discrimination Guidance Affecting it is People with Justice Involvement” available at the link above. This material should also be provided to the applicant again at the time of denial.

In the event that an applicant is denied on the basis of criminal convictions or pending arrests, the applicant must be provided with **fourteen (14) business days** to appeal such determination.

HCR’s policy concerning individuals with justice involvement requires that the housing provider maintain records concerning (a) the number of applications received where the applicant had a criminal conviction or pending arrest, and (b) the number of those applicants with criminal convictions accepted or denied as tenants. During your compliance monitoring site visits conducted by AMU within one to three years of the project’s initial lease-up and then once again every two to three years, AMU will be verifying that the housing provider can demonstrate compliance with HCR’s guidelines for assessing applicants with justice involvement.

e. Assessing the Credit History of Applicants for State-Funded Housing

HCR prohibits its housing providers from utilizing tenant selection procedures with blanket exclusions of applicants based solely on their credit scores or credit history. HCR’s credit policy requires housing providers to individually assess applicants with low credit scores or negative credit history. For the purposes of this policy, a negative credit history is defined as a credit score below 580 or 500 if the individual is homeless. The assessment should follow the policy, worksheet, and instructions laid out in HCR’s Individualized Assessment Credit Worksheet Applying New York State Credit Policy for Applicants to State-Funded Housing. (<https://hcr.ny.gov/FEHO-Credit-Policy-Guide>.) Landlords and housing providers are prohibited from conducting a credit check on applicants who are in receipt of a full rental subsidy and applicants who are able to demonstrate that they have paid their rent in full and on time during the preceding 12 months.

The worksheet to conduct an individualized assessment to determine eligibility can be found here: <https://hcr.ny.gov/FEHO-Credit-Worksheet>.

The individualized assessment is not an appeal process. Instead, it must be conducted *prior* to an initial determination of an applicant’s eligibility. In certain instances, the applicant will need to provide additional information so that an individualized assessment may be conducted. A sample request letter for additional information is included at the end of these Guidelines. The applicant must be allowed **14 business days** to submit relevant information or documentation to explain or mitigate negative findings.

Additionally, at the time the housing provider requests additional information from an applicant with a low credit score or negative credit history, the housing provider must also provide the applicant with an application that includes information that explains the procedures and policies with regards to credit history. Compliance with this requirement shall be demonstrated by providing the applicants with HCR’s “Know Your Rights” materials. (<https://hcr.ny.gov/KYR-Credit>.) In the event that an applicant is denied on the basis of credit history, the applicant must be provided with fourteen (14) business days to appeal such determination.

The following information may not be considered in this individualized assessment pursuant to the credit policy:

- Debt to income ratios;
- Lack of credit history or rental history;
- Housing court history or past or pending landlord-tenant action;
- Guarantors or co-signers, with the exception of not-for-profits or government entities acting on behalf of their clients;
- Home visits or representations of the applicant's living situation; or
- Outreach to current or previous landlords, neighbors or others associated with the Applicant's living situation, except (1) as specifically authorized by the Applicant to obtain a current or previous landlord's written record of rent payment, or (2) to obtain information from a current or previous landlord regarding Applicant's history of major lease violations (e.g., nonpayment of rent or use of premises for illegal purposes). Housing providers are prohibited from seeking any additional information not specifically set forth above regarding the Applicant's living situation, and such additional information, if provided, may not be used as the basis to reject an Applicant.

HCR's policy concerning credit history requires that the housing provider maintain records concerning (a) the number of applications where the applicant had a low credit score or negative credit history, and (b) the number of those applicants with low credit scores or negative credit histories accepted or denied as tenants. During your compliance monitoring site visits conducted by AMU, the AMU staff will be verifying that the housing provider can demonstrate compliance with HCR's guidelines for assessing applicants with low credit scores or negative credit histories. Please note that HCR's credit policy does not waive any rights or responsibilities under federal, state or local law, including, but not limited to the New York State Housing Stability and Tenant Protection Act of 2019 and the Fair Credit Reporting Act (FCRA). Among other provisions, FCRA requires that individuals (1) must be told if information in their credit report has been used against them, (2) must be allowed access to their credit report, and (3) have the right to dispute inaccurate or incomplete information contained in a credit report. For more information on FCRA, please review the following document produced by the Federal Trade Commission. (<https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>).

f. Compliance with the Violence Against Women Act ("VAWA")

Under VAWA, potential tenants and current tenants who are victims of domestic violence, dating violence, sexual assault, or stalking cannot be denied tenancy or evicted as a result of an incident of domestic violence, dating violence, sexual assault, or stalking that is reported and confirmed. These protections extend to women, men, and people in same-sex relationships.

The owner/manager must comply with the provisions of the VAWA final rule, published on November 16, 2016, including adopting an emergency transfer plan and providing a VAWA notice of occupancy rights and a certification form to tenants at the time a person applies for housing, when a person is denied tenancy, when an applicant signs a lease agreement, with any notification of eviction or termination of assistance and at the annual recertification or lease renewal process. The owner/manager must also implement a VAWA lease addendum for all current and new tenants.

Additional information concerning the owner/manager's obligations and protections under VAWA is available at <https://hcr.ny.gov/fair-housing-marketing-plans-policies#violence-against-women-act>

## **VII. ACCESSIBILITY POLICIES OF MANAGEMENT**

### **a. Reasonable Accommodations**

Describe the process and timeline concerning how requests for reasonable accommodations will be handled. Also indicate who will be authorized to approve or deny any such requests. State the policies and procedures that will be used to verify an applicant's disability—noting that such information will be limited to only that which is needed to determine the reasonableness of a particular accommodation.

Describe management's written policy for persons with disabilities that require service animals and/or assistance animals.

Describe any procedures established to accommodate hearing and sight impaired applicants and tenants. (*i.e.*, readers, sign language, interpreters, and Braille materials.) State whether the project has a Telecommunication Device for the Deaf (TDD) or an equally effective communication system? (Note: If the complex has Section 8 assistance from HUD, the complex is required to have a TDD.)

### **b. Fully Adapted Units**

Fully-accessible and adapted, move-in-ready units should be reserved for persons with mobility, hearing and/or visual disabilities.

The AFHMP should provide that community contacts that directly serve persons with mobility, hearing and/or visual disabilities are to be notified through letters, emails, and/or information packets that include leaflets/brochures, followed by personal contact conducted by the developer or marketing agent.

Upon initiation of the marketing period, a letter must be sent by regular mail or email to each of the community contacts listed in the AFHMP requesting that they advise their constituencies and clients of the availability of these units and encourage them to take advantage of this housing opportunity. The letter must indicate the number and type of fully-accessible and adapted, move-in-ready units the project will provide.

The AFHMP must describe the follow-up efforts with regard to each letter, such as calls to the contact person to explore the most effective outreach approach to their respective constituencies and clients.

Correspondence (letter/emails etc.) to be sent to community contacts should be attached to the AFHMP.

## **VIII. SMOKING POLICY**

Indicate if the project is smoking or non-smoking. Describe the policy to be implemented, and attach a copy of any policies or written materials concerning non-smoking rules and/or any lease addendums.

If non-smoking, indicate in all marketing and community outreach materials that this is a non-smoking facility and add the “No Smoking” logo to all marketing materials. Also indicate if there will be a smoking area provided outdoors.

## **IX. AFFIRMATIVE FAIR HOUSING MARKETING & RECORD KEEPING**

All advertising and records of dates of publication shall be kept on file in the project’s management office. A copy of the AFHMP will be kept on file for future auditing purposes and a copy provided to the Managing Agent.

All staff Fair Housing training certificates must be kept on file for five years and should be attached to the AFHMP submitted to FEHO for approval.

Records of outreach to special interest groups, LLA media and community contacts, and agencies providing referrals shall be kept on file in the project’s management office.

Records of complaints and resolutions by tenants and applicants alleging discrimination and/or improper conduct shall be retained for three years in the project’s file.

All records of the Lottery Log, Applicant Wait List and Transfer Wait List (if applicable) shall be kept on file.

Voluntary data regarding race, ethnicity, disability, and family composition should be collected and kept in the project file.

During your compliance monitoring site visits conducted by AMU, AMU will be verifying that the housing provider can demonstrate compliance with these recordkeeping requirements.

## **X. EVALUATION OF MARKETING ACTIVITIES**

AFHMPs should be reviewed on an annual basis to determine if changes should be made. Furthermore, AFHMPs must be updated every five (5) years to fully capture demographic changes in the housing’s primary market area.

Describe how the success of the affirmative fair housing marketing efforts will be evaluated. Include a discussion of corrective measures to be taken if LLA populations are poorly represented at the project.



## **XI. FAIR HOUSING EXPERIENCE/TRAINING**

All management or sales staff must receive training on federal, New York State, and local fair housing laws. The Developer, Marketing Consultant, Property Manager and/or Marketing Agent will instruct their employees and agents (orally and in writing) concerning nondiscrimination in housing. These employees and agents will attend workshops on fair housing. Attach any evidence of trainings. (*i.e.*, certificates)

Identify any fair housing training conducted for, or attended by, the managing agent, owner or developer. Also identify training regarding project's tenant selection guidelines in accordance with the project's occupancy policies. If the staff has not been trained, indicate when and what future trainings are planned (including any Section 504/reasonable accommodation trainings). Training should include federal, New York State and local fair housing laws and regulations.

## **XII. CONTINUED COMPLIANCE AND MODIFICATION OF THE AFHMP**

The AFHMP shall state that the Property Owner and its Agents are responsible for implementing the entirety of the AFHMP, as approved by the HCR. The AFHMP should also state that the Property Owner and its Agents further agree to comply with any changes required by HCR, as it may be amended from time to time to ensure continued compliance with federal and New York State requirements.

Any changes will require that the Property Owner or its Agents submit an amendment to the AFHMP to HCR for approval.

## **XIII. ACKNOWLEDGEMENT AND CERTIFICATION**

The AFHMP must be signed by an authorized official of the Property Owner and, if a Marketing Agent or Property Management agency is to be involved, by these entities as well.

The signatories assume responsibility for the AFHMP's implementation and agree to make any changes which may be required to assure continued compliance with the affirmative fair housing marketing regulations, as well as all applicable federal, New York State, and local fair housing provisions. These obligations are to be incorporated into any future agreements related to the sale or transfer of the housing binding a new or subsequent owner.

## **XIV. DISCLAIMER**

The obligation to ensure that the project's AFHMP complies with all applicable federal, New York State, and local fair housing laws and regulations lies with the Owner, Developer, and/or Managing Agent. HCR's approval of the project's AFHMP is not intended to establish or to serve as legal advice.

In consideration of HCR approving the project's AFHMP allowing the Owner, Developer, and/or Managing Agent to market the project, the Owner, Developer, and/or Managing Agent agree to hold HCR harmless from all liabilities, damages, costs or expenses (including but not

limited to reasonable attorneys' fees and other litigation costs and expenses) incurred for any alleged violations of federal, New York State, and/or local fair housing laws and regulations which arise during or result from the implementation of the project's AFHMP, regardless of whether or not caused in whole or part by the negligence or other fault of HCR.

## Model Letter Requesting Additional Information from Applicant with a Qualifying Justice Involvement

Re: [Insert Project Name]

Dear [Resident Name]:

Thank you for your application for an apartment at [Insert Project Name]. As a result of a routine background check that is conducted on all applicants, we understand that you have a criminal conviction or pending arrest that involved physical danger or violence to persons or property or that adversely affected the health, safety and welfare of other people. In order to evaluate your eligibility for housing at [Insert Project Name], we require some additional information. More information on the relevant policy can be found here: <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement--assessment-policies>. THIS IS ONLY A REQUEST TO PROVIDE ADDITIONAL INFORMATION. THIS IS NOT A DENIAL OF YOUR APPLICATION.

Please provide the following information to us no later than 14 business days following the postmarked date of this notification. *None of this information is required.* They are examples of information you could provide in order to conduct an assessment of your eligibility.

- Evidence of participation in alcohol or drug treatment, if applicable.
- Evidence of participation in any other kind of rehabilitative program.
- Evidence of employment following conviction or release from incarceration, or, if no employment, evidence of productive use of time (e.g., community engagement or volunteer work).
- Evidence of history of good tenancy.
- Letters of recommendation from members of the community (indicating relation of the writer to the applicant).
- Any other evidence of rehabilitation that may be relevant.

The information may be sent to us in hard copy at [Insert Street Address] or via email at [Insert Email Address].

Sincerely,

## **Model Letter Requesting Additional Information from Applicant Regarding New York State Credit Policy for Applicants to State-Funded Housing**

Re: [Insert Project Name]

Dear [Applicant]:

Thank you for your application for an apartment at [Insert Project Name]. As a result of a routine credit check that is conducted on all applicants, we have flagged a low credit score or negative credit history. A copy of the findings and a copy of your credit report is attached. In order to evaluate your eligibility, we are required to give all applicants an opportunity to present information that might correct or mitigate the negative findings of the credit report. More information on the relevant policy can be found here: <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement--assessment-policies>.

Your application may not be denied based on delinquencies stemming from student loan or medical debt.

**THIS IS ONLY A REQUEST TO PROVIDE ADDITIONAL INFORMATION. THIS IS NOT A DENIAL OF YOUR APPLICATION.**

If you choose to submit mitigating information, please provide the following information to us, as relevant, no later than 14 business days following the postmarked date of this notification.

- If you are a survivor of domestic violence, dating violence, sexual assault, or stalking, evidence that the negative history is a direct result of such crime;
- Evidence of positive rental history, indicating consistent, on-time rental payments in either the past 12 months or the 12 months prior to the COVID-19 Pandemic (March 1, 2019 – March 1, 2020)? ;
- Evidence that the negative history is a result of a period of incarceration;
- Evidence that the negative history is a result of deployment in the US Armed Forces;
- Evidence that the negative history is due to an episodic financial crisis that no longer exists (e.g., temporary or short-term unemployment, illness, etc.);
- Evidence that bankruptcy and other delinquencies occurred (1) during the State of Emergency in New York State (March 7, 2020 through June 23, 2021) and are (2) due to financial hardship caused by the COVID-19 Pandemic.
- Evidence that you are now in receipt of a rental subsidy or subsidies that would directly pay the rent in its entirety;
- Evidence of errors in credit reporting;
- Evidence of settlement in delinquent accounts;
- Or any other mitigating information that may be relevant in assessing your history and eligibility.

The information may be sent to us in hard copy at [Insert Street Address] or via email at [Insert Email Address].

Sincerely,