

Affirmative Marketing: TDHCA Guidance

Presented by:

Texas Department of Housing and Community Affairs



DISCLAIMER

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Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Housing and Urban Development.



Before We Start

- All materials and recordings of this webinar will be available on the TDHCA website.
- If you have any questions, please enter them into the question chat box – after every segment, we will answer the questions in the chat box.
- This training is informational only and does not satisfy the requirements in 10 TAC §10.402(e)(1)-(2) for post bond closing documentation (for Multifamily Bond transactions) and documentation submitted for the 10 Percent Test (for Housing Tax Credits).



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Fair Housing Act

Affirmative Marketing Overview

Affirmative Marketing Plan Requirements

How to Develop an Affirmative Marketing Plan
for Single Family and Multifamily Programs

Procedures for Implementing an Affirmative
Marketing Plan

Agenda



Learning Objectives

Understand

Understand Affirmative Marketing and Fair Housing

Develop

Know how to Develop an Affirmative Marketing Plan

Implement

Know how to Implement an Affirmative Marketing Plan





Federal and Texas Fair Housing Acts

The Fair Housing Act

- It is the policy of the United States to provide, within constitutional limitations, for fair housing through the United States. No person shall be subjected to discrimination because of their race, color, religion, sex, handicap (disability), familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services or in the availability of real estate-related transactions. (24 CFR §100.5(a))
- Section 808(e)(5) of the Fair Housing Act is to affirmatively further the purposes of the Fair Housing Act, which includes ensuring positive outreach and informational efforts to those who are least likely to know about and apply for housing



Affirmative Marketing Overview

Affirmative fair housing marketing and outreach is a requirement per statute, executive order and regulation. Statutory authority exists in the:

Fair Housing Act

Section 504 of the Rehabilitation Act of 1973

Title VI of the Civil Rights Act

Also, Executive Order 11063 provides that all Federal executive departments and agencies must act to end discriminatory practices for properties receiving federal financial assistance.

Affirmative
Fair Housing
Marketing
Plan
Authorities



Multifamily Affirmative Fair Housing Marketing - Policy

- All applicants for participation in Federal Housing Agency (FHA) subsidized and unsubsidized multifamily housing programs with five or more units (24 CFR §200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR §200.625, and in accordance with the requirements in 24 CFR §200.620.

Affirmative Fair Housing Marketing Requirements for HOME, NHTF, and NSP

- All applicants for participation in rental and homebuyer projects containing
 - Five or more HOME-assisted housing units (24 CFR §92.351); or
 - Five or more NHTF-assisted housing units (24 CFR 93.350)

must complete the Affirmative Marketing procedures and requirements as specified in 24 CFR §200.625



Spirit of the HUD Requirements

- Carry out an affirmative program to attract buyers or tenants, regardless of protected class, to housing for sale or rental.
- Maintain a nondiscriminatory hiring policy in recruiting
- Instruct all employees and agents in writing and orally in the policy of nondiscrimination and fair housing.
- Prominently display the HUD-approved Fair Housing Poster
- Include HUD-approved Equal Housing Opportunity logo, slogan, or statement in any printed material.





TDHCA Requirements

Per 10 TAC §10.617 and §10.801

- All TDHCA multifamily properties are required to develop and carry out an Affirmative Marketing Plan.
- An Owner must update its Affirmative Marketing Plan and populations that are least likely to apply **every five years from the effective date** of the current plan.

Multifamily Requirements



Per 10 TAC §20.9(2)d:

An Administrator of a TDHCA administered single family program must have an Affirmative Fair Housing Marketing Plan. The plan must be updated and submitted to the Department:

- each time the Administrator applies for a new contract

OR

- each time the Administrator applies for a new type of activity

AND

- at a minimum of every three years if the Administrator continues to accept new applications.

The Administrator may submit a previously approved plan if no changes need to be made.

Single Family Requirements



HUD Affirmative Marketing Plan Forms

Multifamily

HUD form 935.2A (Required if
you receive HUD funding
through TDHCA)

OR

A comparable format (for
properties not receiving HUD
funding)

Single Family

HUD form 935.2B

OR

TDHCA Form

OR

An equivalent plan that
includes all elements in 10 TAC
§20.9(d)(1)



Help for Texans

Dev

Communities & Nonprofits



- Asset Management
- Bond Finance
- Closing Status Database
- Compliance
- Fair Housing
- Financial Administration
- Housing Resource Center
- Human Resources
- Information Systems
- Internal Audit
- Loan Servicing
- Migrant Labor Housing

- Main
- Housing Contract System
- Online Reporting
- Manuals and Rules
- Forms
- Reports
- Training
- Utility Allowances
- Income and Rent Limits

Single Family Affirmative Marketing Tool

- [Single Family Affirmative Marketing Tool](#)
- [TDHCA form, Single Family Affirmative Marketing Plan for HOME and NSP \(DOC\)](#)
- [TDHCA form, Single Family Affirmative Marketing Plan for Colonias \(DOCX\)](#)
- [HUD 935.2B Affirmative Marketing Form \(Current Version - PDF\)](#)
- [Single Family Affirmative Marketing Technical Assistance Guide \(PDF\)](#)
- [Source document, Single Family Affirmative Marketing Tool \(PDF\)](#)
- [Language Access Plan, Guidance and Example Plan \(DOC\)](#)

Affirmative Marketing Plans

- [HUD 935.2A Affirmative Marketing Form \(Previous Version - PDF\)](#)
- [HUD 935.2A Affirmative Marketing Form \(Current Version - PDF\)](#)

• <https://www.tdhca.state.tx.us/pmcomp/forms.htm>

Forms on TDHCA Site





How to Determine “Least Likely to Apply Populations”

Service Area Demographic Data

For Multifamily Properties, this will be your covered service area, which might look different depending on where your property is located in Texas.

For Single Family Programs, this will be the service area covered in your TDHCA contract.

Single Family programs are not required to use the TDHCA-provided Single Family Affirmative Marketing Tool, but it is highly recommended. If they do not use the tool, they will need to follow the same steps as a multifamily program participant.

Find the single family affirmative marketing tool:
<https://www.tdhca.state.tx.us/pmcomp/sf-amt.htm>



Elderly Developments

- Elderly Developments that meet the Housing for Older Persons Act definition and are not required by regulation, use agreement, or zoning to house households with children are not required to affirmatively market based on familial status. This group is not a least likely to apply population.
- However, **Elderly Developments that must accept otherwise qualified households with children** (which are most developments funded by HUD or USDA) **need to analyze whether this protected class is least likely to apply.**



Veterans and Other Populations

- Some LURAs require additional marketing to specific populations, such as veterans or farmworkers. This is a TDHCA requirement but not an affirmative marketing requirement, and outreach to these populations does not satisfy the community contacts for affirmative marketing purposes.



Multifamily Property Demographic Data

- Established properties, or properties that are not currently in lease up, should have basic demographic data about the tenants living on the property.
 - This should include race, sex, if there are children under 18 in the household, and whether the occupants are Hispanic.
- Ideally, you will want to use this data along with the American Community Survey to determine your least likely to apply populations.

What if I don't have property demographics?

- It's possible that you won't. Your property may be in lease-up or you may have just inherited your property from a different owner who did not keep this data or took it with them.
- You will need to use data from your census tract instead. To find out what your property's census tract is, you can use either of these tools:
 - <https://geocoding.geo.census.gov/geocoder/geographies/address?form>
 - <https://geomap.ffiec.gov/FFIECGeocMap/GeocodeMap1.aspx>
- The second tool includes a link to some of the necessary demographic data, but it does not have data on households with children

The screenshot shows the FFIEC Geocoding Map tool interface. At the top, there is a search bar with "Year: 2020" and "Address: 302 Crosstimbers St, Houston Tx 77022". Below the search bar is a table titled "Matched Address" with the following data:

Matched Address	
Address	302 CROSSTIMBERS ST, HOUSTON, TX, 77022
MSA/MD Code	26420
State Code	48
County Code	201
Tract Code	5304.00
MSA/MD Name	HOUSTON-THE WOODLANDS-SUGAR LAND, TX
State Name	TEXAS
County Name	HARRIS COUNTY

Below the table is a button labeled "Census Demographic Data". To the right of the table is a map showing the location of the address. A pop-up window titled "Census Demographic Data" is visible over the map, showing a value of 5318.00. The map also shows other street names and values, such as 5308.00.

Applies to multifamily programs and single family programs not using the Single Family Affirmative Marketing Tool

American Community Survey

When determining least likely to apply populations, the American Community Survey (ACS), which is like the decennial Census, except that it is conducted every year, is the best data source to compare your property's demographics against.

Can be found at <https://data.census.gov/cedsci/>

Search for "dp05"

This is the name of the ACS data table that will have demographic data for you to compare with

Explore Census Data

The Census Bureau is the leading source of quality data about the nation's people and economy.

<input type="text" value="dp05"/>	<input type="button" value="SEARCH"/>
DP05: ACS DEMOGRAPHIC AND HOUSING ESTIMATES	
Advanced Search	



ACS DEMOGRAPHIC AND HOUSING ESTIMATES

Survey/Program: American Community Survey TableID: DP05 Product:

Notes Selections Geos Years Topics Surveys Codes 123

	United States
Label	
SEX AND AGE	
Total population	328,

2019: ACS 1-Year Estimates Data Profiles

2019: ACS 5-Year Estimates Data Profiles

2018: ACS 1-Year Estimates Data Profiles

2018: ACS 5-Year Estimates Data Profiles

2017: ACS 1-Year Estimates Data Profiles

2017: ACS 5-Year Estimates Data Profiles

2016: ACS 1-Year Estimates Data Profiles

Map

American Community Survey, Cont'd

Determine your market area. This is usually going to be either the county that your property is in or the Metropolitan Statistical Area (MSA). The market area is basically the area from which most of your applicants will come.

IMPORTANT NOTE: Before you do anything else with the ACS table DP05, make sure you change the product to the most recent *5-year estimates data profile*



American Community Survey, Cont'd

Change the ACS Demographics and Housing Estimates Table (Table DP05) to the correct geography. Select either "County" or "Metropolitan Statistical Area/Micropolitan Statistical Area" and follow the prompts to find your county or MSA

ACS DEMOGRAPHIC AND HOUSING ESTIMATES

Survey/Program: American Community Survey TableID: DP05 Product: 2019: ACS 5-Year Estimates Dat

Notes Selections **Geos** Years Topics Surveys Codes 123 Hide Transpose Filter Margin of Error

GEOGRAPHY

Show Summary Levels

Corporation

American Indian Area/Alaska Native Area/Hawaiian Home Land

Metropolitan Statistical Area/Micropolitan Statistical Area

Combined Statistical Area

New England City and Town Area

Urban Area

houston

- Houston-The Woodlands-Sugar Land, TX Metro Area
- Houston-Sugar Land-Baytown, TX Metro Area
- Houston-Sugar Land-Baytown, TX Metro Area -- In metropolitan or

// Search / Tables / DP05

ACS DEMOGRAPHIC AND HOUSING ESTIMATES

Survey/Program: American Community Survey TableID: DP05 Product: 2019: ACS 5-Year Estimates Data Profiles

Notes Selections **Geos** Years Topics Surveys Codes 123 Hide Transpose Restore Export Download Filter Margin of Error

GEOGRAPHY

Show Summary Levels

Nation

Region

Division

State

County

Tract

texas

Texas

harris

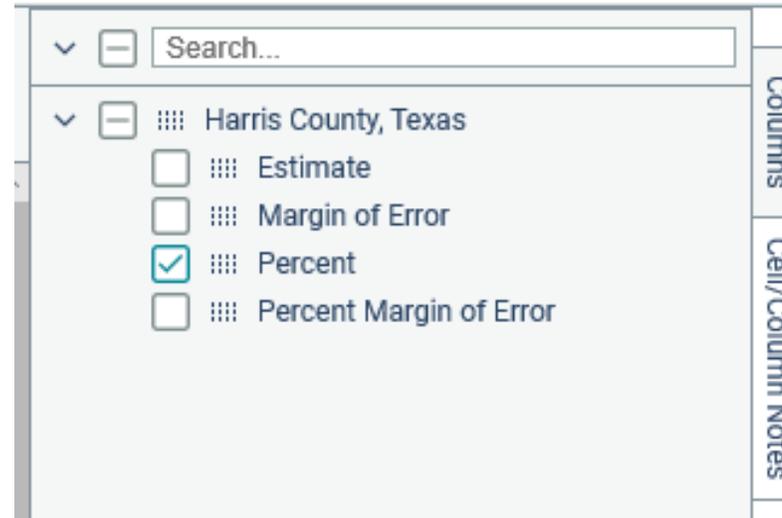
- Harris County, Texa
- Harrison County, Te
- Harris County, Texa farm
- Harris County, Texa
- Harrison County, Te

Selected Geographies:



American Community Survey, Cont'd

- Once you have selected your geography, you're almost done!
- Click the "Hide" button and de-select everything except "Percent"



- Once you have done that, you can now copy the demographic data into your worksheet (the HUD 935.2A worksheet in Appendix A is super helpful for this) and compare your property demographics to the demographics of your market area.
- Make sure to save the property and market area data to submit with your Affirmative Marketing Plan

What if I don't have property demographics, cont'd

- Using the American Community Survey, just like you did with your market area, select table DP05 for your census tract.
- Remember to select the most recent **5-year estimates data profile** under "Product."

// Search / Tables / DP05

ACS DEMOGRAPHIC AND HOUSING ESTIMATES
Survey/Program: American Community Survey TableID: DP05 Product: 2019: ACS 5-Year Estimates Data Profiles

Notes Selections 1 Geo Years 2 Topics Surveys Codes 123 Hide Transpose Margin of Error Restore Export Download More Data Map

GEOGRAPHY
 Show Summary Levels
Nation
Region
Division
State
County
Tract

WITHIN (STATE)
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin

WITHIN (COUNTY)
Harris County, Texas
Hamilton County, Texas
Hansford County, Texas
Hardeman County, Texas
Hardin County, Texas
Harris County, Texas
Harrison County, Texas
Haskell County, Texas

5304
 Census Tract 5304, Harris County, Texas

Selected Geographies: Census Tract 5304, Harris County, Tex...
Geography



Households with Children

- You must include Households with Children in your analysis if:
 - You are participating in a TDHCA-monitored Single Family program
 - A TDHCA-monitored Multifamily Property
 - Exception: if you qualify as a Housing for Older Persons Act AND you do not have any HUD funding that requires you to accept households with children
- To find the ACS data on Households with Children, follow the same steps outlined the in previous slides for the ACS table S1101

// Search / Tables / S1101

HOUSEHOLDS AND FAMILIES
 Survey/Program: American Community Survey TableID: S1101 Product: 2019: ACS 5-Year Estimates Subject Tables

Notes Selections 1 Geo Years Topics Surveys Codes 123 Hide Transpose Margin of Error Restore Excel Download More Data Map

GEOGRAPHY
 Show Summary Levels

010 - United States
 020 - Region
 030 - Division
 040 - State
 050 - County
 060 - County Subdivision

tex Harris County, Texas
 Harrison County, Texas

Search Within Harris County, T

Census Tract 5304, Harris County, Texas
 Census Tract 5305, Harris County, Texas
 Census Tract 5306, Harris County, Texas
 Census Tract 5307, Harris County, Texas

Selected Geographies: Census Tract 5304, Harris County, Texas

SELECTED HOUSEHOLDS BY TYPE

Households with one or more people under 18 years	36.1%	±8.5	50.7%	±17.2	81.9%	±19.4
Households with one or more people 60 years and over	41.0%	±8.2	46.4%	±17.2	19.3%	±19.9

Multifamily Properties

HUD 935-2A: Section 3a-b, Worksheet 1

3a. Demographics of Project and Housing Market Area

Complete and submit Worksheet 1.

3b. Targeted Marketing Activity

Based on your completed Worksheet 1, indicate which demographic group(s) in the housing market area is/are *least* likely to apply for the housing without special outreach efforts. (check all that apply)

- White American Indian or Alaska Native Asian Black or African American
 Native Hawaiian or Other Pacific Islander Hispanic or Latino Persons with Disabilities
 Families with Children Other ethnic group, religion, etc. (specify)

Worksheet 1: Determining Demographic Groups Least Likely to Apply for Housing Opportunities (See AFHMP, Block 3b)

In the respective columns below, indicate the percentage of demographic groups among the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area (See instructions to Block 1e). If you are a new construction or substantial rehabilitation project and do not have residents or project applicant data, only report information for census tract, housing market area, and expanded market area. The purpose of this information is to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability. If there is significant under-representation of any demographic group among project residents or current applicants in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. Please indicate under-represented groups in Block 3b of the AFHMP. **Please attach maps showing both the housing market area and the expanded housing market area.**

Demographic Characteristics	Project's Residents	Project's Applicant Data	Census Tract	Housing Market Area	Expanded Housing Market Area
% White					
% Black or African					





Community Contacts

Contact Examples

People with Disabilities

- Local Centers for Independent Living (CIL)
- Aging and Disability Resource Center (ADRC)
- Local Mental Health Authority (LMHA)
- Local Non-profits in your area serving individuals with disabilities
- 211

Black/African American

- Black Chamber of Commerce
- Local NAACP (National Association for the Advancement of Colored People) Chapter
- Historically Black Churches/Places of Worship
- Local Black Newspaper/Radio Stations/Media Outlets



Veterans and Other Populations

General Marketing

Marketing to the general population, but also includes marketing to veterans, farmworkers, or other populations required by program regulations. Does not count toward Affirmative Marketing.

Affirmative Marketing

Marketing to specific protected class groups that is a requirement of the Fair Housing Act's charge to Affirmatively Further Fair Housing. Done in addition to General Marketing.



What if I can't find contacts for a population?

- If you can't find any contacts for your least likely to apply populations, document those reasons within your Affirmative Marketing Plan. These reasons must be provided with supporting evidence of your efforts.

What if I Can't Find Contacts: An Example (Part 1)

- Aside from the types of groups already mentioned, you may want to look at where the people in your community work.
- Example: Slaton, TX has a population of 3,000 and is in Lubbock County, TDHCA Region 1. The Single Family Affirmative Marketing Tool indicates that "Asian" is a least likely to apply population for your activity:

Activity: Rehabilitation

- HOME Contract for Deed
- HOME Homeowner Rehabilitation Assistance

Least Likely to Apply Populations:

Race: Asian

Ethnicity: None

Other Groups: Persons with Disabilities, Households with Children

- Slaton has a very small Asian population, so there are just no community contacts serving that group.



What if I Can't Find Contacts: An Example (Part 2)

- Where does your community work?
 - OnTheMap – a Census Bureau tool that can help you figure this out!
 - <https://onthemap.ces.census.gov/>
 - Search for your city/town/county and click "Perform Analysis"
 - Use the settings below to figure out where the people in your area work (Use the most recent year)

Analysis Settings

Destination Analysis in 2018 by All Jobs

Home/Work Area	Analysis Type	Year	Job Type
Determines whether the selection area is analyzed on where workers live ("Home") or where workers are employed ("Work"). <input checked="" type="radio"/> Home <input type="radio"/> Work	Determines the type of results that will be generated for the selected area. <input type="radio"/> Area Profile Labor Market Segment: All Workers <input type="radio"/> Area Comparison Areas to Compare: Places (Cities, CDPs, etc.) Labor Market Segment: All Workers <input type="radio"/> Distance/Direction <input checked="" type="radio"/> Destination Destination Type: Places (Cities, CDPs, etc.) <input type="radio"/> Inflow/Outflow Note: Home/Work choice does not affect results	Determines the year(s) of data that will be processed in the analysis. <input checked="" type="checkbox"/> 2018 <input type="checkbox"/> 2017 <input type="checkbox"/> 2016 <input type="checkbox"/> 2015 <input type="checkbox"/> 2014 <input type="checkbox"/> 2013 <input type="checkbox"/> 2012 <input type="checkbox"/> 2011 <input type="checkbox"/> 2010 <input type="checkbox"/> 2009 <input type="checkbox"/> 2008 <input type="checkbox"/> 2007 <input type="checkbox"/> 2006 <input type="checkbox"/> 2005 <input type="checkbox"/> 2004	Determines the scope of jobs that will be processed in the analysis. <input checked="" type="radio"/> All Jobs <input type="radio"/> Primary Jobs <input type="radio"/> All Private Jobs <input type="radio"/> Private Primary Jobs

Cancel Go!

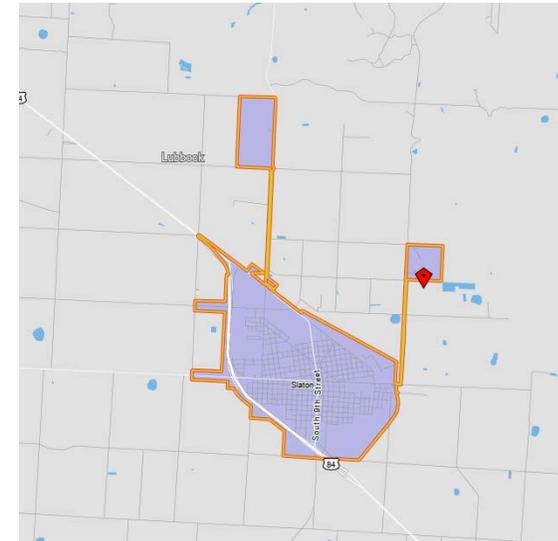
What if I Can't Find Contacts: An Example (Part 3)

Only 11% of the people living in Slaton also work in Slaton.

53% of the people living in Slaton work in Lubbock.

Lubbock Asian grocers, Asian chambers of commerce, and other groups serving a primarily Asian clientele would be possible contacts in Lubbock.

Not all towns will have such an obvious answer, but document taking steps like these so you have evidence that you looked for contacts.



**Jobs Counts by Places (Cities, CDPs, etc.)
Where Workers are Employed - All Jobs**

	2018	
	Count	Share
All Places (Cities, CDPs, etc.)	2,657	100.0%
Lubbock city, TX	1,405	52.9%
Slaton city, TX	294	11.1%
Post city, TX	59	2.2%
Amarillo city, TX	41	1.5%
Dallas city, TX	38	1.4%
Levelland city, TX	36	1.4%
Midland city, TX	36	1.4%
Houston city, TX	28	1.1%
Odessa city, TX	21	0.8%



Media Outlets



Procedures for Implementing Plan

Marketing and Outreach

Per 10 TAC §10.801(d)(1) - Multifamily

- (1) the plan must include special outreach efforts to the "least likely to apply" populations through specific media, organizations, or community contacts that work with least likely to apply populations or work in areas where least likely to apply populations live. The outreach efforts identified in the Affirmative Marketing Plan must be performed by the Development at least once per calendar year.

Per 10 TAC §20.9(d)(2)(B) – Single Family

- (B) An Administrator that currently has an existing list of Applicants and are not accepting new Applicants or establishing a waitlist are not required to affirmatively market until preparing to accept new Applications, but must develop a plan.

Fair Housing Logo





Affirmative marketing efforts for each of the identified populations least likely to apply must begin at least six months prior to the anticipated date the first building is to be available for occupancy for Multifamily properties.

For Single Family programs, marketing efforts must occur for every new contract, or new type of activity.



Affirmative Marketing Plans and populations that are least likely to apply **every five (5) years for Multifamily** properties and every **three (3) years for Single Family** programs from the effective date of the current plan



Marketing activities for multifamily properties should be conducted at least annually.

Timeframes and Recordkeeping

Affirmative Marketing Exception

If your waitlist is closed, Affirmative Marketing is not required. Affirmative Marketing is required as long as the Owner or Administrator is accepting applications, has an open waitlist, or is marketing prior to placement in service.

HOW TO SUBMIT YOUR PLAN FOR REVIEW

Email your plan to:

Fair.Housing@tdhca.state.tx.us



TRAINING & TECHNICAL ASSISTANCE

Contact the Texas Department of Housing and Community Affairs

at

(512) 475-0306

Fair.Housing@tdhca.state.tx.us

FHEOI@tdhca.state.tx.us





Questions?



Thanks for your
Participation!