

### Contents

COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) .....	2
Qualifying Criteria .....	2
Legal Status .....	2
Defined Service Area .....	3
Organizational Structure .....	3
DEFINITIONS .....	3
Low-Income Community .....	3
Formal Process .....	4
Sponsored CHDO .....	5
CHDO Capacity and Experience .....	5
CHDO Financial Standards .....	6
CHDO Eligible Activities .....	6
CHDO Ineligible Activities .....	6
CHDO Owner-Multifamily Rental Housing .....	7
CHDO Owner and Developer- Homebuyer Properties .....	7
CHDO Developer- Homeownership .....	7
CHDO Sponsor-Homeownership .....	7
CHDO Conflict-of-Interest Provision .....	7
Special Assistance to CHDOs .....	8
Pre-Development Loan .....	8
CHDO Operating Assistance Grant .....	9
Uses: .....	10
Eligibility .....	10
Distribution of Funds .....	10
Maximum Grant Award .....	10
Reimbursement of Eligible Costs .....	10
General Conditions .....	10
CHDO Application .....	11

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## Chapter 5- CHDO

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### COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)

A CHDO is a community-based, nonprofit housing development organization with staff capacity to develop and manage affordable housing in the community and/or region it serves. IHFA is required to set-aside a minimum 15% of its annual HOME allocation for affordable housing activities that are owned, developed, or sponsored by IHFA-certified CHDOs.

Type of Assistance	Amount Available
CHDO Set-Aside	Not less than 15% of annual HOME Allocation
CHDO Pre-development Loans	Up to 10% of annual CHDO Set-Aside
CHDO Operating Assistance Grants	Up to 5% of annual HOME Allocation

#### Qualifying Criteria

A CHDO is a nonprofit, community controlled organization that meets specific criteria regarding organizational structure, legal status, and staff capacity. IHFA certifies each CHDO each time CHDO Set-Aside funds are committed to an activity.

#### Legal Status

- Organized entity under Idaho State and local laws;
- Has no part of its net earnings inuring the benefit any members, founders, contributor, or individual;
- Is neither controlled by, or under the direction of, individuals or entities seeking to derive profit or gain from the organization;
- Tax exemption rules from the IRS under section 501(c)(3) or (4) or the Internal Revenue Code of 1986; or is a subordinate of a central organization under IRC 905; or is a wholly-owned entity that is regarded as an entity separate from its owner for tax purposes(e.g. a single member limited liability company that is wholly-owned by an organization that qualifies as tax-exempt), when the owner organization has a tax exemption ruling from the IRS under section 501(c)(3) or (4) of the IRC.
- Is not a public body;
- Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems";
- Has, among its purposes, the provision of decent housing that is affordable to low and moderate-income persons, as evidenced by its charter, articles of incorporation, resolution, or by-laws;
- Maintains accountability to low-income community residents;
- Has demonstrated capacity for carrying out activities assisted with HOME funds;

- Has a history of serving the community within which housing to be assisted with HOME funds is to be located.

### **Defined Service Area**

May include a neighborhood(s), city, or county

- For rural areas, may include a neighborhood(s), town, county, or multi-county area, but not the entire state.

### **Organizational Structure**

CHDO maintains accountability to the low-income community in part through its governing board's structure. **The governing board must be composed of:**

1. Minimum 1/3 must be members defined as a Low-Income Community Representative (definitions provided below);
  2. No more than 1/3 can be members defined as Public Sector (definition provided below);
  3. The Balance of the board is unrestricted and may include persons such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their expertise, etc.
- Board members appointed by public officials cannot select other members of the board.
  - A board member who is defined as public sector and low-income community will be counted as Public Sector maximum, but not counted as Low-Income Community Representative.

## **DEFINITIONS**

### **Low-Income Community**

#### **(a) Resident of a Low-Income Neighborhood**

- i) Defined as a neighborhood where 51 percent or more of the residents are low-income (according to HUD census tract). Residents of low-income neighborhoods do not have to be low-income themselves.
- ii) In urban areas, "community" is not necessarily limited to a single neighborhood, but may include several neighborhoods, the city, county or metropolitan area.
- iii) In rural areas, "community" may cover a multi-county area. The board need not include low-income residents from each county in the multi-county area. For rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire state).

#### **(b) Low-Income Community Resident**

- i) A Low-income resident of the community does not need to submit proof of income. However, low-income residents of the community must certify they qualify as a low-income resident of their community.

## Chapter 5- CHDO

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- ii) Low-income community resident does not need to live in a low-income neighborhood.
- iii) In rural areas, "community" may cover a multi-county area. A CHDO board does not need to include low-income residents from each county.

### (c) Elected Representative of a Low-Income Neighborhood Organization

- i) Low-Income Neighborhood Organization is an organization composed primarily of residents of a low-income neighborhood.
- ii) The primary purpose of the organization must be to serve the interests of the low-income neighborhood, i.e. neighborhood church groups, Neighbor Works®.
- iii) The governing body of the low-income neighborhood organization may elect the representative(s) to serve on the CHDO board.

### (d) Public Sector

- i) Public Employee: An individual employed by the *State of Idaho*.
- ii) Elected Official: Any elected official of city, county or state government, i.e. city council, commissioner, state legislature, school board, county attorney, etc.
- iii) Appointed Public Official: Member of a planning or zoning commission or of any other regulatory and/or advisory board or commission that is appointed by a State Of Idaho official.
- iv) Appointed by Public Official: Any individual who is not necessarily a public official, but has been appointed by an elected public official to serve on the CHDO board.

### Formal Process

A CHDO must solicit the low-income community for their input regarding the siting, development, and management of CHDO-eligible HOME projects. This is not be accomplished by the 1/3 low-income community representation on the Board of Directors. A CHDO must also adopt a process that identifies how the CHDO will solicit input from low-income beneficiaries/ community regarding the siting, development, and management of affordable housing.

Process must include:

- **Method to inform** the low-income community of the meeting, survey, etc. The method of notification could include newspaper/radio advertisements, flyers (posted commonly used areas such as office, bus stops, community rooms, senior citizen center, laundry mat, etc.), newsletter, individual letters to tenants and case managers, etc.
- **Method to receive** input from low-income community members. Examples of this could be periodic or regularly scheduled meetings, surveys, and/or selection of a neighborhood advisory council.
  - Scheduling one annual meeting *does not* meet the Formal Process requirement; keep in mind the purpose of process is to ask for input regarding specific CHDO-eligible HOME project(s).
  - The CHDO can choose the method(s) of notification as well as the method to receive the input.

- The Process is subject to approval by IHFA. The process is “formalized” by the CHDO’s articles of incorporation, by-laws, or board resolution.

### **Sponsored CHDO**

A nonprofit organization that is sponsored by other nonprofits, charities, religious organizations is considered a Sponsored CHDO.

Local or state government or for-profit corporations may sponsor a CHDO, however, additional requirements, including board member limitations, must be met.

Religious or faith-based organizations are eligible on the same basis as any other organization to participate in the HOME program. However, any organization directly funded under HOME may not engage in inherently religious activities. If an organization conducts such activities they must be offered separately, and tenant participation must be voluntary (additional guidance is provided at 92.2.57 of the HOME final rule).

CHDO may not be controlled or significantly influenced by individuals or entities seeking to derive profit or gain from the organization.

CHDO may be sponsored or organized by a for-profit if:

- 1) The primary purpose of the for-profit sponsor is not development or management of housing, i.e. a builder, consultant, developer, or real estate management firm.
- 2) The for-profit entity may not appoint more than 1/3 of a CHDO's governing board, and board members appointed by the for-profit may not appoint the remaining 2/3 board members.
- 3) Officers and employees of the for-profit can serve as board members, but they cannot serve as officers or employees (staff) of the CHDO.
- 4) The CHDO must demonstrate it is eligible to contract for goods and services.

### **CHDO Capacity and Experience**

Prior to receiving a commitment of CHDO set-aside (project) funds, a CHDO must demonstrate it has the capacity to undertake affordable housing activities, defined as having paid staff (full-time, part-time, contracted) with housing experience appropriate to the role the CHDO expects to play in projects (owner, developer sponsor of projects of the same scope, size and level of complexity as the activity(s) for which HOME funds are being committed).

- A CHDO must have paid staff responsible for the day-to-day organizational duties for the project and beyond, with the authority to act on behalf of the CHDO for day-to-day decisions, and oversees the development team.
- A CHDO may not use volunteers, board members, or consultants to meet the CHDO capacity requirement. Consultants and volunteers can fill the occasional skill gaps or undertake activities that are required only on a periodic basis (e.g., project underwriting).

## **Chapter 5- CHDO**

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- A consultant can be used as part of the development team.
- "Paid staff" is defined as part-time or full-time employee or a contracted employee.
- During its first year as a CHDO, the organization may meet the development capacity requirement with a consultant, provided that the consultant trains the CHDO staff.

A new CHDO must demonstrate it has at least one year of experience serving the community where it intends to develop HOME-assisted housing. A newly created organization can meet this requirement if the parent (sponsoring) organization is also a nonprofit and has provided services to the community for at least one year.

### **CHDO Financial Standards**

The CHDO must have standards of financial accountability that conform to 24 CFR 84.21 "Standards for Financial Management Systems."

This information is collected from each prospective CHDO, kept on file, and updated each year that the CHDO applies for recertification.

### **CHDO Eligible Activities**

- Acquisition of rental housing
- Acquisition and repair of rental housing
- Acquisition and rehabilitation of rental housing
- New construction of rental housing
- Acquisition of single-family homebuyer units
- Acquisition and minor repair of single-family homebuyer units
- Acquisition and rehabilitation of single-family homebuyer unit(s)
- New construction of single family homebuyer unit(s)

### **CHDO Ineligible Activities**

- Tenant Based rental assistance (TBRA)
- Homeowner rehabilitation
- Broker or any other real estate transaction
- Subrecipient Activities

### **CHDO Owner-Multifamily Rental Housing**

The HOME rule requires a CHDO Owner of rental housing assisted with CHDO Set-aside funds to remain a certified CHDO throughout the HOME period of affordability or the CHDO must sell the property to another CHDO. If this requirement is not met, IHFA is required to repay the CHDO Set-aside funds back to HUD. Because there is a small number of CHDOs in Idaho, IHFA has determined the risk is too great to use CHDO Set-Aside funds to fund multifamily rental housing activities. Multifamily rental housing is still an eligible activity for a CHDO, but will be funded with (non-CHDO) HOME funds. See Chapter 2 of this Plan for HOME-assisted rental housing activities.

### **CHDO Owner and Developer- Homebuyer Properties**

- For HOME-assisted homebuyer activities: The CHDO owns and develops the property then transfers title to an eligible homebuyer within a specified timeframe as identified in the written agreement

CHDO must arrange financing of the project and be in control of the project.

IHFA will determine and set forth in the written agreement the actual sales price of the housing or the method by which the sales price for the housing will be established and whether the proceeds must be returned to IHFA.

### **CHDO Developer- Homeownership**

CHDO is the owner (fee simple absolute) and developer of new housing that will be constructed, or existing substandard housing to be acquired by the CHDO and rehabilitated for sale to low-income families. To be defined as the developer, the CHDO must arrange financing for the project and be in sole charge of construction.

### **CHDO Sponsor-Homeownership**

There is no equivalent sponsor role for homebuyer housing.

### **CHDO Conflict-of-Interest Provision**

No owner, developer, or sponsor of a project assisted with HOME funds (officer, employee, agent, or consultant of the owner, developer, or sponsor) whether private for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker 24 CFR 92.356(f).

Upon written request by a housing owner or developer, IHFA may grant an exception to the provision when it determines the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or developer's project. Any determination will consider the following factors:

- Whether the person receiving benefit is a member of a group or class of low-income persons

## Chapter 5- CHDO

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intended to be beneficiaries of the assisted housing.

- Whether the person has withdrawn from the functions or responsibilities, or the decision making process, with respect to the specific assisted housing in question.

### **Special Assistance to CHDOs**

#### **Pre-Development Loan**

CHDOs may receive a loan for project specific predevelopment activities for homebuyer properties activities. Predevelopment loans are intended to help ensure that CHDOs have access funds available for up-front, eligible, project expenditures. Funds for these purposes are often difficult for nonprofit developers to obtain from private sources. The CHDO should request and IHFA should approve project predevelopment only where there is a reasonable expectation that the project will prove feasible. IHFA reserves the right to capture any unused portion of an existing pre-development loan after twelve (12) months.

The follow conditions apply:

- Total predevelopment loans cannot exceed ten (10%) percent of the total amount of HOME funds reserved for all CHDOs in any given grant year
- All costs must be related to a specific project, which, if deemed feasible, would receive CHDO-eligible HOME funds
- Cannot exceed customary and reasonable project preparation costs
- Limited to \$50,000.00 per project.
- Funds are provided in the form of a loan, which must be repaid with construction loan proceeds, or incorporated into additional HOME financing.
- The CHDO must provide evidence it is adhering to its Formal Process to include low-income beneficiaries in the siting, development and management of affordable housing projects before predevelopment funds are disbursed.
- IHFA may waive repayment of the loan, in whole or in part, if there are impediments IHFA believes are reasonably beyond the control of the CHDO, or if the project is deemed to be infeasible.

A) Types of Pre-development loans:

- 1) Technical Assistance/Site Control Loan- To establish preliminary feasibility of a specific project. IHFA may waive repayment of this loan, in whole or in part, if there are impediments to the project IHFA believes are reasonably beyond the control of the CHDO, or the project is deemed infeasible.
- 2) Seed Money Loan- This type of loan is intended to cover preconstruction costs for a specific project. Designed to provide site-specific preconstruction assistance after the project is deemed feasible and has received environmental clearance.

**Important!** IHFA will not waive repayment of a Seed Money Loan.

Match Requirement:

## Chapter 5- CHDO

Predevelopment loan funds trigger the HOME match requirement. However, if IHFA waives repayment of the predevelopment loan, there is no match liability.

Predevelopment Loan Application- See Exhibit I of the Administrative Plan.

	<b>Technical Assistance and Site Control Loan</b>	<b>Seed Money Loan</b>
<b>Purpose</b>	To establish preliminary feasibility of a specific project	To cover pre-construction, site specific fees and permits costs for a specific project
<b>Timing</b>	Used <b>prior</b> to gaining site control	Must have site control, preliminary financing commitment, and capable development team
<b>Uses</b>	Limited to: <ul style="list-style-type: none"> <li>▪ Initial feasibility study</li> <li>▪ Cost of preliminary financial application</li> <li>▪ Fees: architects, legal, engineers, development team</li> <li>▪ Site control expenses</li> <li>▪ Title clearance costs</li> </ul>	Limited to: <ul style="list-style-type: none"> <li>▪ Pre-construction, site specific, permits and fees</li> </ul>
<b>Loan Terms</b>	Specified by IHFA	Specified by IHFA
<b>Repayment</b>	Repaid from construction loan or project income  May be waived if there are impediments to project development, or if deemed infeasible	Repaid from construction loan or other project income  <b>Will not be waived</b>
<b>Environmental Clearance</b>	Does <u>not</u> require environmental clearance prior to expenditure of funds	Requires environmental clearance <u>prior</u> to commitment of funds

### **CHDO Operating Assistance Grant**

At its discretion, IHFA may use up to 5% of its annual HOME allocation to provide CHDOs with funds for operating expenses. CHDO operating funds cannot be used for project specific construction costs. The purpose of the Operating Assistance Grant is to help with operating costs as a CHDO becomes increasingly able to earn developer's fees, increase net income from affordable housing owned and/or developed by the CHDO. CHDOs are strongly encouraged to use their CHDO Operating Assistance Grant to support the creation or enhancement of its organizational, professional, and development capacity

## **Chapter 5- CHDO**

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### **Uses:**

- 1) Salaries, wages, benefits and other employee compensation
- 2) Employee education, training, and travel
- 3) Rent and utilities
- 4) Communication costs
- 5) Taxes and insurance
- 6) Office equipment, materials and supplies

### **Eligibility**

A CHDO must meet at least one of the following criteria:

- Has a CHDO-eligible project underway;
- Has had at least one project in which CHDO Set-aside funds were expended within the previous 24 months;
- Has executed a Conditional Commitment of HOME funds for a CHDO-eligible HOME project; or
- Is a new CHDO (received initial certification 1-3 years from the date of the Grant application deadline)

### **Distribution of Funds**

The Operating Assistance Grant is intended to help CHDOs with eligible, reasonable operating costs while receiving, or are under written agreement to receive, set-aside funds. Operating assistance should NOT be considered a long-range funding source. The intent of the grant is to help with operating costs as the CHDO gains capacity to own, develop, and/or sponsor safe, decent, affordable housing. The annual allocation may not be awarded in any year; IHFA reserves the right to capture any unexpended grant funds to reallocate or award to CHDO-eligible projects.

### **Maximum Grant Award**

Each annual award may not exceed 50% of the CHDO's total annual operating expenses for that year, or \$50,000, whichever is greater. This amount includes funds awarded to the CHDO by the PJ for operating expenses, as well as other funds provided by HUD through intermediaries for organizational support and housing education. CHDO operating assistance is awarded as a grant.

### **Reimbursement of Eligible Costs**

Operating Assistance Grant funds can be used for eligible, reasonable day-to-day operating costs of the organization, according to an approved budget. Funds awarded to CHDOs must be drawn within the 12-month contract period.

CHDO may request one extension within writing thirty (30) days of the expiration of the contract. Approval is at the discretion of IHFA. CHDOs must submit final draw request within 30 days following the expiration date of the grant agreement.

### **General Conditions**

Only IHFA Certified CHDOs are eligible to apply for the Operating Assistance Grant. IHFA CHDOs are certified on an annual basis.

## Chapter 5- CHDO

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- 1) CHDO will submit an Operating Assistance Application in compliance with published application deadlines and other requirements;
- 2) CHDO will provide evidence of their non-profit tax-exempt status and their good standing within the State of Idaho;
- 3) Current audited financial statement;
- 4) As a condition of accepting the a CHDO Operating Assistance Grant, the CHDO is required to submit an application or enter into a CHDO agreement to receive HOME funds within 12 months for a CHDO-eligible activity;
- 5) A CHDO may receive an operating assistance grant for any program year in an amount up to, but not exceeding fifty percent (50%) of the CHDO's total operating expenses or \$50,000 whichever is greater. This amount includes all funds provided by HUD through intermediaries for organizational support and housing education.
- 6) The proposed uses of the grant funds must be reasonable and necessary to the day-to-day operation of the CHDO, i.e. employee salaries, compensation and benefits; board/employee education, training and travel; rent, utilities, communication costs; taxes and insurance; office equipment, materials and supplies.
- 7) A CHDO that receives two consecutive grant allocations for operating assistance without an agreement to receive CHDO Set-Aside funds for an approved CHDO-eligible HOME project is ineligible for grant funding the next program year. Any further operating assistance will be awarded only after the CHDO has met production requirements.
- 8) IHFA reserves the right to reduce any amount requested.
- 9) IHFA will provide written notice to all award recipients within sixty (60) calendar days of the published due date for application submission.

### **CHDO Application**

Application and requirements found at Exhibit N.

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