

April 27, 2021 Affirmative Marketing: TDHCA  
guidance.

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>> The broadcast is now starting. All attendees are in listen-only mode.

>> Nathan Darus: Good afternoon. My name is Nathan Darus with the Texas Department of Housing and Community Affairs. I want to welcome you to our Affirmative Marketing guidance webinar today. We're going to get started in approximately five minutes, so

So at 2:05. I just want to get a couple of items of housekeeping out of the way while we give people time to join and take care of any technical issues that may arise. So during the presentation today, we will be trying to answer questions.

Go ahead and put any questions that you have into the questions box and we will try to cover them either as we go or maybe at the end of the webinar, depending upon how complicated the question is or how well it fits into the timing.

The other thing that you may notice is that we do have some handouts for this webinar in the handouts section of the Go-to Webinar. Included in those are today's slides so if you want to take notes and follow along, those are included there for you in a PDF format.

If you want to make sure that your audio is working properly, go ahead and open the audio tab and can you use the sound test option there to make sure that you're getting best audio experience possible.

And then finally, before -- while we're waiting for everyone to get in and situated we're going to go ahead and put up a poll. If you could go ahead and answer as best you can. It's not a test. There's no right or wrong answer. We just want to get an idea of who is joining us today and what they'd like to get out of today's webinar.

So without further adieu, I will put that poll up and we're going to get started at 2:05.

[Poll question].

>> Nathan Darus: Good afternoon again everybody and welcome to the Affirmative Marketing training webinar today presented by the Texas Department of Housing and Community Affairs. Included as your handout -- included in your handouts you'll find today some of the forms that while be going over as well as some technical assistance documents and the slides for today.

If you want to print those out, go ahead and do so. You can take notes as we go along.

My name is Nathan Darus and I'm the Fair Housing specialist at the Texas Department of Housing and Community Affairs, and I'm really glad to see a lot of you here today. Today's training is obviously on Affirmative Marketing and it looks like about half of everybody here is with a property management company, either on-site or with compliance staff. And then the rest of you are split out between non-profit and advocacy organizations and state and local governments.

So it's a pretty good mix today, but a lot of property management.

Just a quick disclaimer for today's webinar, this material is based on work supported by the U.S. Department of Housing and Urban Development, but the views and findings expressed in this training do not necessarily reflect the views of the U.S. Department of Housing and Urban Development.

And then before we begin, again, just a little bit of housekeeping. I want to note that all materials and recordings of this webinar will be available on the TDHCA

website. If you have any questions, please enter them into the questions box.

After every segment we will try to answer the questions in there or may hold them off to the end. It depends on how they relate to what the current topic is.

This training is informational only and it does not satisfy requirements for post-bond closing documentation or for the 10 percent test for housing tax credits.

So if you are here, we will not be able to -- you will not get credit for that particular purpose, but we do recommend that you stick around because it is still going to be full of good information that you may find useful.

This session is probably going to last approximately 90 minutes, and it will be presented primarily by myself, Nathan Darus, the Fair Housing specialist here at TDHCA, and with me is Cate Tracz, the Fair Housing manager.

So these are some of the topics that we're going to cover today. We're going to start by talking about the Fair Housing Act and how that relates to Affirmative Marketing. Then we'll get into Affirmative Marketing

and then we'll talk about the requirements for your Affirmative Marketing plan and then how to develop your Affirmative Marketing Plan and that's going to include information for both single-family and multi-family program participants.

And then finally, we'll have some procedures and best practices for implementing your Affirmative Marketing Plan after you have made it or written it.

So after -- at the end of today's training what we want you to be able to do is understand how -- what Affirmative Marketing is and what Fair Housing is and how they are connected.

Then develop or know how to develop an Affirmative Marketing Plan. And then no know how to implement your Affirmative Marketing Plan effectively.

So we'll start with the Federal and Texas Fair Housing Acts.

The Federal Fair Housing Act is the policy of the United States to provide within constitutional limitations for Fair Housing throughout the United States. No person shall be subjected to discrimination because of their race, color, religion, sex, disability,

familial status or national origin when it comes to the sale, rental or advertising of dwellings or in the provision of brokerage services or in the availability of real estate-related transactions.

Section 808(e)(5) of the Act is to affirmatively further the purposes of the Fair Housing Act, which includes ensuring a positive outreach and informational effort to those who are least likely to know about and apply for the housing in question.

Each applicant for participation in housing programs of the Department of Housing and Urban Development, shall pursue Affirmative Fair Housing Marketing policies in soliciting buyers, tenants and in advertising the availability of housing properties.

For the rest of this session today, CFR is going to stand for Code of Federal Regulations, which is the regulations published in the Federal Register and Federal divided into 50 sections. Housing and Urban Development is found in Title 24, which is where the majority of the Fair Housing Act regulations are also located. Also where the word handicap appears in statute or regulation, we're going to use the word

disability for the rest of the presentation. The term handicapped is determined to be antiquated at this point.

While we did mention the Texas Fair Housing Act, the Texas Fair Housing Act is substantially similar to the Federal Fair Housing Act in that it does not include any new protections and does not include any new protected classes that are not already covered by the Federal Fair Housing Act. So for the purposes for the rest of today's webinar the -- we're going to refer to the Fair Housing Act and that will be the Federal Fair Housing Act.

So let's get into the fun stuff, the Affirmative Marketing overview. In this section we'll discuss the Affirmative Marketing policy and requirements for your Affirmative Marketing plan.

Affirmative Fair Housing Marketing Plan and is a regulatory regulation. Statutory authority exists in the Fair Housing Act, it exists in Section 504 of the Rehabilitation Act. Also Title VI of the Civil Rights Act and Executive Order 11063 also provides that all Federal executive departments and agencies must act to end discriminatory practices for properties receiving



Federal financial assistance.

All applicants for participation in Fair Housing agency subsidized and unsubsidized multi-family housing programs with five or more units must complete the Affirmative Fair Housing Marketing Plan as specified. It will help to market the availability of housing opportunities to individuals of both minority and non-priority groups that are least likely to apply for occupancy.

Affirmative Fair Housing Marketing Plan should be part of all new construction, substantial rehabilitation and existing project marketing and advertising activities.

This is the policy of HUD to administer its FHA housing programs affirmatively as to achieve a condition that individuals of similar income levels in the same marketing housing area have a like range of housing choices available to them regardless of their race, color, religion, sex, disability, familial status or national origin.

Each applicant for participation in FHA subsidized and unsubsidized housing programs shall pursue

Affirmative Fair Housing Marketing Policies in soliciting buyers, tenants and determining their eligibility and including sales and rental transactions.

HUD sets forth rules for affirmatively marketing for households in eligible single-family and multi-family programs. The Federal rule citations are here for your reference, however if all of these citations seem like a lot, keep in mind that TDHCA's requirements will help you meet HUD's requirements for TDHCA programs.

If you receive HUD funds directly you will need to follow HUD's Affirmative Marketing requirements, but for the rest of this program we will focus on TDHCA requirements.

So for the HOME partnership program, the National Housing Trust Fund program and the Neighborhood Stabilization Program, participants must complete Affirmative Marketing housing requirements per 24 92 and 93.350. Here are the procedures for HOME and NHTF and NSP, these are the requirements and if you are a subrecipient of HUD funded programs, the requirements we cover today will help you meet the marketing

requirements to the department.

So just to boil this down into what the spirit of HUD requirements are in terms of Affirmative Marketing, they include specific instructions on how to affirmatively market to populations least likely to apply to programs that receive Federal funding and delineate these tasks to include to carry out Affirmative Marketing program to attract buyers or tenants regardless of protected class to housing for sale or rental.

To maintain a non-discriminatory hiring policy in recruiting from both minority and majority groups, including both sexes and the disabled for staff engaged in the sale and rental of properties. To instruct all employees and agents in writing and orally in the policy of non-discrimination and Fair Housing. And to prominently display in all offices in which sale or rental activity pertaining to the project or subdivision takes place. The department approving Fair Housing poster that include any printed -- in any printed material used in connection with sales or rental the department approved equal housing opportunity logo,

slogan or statement.

So now in this section we'll talk about Affirmative Fair Housing Marketing requirements for single-family and multi-family properties that are participants in TDHCA programs. As a reminder, we will go through how to develop the Affirmative Marketing Plan as well as how to develop least likely to apply populations.

For multi-family properties, the Affirmative Marketing Plan requirement also applies to multi-family housing properties or all developments with five or more total units receiving Federal funding. This includes affirmatively marketing the units to promote equal housing choice for prospective tenants regardless of race, color, religion, sex, national origin, familial status or disability.

Must develop and carry out an Affirmative Fair Housing Marketing Plan to apply for marketing strategies and documentation of outreach efforts to prospective applicants identified as least likely to apply. An owner must update its affirmative plan to those populations every five years from the effective date of the plan.

What this boils down to is if you are a participant in any of TDHCA's multi-family programs, whether that be the HOME investment partnership program for multi-family properties or the low income housing tax credit program, these are the requirements that you have.

If you are a participant in any of TDHCA's single-family programs that are HUD funded, TDHCA requires an Affirmative Marketing Plan for any housing administrator that receives Federal funds through its department. An Affirmative Marketing Plan and Affirmative Marketing Procedures are for subgrant TDHCA funds as well. Affirmative Marketing procedures must continue through the length of the program including the length of availability.

For single-family home ownership dwellings, it is in effect until all the dwelling units are old. The plan should be sent to the department each time an administrator applies for a new contractor or new activity. And must reflect marketing activities specific to the activity type.

The administrator may submit a previously approved

Fair Housing marketing plan if no changes need to be made. This plan must be submitted at a minimum of every three years if the administrator continues to accept new applications.

An administrator that currently has an existing list of applicants and they're not accepting new applicants or establishing a waitlist are not required to affirmatively market until preparing to accept new applications but you still must develop a plan.

So per the requirement of the Texas administration code rules, developers must develop an affirmatively marketing plan. HUD has issued form 935.2 A for multi-family housing which we encourage you to utilize to complete your Affirmative Marketing Plan. It is up to you to use it, but the owner must show they have the development to the market area to determine the populations least likely to apply.

Single-family administrators must use the Affirmative Fair Housing Marketing Plan form on the department's website, the HUD form 935.2 B for single-family housing or create an equivalent Fair Housing marketing plan that includes the populations

least likely to apply for the administrator's program without special outreach efforts.

Administrators may use the department's single-family Affirmative Marketing tool to determine populations least likely to apply.

If administrators use another method to determine the populations least likely to apply, the firm active Fair Housing marketing plan must have a determination of the marketing used. Persons with disabilities must always be included as a population least likely to apply.

An administrator providing assistance in more than one service area, TDHCA service area, must provide a separate plan for each of those markets areas in which the housing assistance will be provided. This form is available on the TDHCA website and is also included as a handout in the handouts section for go to webinar.

If you are looking on the TDHCA website, you can access the single-family Affirmative Marketing Form on the department's compliance forms page. You can also access the forms from TDHCA's homepage by going to support and services and clicking on compliance. Then in the pop-up section clicking on forms. Once you're

on that forms page you can scroll down to the single-family marketing -- single-family Affirmative Marketing Tool section to access the HUD form 9352 B. There you will also be able to find the single-family Affirmative Marketing Tool. That tool will identify least likely to apply populations for you based upon the TDHCA service region that your program is in.

While it is not required to use this tool, it does take a lot of the guesswork out and will help you to more easily identify your least like to apply populations.

And for multi-family, you will want to scroll a little bit further down on the compliance forms page to find the multi-family properties section. And click on the current version of the HUD form nine hundred thirty-five-A. These forms are also available for you to download in the handouts section of the Go-to Webinar platform today.

So how do we determine least likely to apply populations for your plan.

In order to determine which people are least likely to apply to your property, you must first indicate who is currently residing in the property. It is good



practice to maintain demographic data of the tenants in your property and update that. In many cases it is a requirement for you to update this kind of data. The single-family Affirmative Marketing Tool is a group of PDFs that tell a single-family program administrator what the least likely to apply populations are for their area of the state. You can find this on the compliance forms page or on the link on this slide r.

For Colonias self help centers and for populations in Colonias, the Affirmative Marketing Plan form already contains the least likely populations to market to. You will not need to do any additional work in this case and this prefilled out form is also on the compliance forms page.

If you are not required by HOPA to accept households with children you do not need to affirmatively market to households with children. However, if you are an eligible development that must accept otherwise qualified households with children, you do need to analyze whether this protected class is least likely to apply.

And if you have HUD or USDA funds in your development

this likely applies to you so you will likely need to analyze whether or not households with children would be a least likely to apply population.

There has been some confusion in the past on this topic and some land use restriction agreements require additional marketing to specific populations such as veterans or farm workers.

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.

The property demographic data is used to compare against the market area demographic data, which will show you if your property reflects the demographic makeup of the market area your property resides in.

If you do not have your property demographic data regularly available, then you can compare your census tract data to your market data. And to determine which census tract you reside in we will show you a couple of different ways to do this in the next couple of slides.

So if you don't have property demographics and it is possible that you won't. Properties that are in

lease up or if you have just inherited a property from a different owner, then you may not have this data available. So you'll want to use data from your census tract instead. To find out which property your census tract is in, you can use either of those tools.

I personally recommend the [geo map. ffiec. gov](http://geo.map.ffiec.gov) link. It contains demographic data, but does not have data on households with children, but it will reduce the amount of work that you need to do later on.

Once you've found your census tract or if you have your property demographic data, then you're ready to make the appropriate analysis to determine what your least likely to apply populations are. So we're going to walk through now a scenario for how to determine least likely to apply populations using the American Community Survey, which is the most commonly used data source.

So we're going to look at a particular census tract in Harris County. So here's the example. You are a property manager for a multi-family housing property in Harris County. You have to develop an Affirmative Marketing Plan for your property and your Affirmative Marketing Plan needs to indicated how you will

effectively market to potential tenants who are least likely to apply to your property. The first thing you want to do is go to [data.census.gov](https://data.census.gov), and can you click the link in the slide here, but also type?

[Data.census.gov](https://data.census.gov) and it will take you to the proper 80.

Once you get there, in the search bar type in dp05. The ACS demographic and housing estimates table will come up. Go ahead and click on that table.

This will bring up a table that has data for the entire United States. So we're going to go ahead and find Texas.

In the geographies tab at the top, you'll want to click county and then click Texas and you can type in or scroll to find Harris County.

If you need to look up your census tract, you can do the same thing, which is instead of selecting county, select census tract and then go through the selections. You will see Texas, Harris County and then you'll be able to find your census tract number. We'll go through this a little bit more later on as well.

One thing to keep in mind is that if you are going to be using the American Community Survey, make sure you

are always using the most recent five-year estimates data profiles and you will see that that's highlighted here.

The reason why you want to do that is in smaller areas and also in all census tracts you will not have enough data or information to determine least likely to apply populations if you use the one year estimates. So always use the five-year estimates.

Like I said, if you are trying to find your census tract, you can select the census tract or tract geography and search through Texas and then Harris County and you will be able to find your census tract there.

In this particular instance we're going to focus on Harris County census tract 5304.

Once you've selected your geographies, you'll want to open the hide button or click the hide button and deselect everything except for percent. Anything that says percent go ahead and keep that, but remove everything else. It's going to make it a lot easier for you to see what's going on in the table and it's going to line everything up a lot more nicely.

So from these columns we will now be able to

determine which will be a least likely to apply population. Anything that is below one percent on the population of the county or your market area would not need to be identified as a least likely to apply population.

This is just to give you an idea of what you're looking for when searching for a census tract and what it looks like. When you do find it. You can often use the search in the top right here to type in the tract number or you can scroll through. There will be a list there that you can scroll through instead.

You must include households with children in your analysis if you are -- if you are participating in a TDHCA monitored single-family program or a TDHCA monitored multi-family property. The only exception as we said earlier is if you qualify as a housing for the -- Housing for Older Persons Act, and you do not have any funding that requires you to accept otherwise qualified households with children.

So to find the ACS data on households with children you will follow the same steps that we outlined in the previous slides, but instead of table dp05, you will use

table s1101.

Once you have found your property data or your market area data and have your property or census tract data, on your HUD form 935-2 A or 2 B, depending on which one you are using, go ahead and enter the property demographics census tract or market area data into worksheet 1.

So I think this might be a good place to see if we have any questions.

>> Hi, Nathan. Hi, everyone. This is Cate Tracz, the manager of Fair Housing. I have been monitoring the questions as Nathan has been going over the presentation. We just had a couple of questions that you had gotten to, but they were asked a little bit early here, so I'll just go over these questions so in case someone needs to hear it again.

For the single-family form, the 935-2 an A, there are two separate versions. I think that one of the ones -- one of the versions that we've got on our website may not be the most recent version. Someone asked could we use a different version, and the answer is yes really.

The only difference between the two forms is a

typographical update in the instructions of the form so if you're questioning which version of the single-family form to use, either one works.

If you've already got one filled out and you don't have updates to make, you can just resend us that same form and save yourself some time as long as you know that your least likely to apply populations are the same.

The next question was about what data to use if there's no one living in the project?

Nathan, is this something we're going to cover a little bit later?

>> Nathan Darus: We did cover it a little bit. So if you are in a project that hasn't been built yet or it's still in lease-up so you don't have demographic data for your tenants or your property residents, what you can substitute in there is the data for your census tract.

And so I will -- let me roll back to the slide where we show how to find your census tract.

So if you are one of those properties that doesn't have enough data because you're in lease-up or not built yet, this slide, slide 24, is going to be super important



for you. I recommend using that second link, although the first link also works.

It will give you your census tract and then if you see that button that says census demographic data, it will also bring up all of the data that you need for that census tract with the exception of households with children. You will still need to go to the American Community Survey table S1101 to find that, you but that will give you all you need for the census tract.

>> Cate Tracz: And then a related question is if the property is leased up, if you do have tenants in your units, what would the source be for your demographics? And the answer to that is just use your unit status report. You've already got this information collected and reported, so just take the information from your unit status report and apply it to the 935 form for your -- for the multi-family programs.

So it looks like we've got a couple more questions coming in. Let's see if we can address these now or after the next segment.

There's a question: For multi-family properties if you don't have HUD funds, if you're just a tax credit

program, can you use the 935-2-B form? Absolutely. Nathan, do you want to provide a little more detail to that?

>> Nathan Darus: Yeah, absolutely. So the 935-2-B is one of the two acceptable forms to use if you are any multi-family property that is participating in a TDHCA program. It's just that if you are also layered with HUD funding using the 9352-B covers two birds, kills two birds with one stone because you will have the ability to submit that form to HUD and the TDHCA.

But if you are just tax credit, you could absolutely use the 935-2-B. The other option is you can put together any other -- in any format that you want as long as it is substantively the same as what's required in our Texas Administrative Code rules, much of which is covered by the 935-2-B.

>> Cate Tracz: And one more question about listing your marketing area demographics.

How do you decide that marketing area? Is it your property, your expanded marketing? Can you talk about what that area might look like outside of your property?

>> Nathan Darus: Right. So basically if you can

find out what your market area is, especially for single-family programs, that will already be determined because a lot of subrecipients are, say, cities. You obviously know that constituent is the market area. You can't service anything out of the city.

But if multi-family properties it's a little more difficult especially in Texas. Let's say you are in -- somewhere in west of Fort Worth, so Fort Worth is part of the Dallas-Fort Worth metropolitan statistical area, but if you're west of Fort Worth, you're probably not including Dallas or east of Dallas as part of your market area.

So it will depend a little bit on where your property is and where you seem to draw people from.

The second part of that question is do you need to have the expanded marketing area? The expanded marketing area -- it's referring to worksheet 1 on the 935-2-B, is really only for situations you don't find any least likely to apply populations. You may want to expand the market area to say -- using the same example. Go ahead and include Dallas to see if it makes -- if any least likely to apply populations appear.

If not, then don't worry about it, but it's really -- it's A, not required, and B, it's really only a useful tool in some cases where you don't have enough data in a market area and you need to look out and expand or look a little bit further.

Actually, another example might be if you are a fairly small county and there are some of those here in Texas. And you think oh, I have a property in this county and the county is my market area. Well, you may not have enough data in that county to make any kind of determination as to what is a least likely to apply population. At that point in time you might want to start branching out and including neighboring counties.

So again, though, not necessarily required except in some of those fringe cases.

>> Cate Tracz: Great, thank you, Nathan.

There's just one more question. On the final slide in the last section of the presentation there was a question about what the columns were.

>> Nathan Darus: Ah, these here?

>> Cate Tracz: Yes.

>> Nathan Darus: Slide 31, right.

So if you have -- the first column here is if you have your -- for a multi-family property, if you have what your residents look like -- so that would be what's in your unit status report.

Project applicant data is not necessarily something that you need to worry about in -- in many cases because you're going to have -- you're more likely to have tenant or resident data than you are to have applicant data, but they can be used interchangeably.

If you are truly trying to figure out who is least likely to apply, you can look at your application lists, but a lot of times those applicant lists don't have all of the demographic data that you would need so it's hard to make that determination.

The third is the -- the third column is the census tract and that is if you don't have any resident or applicant data, then you want to use the census tract data.

And then the final two are the housing market area and the expanded housing market area, which is what we talked about. And you're almost always going to be comparing something in the first three columns to

something in the last two columns.

So that's -- that's what those columns are all about.

>> Cate Tracz: Okay. I think that's a good place to pause on the questions and keep going with our community contacts section.

>> Nathan Darus: Great.

Okay. So now we're going to try to find community contacts. So let's say, for example, you've completed your research to identify populations that are least likely to apply to your housing property. And you've identified African-Americans and people with disabilities. And persons with disabilities again like we said always needs to be selected as least likely to apply.

Part of your Affirmative Marketing Plan is determine how you will market to these populations. So part of effectively, affirmatively marketing to these populations is contacting organizations and groups within their communities and introduce yourself and your property's availability.

We advise you to begin your search using whatever

resources you have readily available. And you can brainstorm with your co-workers who might identify with one of the demographic groups identified as least likely to apply.

So these are just some examples for the two populations that we have in our example. There is another question, which is can you -- this often comes up. Can you use contacts like Asian markets or Asian groceries?

And the answer is probably yes. If the clientele of the Asian market or Asian grocer is primarily Asian, then that would count as a community contact and certainly would be a place if Asian was listed as a least likely to apply population. Certainly a place where you would want to look.

Another thing that comes up you might also find that a least likely to apply population might be white or non-Hispanic in your area. And that's actually completely normal in a lot of parts of Texas, especially in the valley and out towards El Paso.

A least likely to apply population does not automatically infer that it might be a minority or person

of color. So just go through the process you would to identify community contacts where this group might frequent, places of worship, community centers are some good example.

You might think that it may seem is strange to market to what is ostensibly a majority population, the reasoning behind it is the same to avoid concentration of minority groups or protected classes in any one particular property or area.

Some of the things you could do is online resources such as policy map. 211 Texas.org. There's always the one star foundation, although that is a fee-based service.

Some examples of other organizations that you might want to reach out to might be health clinics, community action agencies or other community-based charitable organizations like the Salvation Army.

Consider contacting your local city or county planning and development department or utilize the non-profit or business directories from your local Chamber of Commerce.

And again, like I said, while it may seem odd, it



is possible that a majority group such as why they may be identified as a least likely to apply population, the reason why outreach to these non-priority groups is still important is that it will help to alleviate or avoid concentration of minority groups on a single property or certain neighborhoods.

Some land use restriction agreements do require additional marketing to some specific populations such as veterans or farm workers.

This is a TDHCA requirement, but it's not an Affirmative Marketing requirement and community contacts for those groups do not count towards the minimum required number of contacts for the Affirmative Marketing purposes. We do recognize the requirement for general marketing to veterans and the other populations have been listed together in many TDHCA documents and rules. This has led some to believe that marketing to veterans should be included in Affirmative Marketing requirements, however, these two requirements are separate from each other. Further, we recognize that compliance monitoring issues have arisen from properties that did not include veterans in their

Affirmative Marketing plans.

In May of 2020, oversight of Affirmative Marketing moved from compliance to the Fair Housing group at TDHCA. To clarify this confusion, the department is working to update language in several places to make it clear that general marketing to veterans should not be included with Affirmative Marketing plans.

These places include in TAC code CMFS screens, ACRA properties and land use agreements going forward.

They will work with properties on their Affirmative Marketing plans to systemic make sure is that the requirements are still met.

If revising your plan removes veterans or one or more of your community contacts -- if revising your plan to remove veterans removes one or more of your community contacts, this next slide may help you figure out what to do to find new community contacts to add to your plan.

So if you can't find any contacts for your least likely to apply populations, you do need to document those reasons within your Affirmative Marketing Plan. So for example, say your market area is a small rural town with a small Asian population. After conducting

your search and identifying Asian as least likely to apply, you attempt to find community contacts.

However, there's no local Chamber of Commerce, place of worship or grocery store based in that community or primarily serves that community.

You need to document the process for this discovery and these reasons must be provided with supporting evidence.

So here is an example from real life actually, and this is a single-family program in Slaton, Texas.

So one of the things that we did was we found in Slaton, Texas, which is near I believe Amarillo or Abilene, I'm not sure which one -- Lubbock, excuse me. Near Lubbock.

So Slaton, Texas has a population of about 3,000 people and it's in Lubbock County, which is TDHCA region 1, so we pulled the single-family Affirmative Marketing tool for region one for homeowner rehabilitation projects or activities. And that tool does indicate that Asian is a least likely to apply population for that activity.

Slaton has a very small Asian population so there's

just no community contacts serving that group.

What we thought was to think -- was to try to figure out where the community works. On the map is a tool that is generated by the Census Bureau that could help you figure this out and it helps you to document that you have searched for community contacts.

The website for onthemap is on this slide as well and all you have to do is search for your city or town or county, whatever your market area or -- whatever your property area is, and then use the settings that are on this image here. So you want to select destination analysis for all jobs and you want to base it upon where people live. So you want to find out where people who live in Slaton work.

You can select the destination, which is cities. You can also make it counties if it's something that you want, but I like to use places because it gives you more specific output.

Use the most current data that's available. On the map it sometimes lags behind what's available from the community -- American Community Survey.

And then you just hit this go button.

And this is what you will see. We found that 11 percent, only 11 percent of the people who live in Slaton work in Slaton. But that over half of the people who live in Slaton work in Lubbock. So Lubbock, if you find Asian grocers, Asian chambers of commerce or other groups that serve primarily an Asian clientele, those would be possible contacts to look for in Lubbock that you could use in your Affirmative Marketing Plan.

So not all towns are going to have such an obvious answer, but you want to document taking steps like these so that you have the evidence that you at least looked for contacts. And like I said, as a reminder, this is just an example of one way that you might look for community contacts for your plan.

If you need technical assistance on finding community contacts, please reach out to the Fair Housing staff at TDHCA.

The Affirmative Marketing Plan form also requires you to include which media outlets you will use to market your property's availability.

TDHCA does not require disclosing your media outreach on the Affirmative Marketing forms nor does it

require specific media outreach. But feel to include it if you have it. It won't cause your plan to be non-compliant.

So now let's look at some procedures for implementing your Affirmative Marketing Plan.

As mentioned previously in the community contacts and media section, the following is required for when you put your plan into motion.

Once per calendar year, you should contact special outreach efforts through specific media organizations and those community contacts that you've found. TDHCA indicates a minimum of three organizations with whom you plan to conduct outreach.

For multi-family those outreach efforts must be performed at least once per calendar year. For single-family there's no specific timeline, but outreach must be conducted whenever you are accepting new applications.

For single-family home ownership programs, Affirmative Marketing is required until you are accepting new applications or until all dwelling units are sold.

Persons with disabilities again must always be included as a population least likely to apply and again, veterans and other populations such as farm workers, are not a least likely to apply population.

However, you might be required to market to veterans or other populations per your land use restriction agreement. This requirement is separate from Affirmative Marketing because veterans are not a protected class under Federal and Texas Fair Housing laws, you should not put your marketing efforts to veterans in your Affirmative Marketing Plan.

Per Texas Administrative Code chapter 10.801, for multi-family and 10 TAC 20.9 for single-family, the Fair Housing logo must be contained in any materials used for advertising or marketing related to the housing development.

The materials must also include the contact information for the individual who can assist if reasonable accommodations are needed in order to complete the application process.

The contact information must also be provided in English and Spanish and may be required to be provided

in other languages in accordance with limited English proficiency requirements, which we will talk about on Thursday if you join us for our language access plan and limited English proficiency webinar.

So in addition to the Fair Housing logo, the equal opportunity insignia also includes a statement and a slogan. The slogan is equal housing opportunity. The equal housing opportunity statement is, we are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex or national origin.

HUD requires that your print materials show one of those -- at least one of those items and it can be the logo, which is shown on the screen now, the slogan, which is just equal housing opportunity, or that long statement that we just read.

While TDHCA rules specifically indicate that the logo should be used.

There are additional requirements regarding the



size of the Fair Housing logo. Please make sure you determine what size logo is necessary based upon the size of your print materials. So for print ads for a half-page or larger, it is advised that you use a two-inch by two-inch logo.

For an eighth of a page or anything between a eighth of a page and half of a page, use a one-inch by one-inch logo. And for ads that are four columns inches to one eighth of a page use a half inch by half inch logo.

For non-print ads, your logo should be as large as the largest of other logos used.

And just to reiterate here, this is another area where we have seen some confusion.

If you include the equal housing opportunity logo, which is what is shown on the screen here, the house with the equal sign that says equal housing opportunity underneath it, that is all you would need on your print materials for TDHCA's purposes. And it would meet requirements for -- would meet HUD's requirements as well.

TDHCA requires Affirmative Marketing efforts for each of the identified populations least likely to apply

to begin at least six months prior to the anticipated date the first building is to be made available for occupancy.

It says 90 days on the Affirmative Fair Housing Marketing forms, the HUD forms, but TDHCA requires six months. This is one of the only places where TDHCA and HUD requirements differ significantly. So make sure that you are beginning your Affirmative Marketing outreach six months at least before the anticipated date of first occupancy.

Affirmative Marketing Plans and populations that are least likely to apply -- you must update your Affirmative Marketing Plans and populations every five years for multi-family properties and every three years from the effective date of the current plan for single-family programs.

Owners must maintain records of each Affirmative Marketing Plan and specific outreach efforts completed for the greater of three years or the record-keeping requirements identified in your land use restriction agreement.

There is an exception to the Affirmative Marketing

requirement. If your development has a closed waitlist, Affirmative Marketing is not required. Affirmative Marketing is required as long as the owner is accepting applications, has an open waitlist or is marketing prior to a multi-family development placement in service.

The waitlist policy for single-family programs is a requirement and is there to make sure that applicants are not selected for service on a first come, first serve basis.

Remember that TDHCA may request to review your Affirmative Marketing Plan at any time so make sure that your plan is always ready. And if you wish to submit your Affirmative Marketing Plan for TDHCA -- for voluntary review by TDHCA staff, you can email your plan to [fair.housing@TDHCA.state.tx.us](mailto:fair.housing@TDHCA.state.tx.us). That email address is on the screen right now.

We also provide trainings like this regularly, however we do not provide certifications. We do provide technical assistance and one on one trainings by request.

There is also TDHCA single-family Affirmative

Marketing Plan assistance guide in the handouts that is an awesome tool to utilize and it further breaks down into depth how to complete your Affirmative Marketing Plan.

So at this point we are able to take any more questions.

>> Cate Tracz: Great. Thank you, Nathan. This is Cate Tracz again.

We have a couple of questions again. I'm going to take them, Nathan, if you can see them in reverse order because some are coming in that refer to what you just talked about.

So we have a question can: Who certifies the plan? So when someone voluntarily submits their question or their plan to TDHCA, that would be Nathan and myself. We're the Fair Housing staff at TDHCA, so we will review it. We have a review sheet that goes -- that looks at all of the elements that we've laid out in the Texas Administrative Code requirements and makes sure that you've filled out the plan completely. And there might be some back and forth and technical assistance, but at the end of the process, you know, the Fair Housing staff

at TDHCA will let you know if your plan is compliant or not.

And we will help you to get it to a compliant certified state.

>> Nathan Darus: Cate, I was just reading that question and it sounds like that section 202.

>> Cate Tracz: The next one that came in, okay. I see.

>> Nathan Darus: So what would that plan be submitted to? That would be submitted to HUD. Because I don't know that we administer any section 202 funds.

>> Cate Tracz: We do not, that's correct.

Go ahead.

>> Nathan Darus: There may be another question and I think that that's why there might be two questions on this same sort of topic, which is who certifies the plan?

HUD requires a signature on the Affirmative Marketing Plans. As long as it is anybody who would be responsible for updating or implementing the plan, it can be a signature from them and it can also be a signature from an executive director. So that's a very tiny little bit of information for if you have to send

your Affirmative Marketing Plan to HUD and you're trying to figure out who needs to sign/certify it before you send.

>> Cate Tracz: Okay. There's been a couple of questions about the Fair Housing slogan, that really long thing that you read out. Folks asking for it in writing.

I think that following the webinar we can send that out to all of the attendees here in writing and then post it on our website with the materials that we post from this webinar just so you don't have to go hunting for that extra long slogan if it's something that you wanted to include in your marketing materials.

>> Nathan Darus: Yes. And also remember, if you are submitting your material -- excuse me. Working on an Affirmative Marketing Plan that you will be submitting to TDHCA, TDHCA requirements are for the logo, which is the house with the equal sign that says equal housing opportunity underneath it.

That long slogan is not -- is not compliant for TDHCA Affirmative Marketing Plans.

We'll still send those out to you, but that's an

important thing to remember is that you want to use just that -- the house logo.

>> Cate Tracz: Great, thank you.

So the next -- the next few questions I want to tackle are about the actual printed material or the newspaper ads that properties or single-family administrators are using.

Nathan, you had mentioned that we don't have to -- that the properties don't have to include their actual -- their media outreach or their media contacts. Does that mean that they don't have to actually submit the ads in the plan?

>> Nathan Darus: Yeah, that would be correct.

So because TDHCA does not require media contacts, it just requires community contacts, those ads don't need to be submitted. Feel free to submit them with your plan. You know, there's no reason if you've already got them in there to add work and separate them out.

It's just not something that I'm going to go through and look.

I might offer technical assistance on it, but it will not be anything that we look at for noncompliance.

>> Cate Tracz: Great. And the next question is someone uses green sheets or classifies to perform their outreach and marketing. And the question is does this mean that I only need to post an ad once a year?

>> Nathan Darus: No, because again, like I said, our ads are not the same -- so the advertising and media is not the same as your community contacts. You need to do your community contacts, you need to reach out to them at least once a year.

Advertising, if you are submitting to HUD your Affirmative Marketing Plan and your advertisement, then yes, that needs to be done every year. But that is -- TDHCA isn't looking at your media outreach, it's looking at your community contacts outreach. And that does need to be done once a year.

>> Cate Tracz: Okay. So there's a couple of questions, Nathan, towards the bottom. Are there one of those that you wanted to take?

>> Nathan Darus: Yeah, actually, I can go ahead and take both of them if you want.

So the question is: Are there any legal concerns affirmatively marketing to non-protected groups that



are not required? With the understanding that this would not count towards Affirmative Marketing Plans.

The answer to that is a qualified yes/no. And I know that that is the exact wrong answer that nobody wanted.

It entirely depends upon what that non-protected group is and whether it would run afoul of -- whether it would go against the grain with a protected class.

So one example that we've talked about a bunch is veterans and farm workers. Veterans are demographically speaking far more likely to be male and white and non-Hispanic.

So if veterans is a group that you are affirmatively reaching out to and it's not required by your LURA, then it could be problematic if your property has a least likely to apply population of Hispanic or of -- of any group that is not white as well.

So it really depends upon your situation. There are cases where it will be problematic and cases where it won't be problematic.

So the next question that came in was for low income housing tax credit, you would submit your Affirmative Marketing Plan to TDHCA, but for multi-family bond, you

submit to HUD.

That is not correct. Multi-family bonds are administered through TDHCA. So if your multi-family bonds came through TDHCA, you would still submit the plan to TDHCA in that case.

>> Cate Tracz: Nathan, what about if a property had layered funding? They would still use the same plan regardless of whether it's tax credit or HUD funding, they could certainly use the same plan and form. You don't have to have separate forms to different funding sources on your property.

It's just one plan for the property regardless of what the funding is.

>> Nathan Darus: Right, exactly.

I'm trying to see if there are any others that we haven't hit yet.

>> Cate Tracz: There's one question about if the property is a post 15 tax credit property. So depending on what phase they are with TDHCA, if they don't need to advertise would Affirmative Marketing be required or not?

>> Nathan Darus: So -- so the post-15,

post-monitoring period, what is required for general marketing, I do not know. You will want to direct that part of the question to compliance, but post-15 you still need to be doing your Affirmative Marketing, which would be to your community contacts.

I don't know what green sheet is, I'm not familiar with green sheet --

>> Cate Tracz: It's classifieds.

>> Nathan Darus: You want to check what your compliance requirements are for advertising or general marketing post-15., but you definitely still need to do Affirmative Marketing post-15.

>> Cate Tracz: Great. So I think those are all the questions that we've got. We were able to get to all the questions, I believe. Oh, there's the one that I missed.

One more question. So how would you determine the family percentage for project residents?

So I think this question goes back to determining the demographics within a project or a property.

Nathan, did you want to try to tackle that one?

>> Nathan Darus: Yeah. So your unit status

report -- because I'm assuming this is going to be for a multi-family property and I'll talk about single-family afterward.

But for a multi-family property, your unit status report should have the number of households with children or minor children, which would be children under the age of 18 -- and this is something that you would need -- you would know if you require anybody who is 18 and over to be listed on the lease.

So if you have three people listed on the lease and four people listed as being in the household, you know that one of them is under 18 at that point.

So you know that you have a household with children.

And so that's how you would determine how many households with children you have and then you would just divide that by the total number of households that you have. So if you have 302 full units and -- let's say 300. I don't want to make the math hard.

300 units and 100 of them have households with children, your households with children percentage would be 33.3 repeating percent.

If you're a single-family program it's a little bit

more difficult, which is why we do recommend using the single-family Affirmative Marketing tool, but there are ways to figure it out where you would look at so your City's -- the average household size, average family household size in your city and compare that to a larger market area to see if you don't have a lot of households with children in them. It's not a perfect one to one, but it's probably the easiest way to do it for a single-family program, which is again why I definitely recommend using the single-family Affirmative Marketing tool.

>> Cate Tracz: Great, thank you, Nathan. So I think we've answered all of the questions that have come in.

If you want to wrap it up, that would be wonderful.

>> Nathan Darus: Absolutely, absolutely.

So we just want to say thank you for joining us today for this webinar. Like I said, if you have questions to us -- for us, you can reach out to us. I'll put the contact information up here again. You can reach out to me by phone number and I also -- Cate and myself check both of those listed email addresses.

Try using the fair housing one. It's easier to

remember off the top of your head.

And we also do one on one trainings on these and we can help you with technical assistance if you have specific questions about a specific least likely to apply population in your property. We can try to help with you that too.

So thank you for joining us and we hope you have a good rest of the day.

[End of webinar].