



Harris County Community Services Department Community Housing Development Organization (CHDO) Policy & Procedures Table of Contents



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Harris County Community Services Department Community Housing Development Organization (CHDO) Policy & Procedures



Reference: 24 CFR 92.300 HOME Investment Partnerships Program: CHDO Set-Aside

1. Background

The HOME Investment Partnerships (HOME) Program was established under Title II of the National Affordable Housing Act. The purpose of HOME funding is:

A. To expand the supply of:

- Decent, affordable housing
- Nonprofit housing providers

B. To strengthen:

- Ability of state and local governments to provide housing
- Public-private partnership

The HOME Program is administered through the U.S. Department of Housing and Urban Development (HUD). Harris County, as a participating jurisdiction (PJ), receives funds under the HOME Program. HUD HOME regulations require PJs to set aside 15 percent of their HOME allocation for Community Housing Development Organizations (CHDOs). The CHDO funds can be obtained by organizations that have a qualified project.

2. Purpose

To provide a policy regarding the certifying and recertifying of CHDOs as well as the distribution of Community Housing Development Organization (CHDO) set-aside funds. Harris County Community Services Department (HCCSD) is responsible for ensuring appropriate utilization of the Department of Housing and Urban Development (HUD) entitlement funds allocated for housing and community development activities.

A CHDO is a private, non-profit, community based organization whose primary purpose is to develop affordable housing for the community it serves. The CHDO must have paid staff with demonstrated capacity to develop affordable housing.



3. Regulatory Requirements for CHDO Certification

HUD has established standard criteria for organizations to be eligible for CHDO certification.

- A. **Organized under State/Local Law:** The nonprofit organization must show their Charter or Articles of Incorporation as evidence of being organized under state and local law.
- B. **IRS Nonprofit Status:** Organizations must have a 501(c)(3) or 501 (c)(4) nonprofit status of exemption letter of certification from the Internal Revenue Service (IRS).
- C. **Purpose of Affordable Housing:** Providing decent and affordable housing must be the organization's primary purpose. This is evidenced by the organization's By-Laws, Charter, Articles of Incorporation or Resolution.
- D. **Benefit No Individual:** No part of the CHDO's profits may benefit any members, founders, contributors, or individuals. This requirement must be evidenced in the organization's Charter or Articles of Incorporation.
- E. **Service Area:** The organization must have a clearly defined geographic service area and a map of the service area must be attached to the application.
- F. **Board Representation:** The board of directors must contain no more than one-third representation from the public sector and a minimum of one-third representation from the low-income community it serves.
- G. **For-Profit Sponsorship:** CHDOs may be sponsored by for-profits; however, the CHDO cannot be controlled by the for-profit and must be free to contract for goods and services evidenced by CHDO's By-Laws, Charter or Articles of Incorporation. The primary purpose of the for-profit cannot be housing ownership/management as evidenced by the for-profit's Articles of Incorporation.
- H. **Low-Income Input:** A formal process that is described in the By-Laws or Resolution has been established and implemented for low-income program beneficiaries from the organization's service area to advise the organization in all of its decisions regarding design, location, development and management of affordable housing.
- I. **Capacity and Experience:**
 - CHDO must have paid employee staff who are responsible for day-to-day operations with demonstrated housing development experience in order to be designated as a CHDO.
 - Key staff and Board Members must have significant experience and capacity to carry out CHDO eligible HOME-assisted projects in the community where it intends to develop affordable housing. Resumes of key staff and/or board members will serve as evidence of experience and capacity.
 - HCCSD is required to certify that the organization meets the definition of a CHDO each time it commits funds to the CHDO.



- HCCSD is required to document that the CHDO has the capacity to own, develop or sponsor housing each time it commits funds to the CHDO.
- J. Serving the Community: A minimum of one year of relative experience serving the community where the organization intends to develop affordable housing must be demonstrated via letters of community support and/or written statement of organization's community activities.
- K. Accounting Standards: The organization must meet and adhere to financial accountability standards found in 24 CFR 84.21.
- L. Organizations having revenues in **excess** of \$300,000 **MUST** submit an audit performed by a Certified Public Accountant, along with their most recently filed IRS Form 990.

Organizations having income **less** than \$300,000 **MUST** submit the organization's most recently filed IRS Form 990, along with the items from either (a) **or** (b):

- a) A set of Basic Financial Statements, which **MUST** include the industry equivalent of a "Balance Sheet", "Statement of Cash Flows", "Income Statement" and the "Notes to the Financial Statements". These must have been certified as official financials and evidenced by a copy of the board minutes showing that they were presented and accepted as official financial statements by the entity's board or governing body.
- OR**
- b) A compiled set of Basic Financial Statements, along with a letter that the compilation was performed in accordance with American Institute of Certified Public Accountants' industry standards. The compilation must include the industry's equivalent of the "Balance Sheet", "Statement of Cash Flows", "Income Statement" and the "Notes to the Financial Statements".

NOTE: Audit or Certified Financial Statements must be completed in accordance with generally accepted accounting principles and prepared during the last fiscal year.

4. Harris County's Requirements for CHDO Certification

In addition to the regulatory requirements from HUD, HCCSD has established additional criteria for CHDO certification. The organization must:

- A. Maintain a record of good standing with the Texas Secretary of State's office
- B. Maintain clear history of no significant compliance findings or deobligation of awarded CHDO funding on Harris County funded projects

The criterion above is not all-inclusive and Harris County may require additional information prior to determining CHDO certification. Meeting the above requirements does not guarantee CHDO certification and Harris County reserves the right to deny or revoke CHDO certification based on its evaluation of the nonprofit organization's performance.



5. Organizational Structure Requirements for CHDO Certifications

HUD has established organizational structure requirements for CHDOs to ensure that the governing board is not controlled by influence from outside the community it serves. These requirements are also designed to ensure that the CHDO is capable of independent decisions and actions designed to best serve the community needs.

The requirements relating to the organization's board must be evidenced in the Articles of Incorporation or By-Laws.

- A. **Low Income Representation:** At least one-third of the organization's board must be representatives of the low-income community the CHDO serves. To meet the one-third minimum requirement, the organization's board may consist of either:
- Residents that live in the low-income community where 51 percent or more of the residents are low-income. The persons need not be low-income;
 - Residents of the community who are qualified as low-income (below 80 percent of the median income); or
 - Elected representatives of low-income neighborhood organizations.

The CHDO is required to certify the status of all low-income representatives and the low-income Board representation should be included in the CHDO's By-Laws, Charter or Articles of Incorporation.

- B. **Public Sector Limitations:** A CHDO may be chartered by state or local government, however restrictions apply. The CHDO must be separated from and not under the control of a governmental entity – which is not permitted to provide its employees to the CHDO as staff or as officers. Only one-third or less of the organization's board may consist of representatives from the public sector, including elected public officials, appointees of elected public officials or employees of Harris County, as discussed in the CHDO's By-Laws, Charter or Articles of Incorporation. If a person qualifies as a low-income representative and a public sector representative, the role of public sector representative supersedes their residency or income status. This person would therefore count toward the one-third public sector limitation.
- C. **Low Income Advisory Process:** The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. This process must be described in the CHDO's By-Laws, Resolutions or a written statement of operating procedures approved by the governing body. Each project the CHDO undertakes should allow for the potential program beneficiaries to provide input on the project from start to finish. This may be accomplished by creating a project advisory committee for each project located in the areas the project will serve. Proof of low-income beneficiary input will be required at the CHDO's annual recertification.
- D. **For-Profit Limitations:** If a CHDO is created or sponsored by a for-profit:



- The for-profit may not appoint more than one-third of the board, as evidenced by the CHDO's By-Laws, Charter or Articles of Incorporation. Board members appointed by the for-profit may not appoint the remaining two-thirds of the board members.
- The officers and employees of the for-profit entity would be prohibited from serving as officers or employees of the CHDO, and the nonprofit entity would be prohibited from using the office space of the for-profit entity.

6. Experience, Capacity and Financial Accountability Requirements for CHDO Certification

Organizations must demonstrate sufficient experience, capacity and financial accountability to be certified as a CHDO.

- A. Experience and Capacity: CHDOs must demonstrate a history of serving the community in which the housing activities will take place. This can be demonstrated by providing:
 - A statement that documents one year of experience serving the community, or
 - A statement that a parent organization (if applicable) has at least one year experience serving the community.
- B. Financial Accountability: CHDOs must have financial accountability standards that conform to the requirements detailed in 24 CFR 82.21, "Standards for Financial Management Systems". This can be evidenced by a notarized statement from Chief Financial Officer of the CHDO or a certification from a Certified Public Accountant to certify the organization's financial system is in compliance with financial accountability standards of 24 CFR 82.21 or a HUD approved audit summary.

7. CHDO Service Area

The Harris County CHDO service area includes all of unincorporated Harris County and 14 cooperative cities:

Bellaire	Humble	LaPorte	Shoreacres	Webster
Deer Park	Jacinto City	Morgan's Point	South Houston	West University Place
Galena Park	Katy	Seabrook	Tomball	

Houston, Baytown and Pasadena are not included in the Harris County service area.

CHDOs will be required to provide updates on how active and visible their organization's contributions are to the community they are serving.

8. CHDO Certification, Recertification and Revocation

HCCSD accepts new CHDO applications throughout the year. As part of the certification process, HCCSD reviews the organization's structure, Board make-up, service area, experience and capacity (as described above) to assess the organization's ability to carry out a HOME funded project utilizing the required guidelines.



In addition to certification, HCCSD also has the responsibility of recertifying CHDOs. Non-profit organizations may experience transitions in Board composition and management. Charters or By-Laws may be amended at any given time. After the initial certification, HCCSD will re-certify CHDOs annually to keep all information current and verify that the organization still satisfies the criteria to be designated a CHDO.

In order to maintain CHDO status, the CHDO must re-apply on an annual basis during the annual recertification period. The CHDO annual re-certification period begins October 1st of each year. Upon review of completed re-certification applications and applicable documents, the CHDO will be certified from December 1st thru November 30th of the following year. If the re-certification application and applicable documents are not received by November 1st, the CHDO will need to complete a new certification application. Failure to submit an application for re-certification may cause the CHDO certification to expire and the organization will be ineligible for HCCSD CHDO set-aside funds.

If the organization is not recertified, it is not eligible to receive any funds and/or services reserved for CHDOs until such time as the organization is able to prove to the satisfaction of HCCSD that they still meet all of the criteria necessary to obtain CHDO certification.

Additionally, Harris County reserves the right to provide conditional certifications that are conditioned on specific goals and/or objectives. Conditional certifications will require accomplishments by a specific date and terminate if established goals or objectives are not met.

The status of the CHDO certification will be verified by HCCSD prior to awarding CHDO funds. Certification may be revoked at any time following compliance findings or deobligation of funding. Recertification will only be considered upon submission of a new certification application and clearing of all findings.

9. Project Development Using CHDO Set-Aside

The HOME requirements in 24 CFR Part 92.300 require HCCSD to set aside at least 15 percent of its annual HOME allocation for projects owned, developed or sponsored by CHDOs.

A certified CHDO must be an owner, developer or sponsor of a HOME-eligible project to use CHDO set-aside funds. A CHDO may serve in one of these roles or in a combination of roles, such as being owner and developer.

A. CHDO as Owner: As owner, the CHDO holds valid legal title or has a long-term leasehold investment to the property (99 year minimum). The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities. However, the CHDO must be the managing general partner with effective control (decision making authority) of the property.

The CHDO may be both owner and developer of its own project.



B. CHDO as Developer: A CHDO is a developer when the CHDO owns the property and develops the project or has contractual obligations to the property owner to develop the project.

- If the *CHDO* owns the property, it must rehabilitate or construct the project and obtain financing. The CHDO may maintain ownership and manage the property for HOME-assisted rental housing or it may transfer title to another entity.
 - For HOME Assisted Rental Housing: Upon project completion, the CHDO may maintain ownership and manage the project over the long-term, or it may transfer the project to another entity for long-term ownership and management.
 - For HOME Assisted Homebuyer Projects: CHDO transfers title of the property and the HOME obligations to an eligible homebuyer within a specific timeframe of the project completion.
- If the CHDO *does not* own the property, it must have a contractual obligation to the property owner to obtain financing and rehabilitate or construct the property. Under this scenario, the CHDO assumes all of the risks and rewards associated with being the project developer. A written contract between the CHDO and the property owner must specify the CHDO's obligations.
 - For HOME-assisted rental housing: The CHDO may, at project completion, manage the project for the owner.
 - For homebuyer housing: The owner must transfer title of the property and the HOME obligations to eligible homebuyers within a specified timeframe of project completion.
- If the CHDO develops the project for an owner according to a written agreement with HCCSD, the CHDO is acting as a Subrecipient. Organizations receiving funds as subrecipients cannot use funds from the 15 percent CHDO set-aside for that particular project and cannot retain CHDO proceeds.

C. CHDO as Sponsor: CHDOs may sponsor HOME-assisted rental housing or homebuyer projects.

- For HOME-assisted rental housing – The CHDO develops a project that is solely owned or partially owned by the CHDO and conveys ownership to a second nonprofit organization at a determined time. The conveyance may occur before or during development or upon completion of the project. The following requirements apply:
 - HOME funds must be invested in the project owned by the CHDO sponsor.
 - The CHDO sponsor must name the nonprofit organization that will obtain ownership of the property prior to commitment of CHDO set-aside funds.



- The second nonprofit must assume all HOME obligations (repayment of loans and tenant and rent requirements), including affordability periods, for the project after conveyance. If the property is not transferred, the CHDO sponsor will remain liable for all HOME obligations.
 - The nonprofit organization must be a legally and financially separate entity from the CHDO sponsor.
 - The CHDO sponsor must provide sufficient resources to the nonprofit organization to ensure the completion of development and long-term operation of the project.
- For HOME-assisted homebuyer projects – The CHDO is a sponsor when it owns the property and shifts responsibility to a second nonprofit at a specified time in the development process. The following requirements apply:
- HOME funds must be invested in the project owned by the CHDO, and
 - The second nonprofit must acquire the completed units or complete the rehabilitation or construction of the property.
 - Upon completion of the project, the second nonprofit is required to transfer the property, along with all HOME obligations, to a HOME-qualified homebuyer.

- D. CHDOs as Developers or Sponsors: The CHDO developer and sponsor roles are similar in many ways.
- In both, the CHDO assumes the principle project development activities, such as acquisition, financing, construction management, and assembling a development team to complete the project.
- However, as developer, the CHDO needs not own the property.
- As sponsor, the CHDO must own the property, in whole or in part, and shift the responsibility to another nonprofit at a specified time in the development process. The transfer could occur, for example, at the:
- Initiation of construction;
 - Completion of construction; or
 - Issuance of the certificate of occupancy.

10. Eligible and Ineligible Uses of CHDO Set-Aside Funds

- A. Eligible Activities –A CHDO acting as owner, sponsor or developer may use the 15 percent CHDO set-aside for the following activities:
- Acquisition and/or rehabilitation of rental or homebuyer property;
- New construction of rental or homebuyer property; and



- Direct financial assistance to homebuyers of HOME-assisted property developed or sponsored by the CHDO.

CHDO set-aside HOME funds must be used for the construction or rehabilitation of property.

B. Ineligible CHDO Activities - Ineligible uses of the HOME CHDO set-aside are:

- Homeowner rehabilitation;
- Tenant-based rental assistance (TBRA); and
- Downpayment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO funds.

C. Operating Assistance - Up to 5 percent of HCCSD's HOME allocation may be used to provide funds for CHDO operating assistance. This allocation does not count toward the 15 percent set-aside funds used by CHDOs for projects. To be eligible for CHDO operating assistance, the CHDO must have a currently funded pre-development loan or affordable housing project and submit a funding request at the same time it applies.

CHDO operating assistance may not exceed the greater of:

- \$50,000 each fiscal year, or
- Fifty percent (50%) of CHDO's total annual operating expenses for that year.

A certified copy of the CHDO's most recent operating budget must be submitted to HCCSD to determine amount of assistance. Operating funds are provided on a year-by-year basis provided funds are available and the organization has acceptable performance in the community. CHDOs applying for operating funds must be prepared to submit detailed project plans. Operating assistance is provided on a performance basis in accordance with the project submitted.

HCCSD reserves the right to delay payment of operating funds if it is evident that the CHDO project is experiencing delays.

HCCSD reserved the right to reduce the amount of or terminate operating assistance based on its evaluation of the CHDO's production and/or overall performance.

Eligible operating expenses are:

- Salaries, wages, benefits, and other employee compensation;
- Rent and utilities;
- Communication costs;
- Taxes and insurance; and
- Equipment, materials, and supplies.



The provision of CHDO operating assistance is to nurture successful CHDOs and HCCSD will periodically evaluate the performance of any CHDO receiving CHDO operating funds.

- D. Pre-development Loans: Cannot exceed 10 percent of the funding amount reserved as CHDO set-aside. HCCSD has established a one year deferred balloon pre-development loan. Loans for pre-development costs are available to certified CHDOs to ensure access to funds for upfront, eligible project expenditures.

The pre-development loan is only available to CHDOs with current certification from HCCSD. Eligible CHDOs requesting a pre-development loan must be prepared to submit a funding application for an eligible set-aside project within a year of completing all pre-development activities.

The maximum pre-development loan award is \$35,000 for pre-development activities at a zero percent interest rate. (Additional approval is required for loan requests exceeding \$35,000). The pre-development loan is amortized as a one year deferred balloon note. The term of the one year deferred balloon note is as follows:

- 12 months* of deferred payments
- 11 months* of amortized payments
- 24th month*, final payment and balance due

HCCSD reserves the right to make changes as required to loan terms requested, based on an analysis of project feasibility.

Eligible Costs

- * Market study
- * Architect fees (plans and specifications)
- * Legal
- * Appraisals
- * Environmental
- * Engineering studies
- * Cost of preliminary financial application
- * Consultation fees
- * Zoning approval

All costs must be related to a qualified HOME eligible set-aside project (rental housing or homeownership) in order to be eligible to receive pre-development loan funds.

Prohibited Costs

- Pre-development loans may not be used to pay CHDO staff or administrative costs.
- Cost associated with any non-HOME eligible projects.
- Cost associated with projects other than those specified on funding application.

All pre-development loans must be repaid from construction loan proceeds or other project income. Pre-development loans contain a special provision allowing for the forgiveness of loan obligation if there are



impediments to project development, permanent financing cannot be secured or other documented information indicates the project is not feasible, as determined by HCCSD.

11. Progress Reporting

To document progress, the CHDO must work with the Grants Management Section to provide regular progress reporting in accordance with HCCSD's monitoring schedule. Required reporting will be reviewed with organizations at the time of award; however, at a minimum, the CHDO must submit monthly payroll documentation (if applicable) and monthly reimbursement requests, including evidence of expenditure and payment of those expenses. Grants Management and Finance will verify project progress and eligibility of those expenses under both the project and operating assistance categories.

12. CHDO Proceeds

HCCSD allows CHDOs to retain proceeds. To be eligible for CHDO proceeds retention, the CHDO must provide a written plan for the use of such funds with the initial CHDO application. The written plan must be approved by HCCSD as part of contract development.

Proceeds are funds resulting from:

- Permanent financing of a CHDO project used to pay off a CHDO-financed construction loan;
- The sale of CHDO-developed homeownership housing to a homeowner or a second non-profit; and
- Interest and principle payments from a loan to buyer of CHDO-developed homeownership housing.

Proceeds are not considered program income.

13. CHDO Procurement

CHDOs are not subject to requirements of 24 CFR, Part 84 in regard to procurement of goods and services. This exemption is for CHDO-funded projects only; CHDOs must still follow appropriate procurement procedures that are compliant with Part 84 for their non-CHDO projects. HCCSD may request a copy of the CHDO's procurement policy for any non-CHDO project.

14. How to Apply for Harris County CHDO Certification

- 1) Obtain Harris County Community Services Department CHDO Certification Application by one of the following:
 - Contact Development Housing Analyst at (713) 578-2000 to request an application
 - Email an application request to rfp@csd.hctx.net
 - Download application found at http://www.csd.hctx.net/PS_CHDOs.aspx
- 2) Complete application and include all requested attachments, documentations and forms.



- 3) Mail or hand-deliver the application and attachments to the address below. Fax or e-mail copies are not acceptable.

**Harris County Community Services Department
Attention: Development Section
8410 Lantern Point Drive
Houston, TX 77054**

- 4) Once all required information and/or documents are submitted to HCCSD, the review process is usually complete within 3-4 weeks.
- 5) CHDO certification application will be evaluated for the following criteria:
 - Conformance to CHDO regulatory requirements.
 - Organizational structure.
 - Experience and capacity.
 - Staffing.
 - Board composition.
 - Finance and accounting standards and procedures.

15. Applying for CHDO Funds

As with all other Entitlement funding, CHDO funds are awarded on a calendar year basis during the annual Request for Proposals Process and/or the Unsolicited Request for Proposals Process.



Appendix