



HOME Community Housing Development Organization (CHDO)

Application for Certification HOME Program Year 2020

Administered by:
The South Carolina State Housing Finance and Development Authority



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Overview

The National Affordable Housing Act of 1990 (the Act) created the HOME Investment Partnerships Program (HOME). The Act's objectives include promoting partnerships between states, local governments, and nonprofit organizations. A "community housing development organization" (CHDO) is a specific kind of community based nonprofit housing organization defined by the HOME Final Rule (24 CFR Part 92). CHDOs have a distinct and special status within HOME. Each Participating Jurisdiction (PJ) must set-aside at least 15% of its total HOME allocation each year specifically for projects that will be owned, developed, or sponsored by CHDOs.

At a high level, the CHDO definition can be grouped into four key elements. To be recognized as a CHDO, an organization must be:

- A legally incorporated tax-exempt nonprofit organization;
- An independent organization free of undue control by for-profit or governmental entities;
- Accountable to the low income community it serves; and
- Capable of undertaking the development of affordable housing.

In the past, SC Housing certified CHDOs on an annual basis. SC Housing will still maintain this process to prepare a list of entities that meet the general CHDO requirements and to verify an organization previously funded as a CHDO continues to meet the CHDO definition throughout the duration of the affordability periods of their awarded projects.

In addition to the annual certification process, certification of CHDOs will be incorporated into the application process for the Small Rental Development and Low Income Housing Tax Credit Programs. Each time SC Housing provides funding to an organization from the CHDO set-aside, SC Housing must determine that the organization meets the CHDO definition and that it will own, develop or sponsor HOME-assisted housing as defined in §92.300. An organization will only be certified as a CHDO if it demonstrates it has the staff and financial capacity appropriate to the proposed project.

Definitions

Applicant - a 501(c)(3) or (4) or a Section 905 subordinate organization

Application - the completed forms, schedules, attachments, and any additional documentation requested in the application for certification purposes.

Board Resolution - an action taken by the board of directors which applies to a single act (as opposed to bylaws which are the rules that govern an organization and regulate its affairs). A resolution is proposed by a motion, made and seconded, that the resolution be adopted. It should be dated and executed by the board chairperson and executive director.

There is no formal rule to govern when a resolution should be made; however, there are some circumstances when a resolution is the most appropriate course of action. These include:

- if the matter is one that the statute, charter, or bylaws require to be covered by a resolution;

- if the matter regulates the management of the corporation and is meant to be permanent until changed;
- if the matter is one of importance;
- if the matter is one that is likely to be referred to from time to time; and
- if the matter consists of amendments to the charter or bylaws.

Community Housing Development Organizations (CHDO) – a private nonprofit organization that:

1. Is organized under State or local laws;
2. Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
3. Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A CHDO may be sponsored or created by a for-profit entity, but:
 - i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
 - ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members;
 - iii. The CHDO must be free to contract for goods and services from vendors of its own choosing; and
 - iv. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central organization non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is an wholly owned entity that is disregarded 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), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of “community housing development organization;”
5. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a CHDO; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of such governmental entity. Board members appointed by a governmental entity may not appoint the remaining two-thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;
6. Has standards of financial accountability that conform to 24 CFR 84.21, “Standards for Financial Management Systems;”
7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
8. Maintains accountability to low-income community residents by:

- i. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, “community” may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
 - ii. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
- 9. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience gained by working with governmental funding to train appropriate key staff of the organization. Such consultant must first be approved by SC Housing. An organization must also demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A nonprofit organization **cannot** meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
- 10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

Community - In urban areas, “community” is not necessarily limited to a single neighborhood, but may include several neighborhoods, the city, county or metropolitan area. In rural areas, “community” may also cover a multicounty area (but not the entire state).

Low-Income Neighborhoods - neighborhoods where 51% or more of the residents are low-income.

Low-Income Neighborhood Organizations - an organization composed primarily of residents of a low-income neighborhood. The primary purpose of the organization must be to serve the interest of the neighborhood residents. Block groups, town watch organizations, civic association, neighborhood church groups and NeighborWorks® organization can be examples of low-income neighborhood organizations.

Organizational Chart - Visual representation of how an organization intends authority, responsibility, and information to flow within its formal structure. It usually depicts different management functions (accounting, finance, human resources, marketing, production, R&D, etc.) and their divisions along which decision making power travels downwards and answerability travels upwards.

Participating Jurisdiction (PJ) - any state, local government or consortium that has been designated by HUD to administer the HOME Program. The South Carolina State Housing Finance & Development Authority is the designated PJ for the state of South Carolina.

SC Housing - the South Carolina State Housing Finance and Development Authority.

CHDO Requirements

A. Eligible CHDO Roles:

Only those projects in which the CHDO acts as the **Sponsor, Owner, or Developer** of the affordable housing will be eligible to receive funds from the CHDO set-aside. The role of the sponsor, owner or developer is detailed below:

- CHDO Developer - Rental housing is “developed” by the CHDO if the community housing development organization is the owner of multifamily or single family housing in fee simple absolute (or has a long term ground lease) and the developer of new housing that will be constructed or existing substandard housing that will be rehabilitated for rent to low-income families in accordance with §92.252. To be the “developer,” the community development housing organization must be in sole charge of all aspects of the development process, including obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work and determining the reasonableness of costs. At a minimum, the community housing development organization must own the housing during development and for a period at least equal to the period of affordability in §92.252.
- CHDO Owner - Rental housing is “owned” by the community housing development organization if the community housing development organization is the owner in fee simple absolute of multifamily or single family housing (or has a long term ground lease) for rental to low-income households in accordance with §92.252. If the housing is to be rehabilitated or constructed, the community housing development organization hires and oversees the developer that rehabilitates or constructs the housing. At minimum, the community housing development organization must hire or contract with an experienced project manager to oversee all aspects of the development, including obtaining zoning, securing non-HOME financing, selecting a developer or general contractor, overseeing the progress of the work and determining the reasonableness of costs. The community housing development organization must own the rental housing during development and for a period at least equal to the period of affordability in §92.252. If the CHDO acquires housing that meets the property standards in §92.251, the CHDO must own the rental housing for a period at least equal to the period of affordability in §92.252.
- CHDO Sponsor - Rental housing is “sponsored” by the community development housing organization if it is rental housing “owned” or “developed” by a subsidiary of a community housing development organization, a limited partnership of which the community housing development organization or its subsidiary is the sole general partner, or a limited liability company of which the community housing development organization or its subsidiary is the sole managing member.
 - The subsidiary of the community housing development organization may be a for-profit or nonprofit organization and must be wholly owned by the community housing development organization. If the limited partnership or limited liability company agreement permits the community housing development organization to be removed as general partner or sole managing member, the agreement must provide that the removal must be for cause and that the community housing development organization must be replaced with another community housing development organization.
 - The HOME funds must be provided to the entity that owns the project.

HOME-assisted rental housing is also “sponsored” by a community housing development organization if the community housing development organization “developed” the rental housing project that it agrees to convey to an identified private nonprofit organization at a

predetermined time after completion of the development of the project. The nonprofit organization assumes the community housing development organization's HOME obligations (including any repayment of loans) for the rental project at a specified time after completion of development. If the housing is not transferred to the nonprofit organization, the community housing development organization sponsor remains responsible for the HOME assistance and the HOME project. Sponsored rental housing is subject to the following requirements:

- The private nonprofit organization may not be created by a governmental entity.
- The HOME funds must be invested in the project that is owned by the community housing development organization.
- Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.

Eligible CHDO Activities:

The only eligible CHDO activity is rental housing.

Submitting CHDO Certification Applications

Applications may be obtained on SC Housing's website. Applications may be delivered by mail, other shipping service, or by hand delivery to the SC Housing's offices at:

South Carolina State Housing Finance and Development Authority
Attn: **HOUSING DEVELOPMENT**
CHDO Certification Application
300-C Outlet Pointe Blvd. Columbia, SC 29210

- Facsimile or email transmissions will **NOT** be accepted.
- Provide one (1) **original** application, no additional copies are needed.

Entities seeking to be included on SC Housing's list of entities that meet the general CHDO requirements and entities with existing CHDO funded projects that are still subject to HOME income **must submit certification applications between March 2, 2020 – March 30, 2020.**

Entities applying for CHDO set-aside funds in the 2020 Small Rental Development Program or Low-Income Housing Tax Credit Program are required to complete and submit the CHDO Certification Application when applying for those funds. Instructions for submitting the CHDO Certification Application documents are included in SRDP and LIHTC application packages.

Instructions for Completing the Application

The applicant must complete the fillable application, sign the certification and place the original CHDO Application behind **Tab 1**.

A. Qualifying Criteria - Legal Status:

1. **Tax-Exempt Status:** An organization must have received a tax-exempt ruling from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986 before being

designated by SC Housing as a CHDO. A copy of the letter from the IRS stating an organization's status should be placed behind Tab 2.

The permissible tax-exempt statuses are:

- 501(c)(3) or 501(c)(4) status; or
- Section 905 status - a subordinate organization of a 501(c) organization; or
- A wholly-owned entity that is a disregarded entity separate from its owner for tax purposes and is owned by an entity with a tax exemption ruling from the IRS under Section 501(c)(3) or 501(c)(4).

2. **Status of Good Standing:** The organization must maintain a "Good Standing" status with the S.C. Secretary of State's Office as long as the organization is a CHDO. To show a nonprofit is in Good Standing, visit the Secretary of State's web page at: www.scsos.com; click on "Corporate Search;" once the nonprofit is found, print a paper copy of the webpage showing the organization is currently in "Good Standing" and submit behind **Tab 2**.
3. **Debarred or Suspended Applicants:** In accordance with SC Housing requirements, no award of federal or state funds may be made to a CHDO applicant that is debarred or suspended, or proposed to be debarred or suspended from doing business with the federal or state government. An **Attachment A - Debarment Certification Form** must be completed by the Applicant entity and if applicable, any subsidiary organizations. Submitted Debarment Certification Forms behind **Tab 2**.
4. If the CHDO is created or sponsored by a for-profit entity a copy of the for profit organization's **Articles of Incorporation** must be submitted behind **Tab 3**.
5. A copy of the organization's most updated **By-Laws** must be submitted behind **Tab 3**. Each requirement listed below must be highlighted or circled within the copy of the By-Laws or the item will be considered missing. If these items are not in the By-Laws, they can be submitted as a Board Resolution or other appropriate method.
 - a) By-Laws must be exclusive to the organization and be **signed and dated**. If the By-Laws have been revised, dates and signatures should reflect such.
 - b) **Clear Housing Purpose:** A provision of decent housing that is affordable to low and moderate-income persons must be among the purposes of a potential CHDO and included in the By-Laws.
 - c) The **financial year** on which the organization operates must be in the By-Laws (i.e. calendar year, fiscal year from July 1 - June 30, etc.).
 - d) **Service Area:** CHDOs must have a clearly defined geographic service area. A CHDO's service area is limited to seven (7) counties which includes the county where their central office is located and up to six (6) nearby/surrounding counties. The defined service area must be included in the By-Laws.
 - e) **Board Structure:** A potential CHDO's board structure must reflect that which is defined below under "Organizational Structure." Such structure must be outlined and identified as the CHDO applicant's chosen method for governance. Board terms must be defined for all board members. A life time board term is not acceptable.
 - f) **No Benefits Provision:** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors or individuals. A "no benefit" provision, stating the following: "No

employee, agent, consultant, Board member or officer of [the organization] may obtain a financial interest or benefit from [the organization]’s participation in any Authority programs or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder during one’s tenure, or for one year thereafter. Nor shall an immediate family member or business associate of an employee, agent, consultant, Board member or officer, or any organization which employs or is about to employ such employee, agent, consultant, Board member or officer, obtain a financial interest or benefit from the transaction or contract of [the organization] related to participation in any Authority programs.”

- g) **Low-income Input Process:** A CHDO Applicant must create a formal process for low-income program beneficiaries to advise a CHDO on all of its decisions regarding the design, location of sites, development and management of affordable housing projects. CHDO Applicants should establish a system for community involvement throughout all parts of their service areas where housing will be developed. Those systems might include special committees of neighbors/neighborhoods of the proposed development site; Advisory Councils, Open Town Meetings, or Ad Hoc Committees. The process must be described in writing and the CHDO must maintain records showing their formal process has been followed. Examples of records are flyers, pictures, agendas, or minutes of low-income input meetings; or agendas and/or minutes of board meetings documenting low-income input or information gathered at a previous time; or any other reasonable means.**Documentation of the implementation of this process must be included with any applications submitted for projects requesting HOME funds.
- h) **Organizations created or sponsored by governmental or for-profit entities:** Language must be included that states the following:
- The governmental or for-profit may not appoint more than 1/3 of the membership of the organization’s governing body; and
 - The board members appointed by the governmental or for-profit entity may not appoint the remaining 2/3 of the board members.
 - The officers or employees of the governmental or for-profit entity may not be the officers or employees of the CHDO.

B. Organizational Structure:

A CHDO is created to respond to a particular community’s needs. The structure of a CHDO’s Board of Directors is viewed as the main indicator of community control over the CHDO. A CHDO Applicant must have a minimum of five (5) board members with the majority situated within the defined service area(s) **and must** be composed as follows:

1. At least one-third (1/3) of the Board must be representatives of the low-income community. There are three ways to meet this requirement:
 - a) **Residents of low-income neighborhoods in the community** - Residents of low-income neighborhoods do not have to be low-income themselves. Low-income neighborhoods must be verified and identified as such through census tracts, CDBG targets areas, or other appropriate means.
 - b) **Low-income residents of the community** - Low-income residents do not have to live in a low-income neighborhood but the Board member must certify that their annual gross income (adjusted for family size) is at or below 80% of the area’s county median income.
 - c) **Elected representatives of low-income neighborhood organizations** - The governing body of a low-income neighborhood organization may elect a representative to serve on a CHDO Board. Verification of a low-income neighborhood organization’s election procedure, term, and minutes of the meeting in which the vote took place are required to be submitted.

2. No more than one-third (1/3) of the Board may be public officials or employees of a Participating Jurisdiction (PJ). A member of the governing board of a CHDO Applicant would be considered to be a representative of the public sector if he/she is a(n):
 - a) **Elected Official** - council members, aldermen, commissioners, state legislators, members of the school board, mayors and so forth;
 - b) **Appointed Public Official** - members of a planning or zoning commission or of any other regulatory and/or advisory boards, or commissions;
 - c) **Public Employee** - all employees of public agencies (including schools) or departments of government; or
 - d) **Public Official's Appointee** - any individual who is not necessarily the appointed public official, but who has been appointed by an appointed public official (as described above) to serve on the CHDO board. Members of the board appointed by public officials cannot select other members of the board.

3. The balance of the Board is unrestricted. They may include people such as human and social service providers, lenders, individuals with access to philanthropic resources, or others willing to contribute their professional expertise that do not also meet the "public official" description explained above.

Applicants must complete the Board of Directors Information form (**Attachment B**). In addition, each Board Member is required to complete a Board of Directors Representation form (**Attachment C**). These attachments will be used to determine if the organization's Board structure meets HUD regulatory requirements for board structure. All verification documentation is to be placed behind **Tab 4**.

C. Experience and Staff Capacity:

An organization applying for certification to become a CHDO must demonstrate the capacity of its key staff to carry out HOME-assisted activities. HOME regulations require that a CHDO have paid employees with housing experience appropriate to the role the CHDO expects to play in projects. At a minimum, the CHDO must have at least one full-time paid staff member. A CHDO must have its own professional, experienced staff and cannot rely on the staff of parent or affiliated organizations.

1. Skills necessary for a professional staff to sustain capacity include:
 - a) Management of the organization on a daily basis - time management; fiscal management; conflict management; team management; communication; and commitment.
 - b) Defining the project - identify market, assemble/manage development team; test feasibility; and negotiate effectively.
 - c) Undertake project - build and maintain relationships; attend to details; manage the development team; adapt and manage a crises; and negotiate effectively.
 - d) Complete or manage a project to completion - deliver on time and within the established budget and produce a quality product, recognize and correct mistakes when made; and evaluate outcomes objectively.

2. For its first year of funding as a CHDO, an organization may satisfy the experience and capacity requirement through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. Such consultant **must first be approved by SC**

Housing.

3. Documentation for experience and staff capacity behind **Tab 5** must include:
 - a) **Attachment D – Staff Roster**
 - b) Organizational Chart
 - c) Resumes/Biographies of all key staff
 - d) Staff payroll documentation, W-2's/1099s
 - e) Descriptions of similar completed or ongoing projects that key staff have been or are currently working on.
 - f) **Attachment E - Consultant Disclosure**, if applicable
 - g) Copies of consultant contracts, if applicable

D. Financial Requirements:

At a minimum, a CHDO Applicant must demonstrate that it is financially viable and has a financial management system in place that provides proper controls and reporting of the organization's activities. The financial accountability standards must conform to 2 CFR 200.302 (Financial Management) and 2 CFR 200.303 (Internal Controls).

The applicant must provide the following financial documentation behind Tab 6:

1. **Financial Statements:** The organization's most recent financial statements compiled, reviewed, or audited by an independent CPA licensed by the South Carolina Board of Accountancy must be submitted. The financial statements must include a Statement of Financial Position, Statement of Activities (documenting one full year of activity), and notes/footnotes or disclosure statements to the financial statements (Dated December 31, 2018 or later).
2. The most recent (2018 or 2019) income tax return or IRS Form 990 (must also provide evidence of delivery to the IRS). Board members must be appropriately documented in the IRS Form 990.
3. **Attachment F – Standards for Financial Management Systems** completed, executed and notarized.

Application Review Process

SC Housing staff will review the CHDO application and the required documents to ensure the application package is complete.

- CHDO applicants will receive either a letter of CHDO certification or a deficiency letter.
- Applicants that receive a deficiency letter identifying missing and/or incorrect documents will be allowed to submit corrected or missing documents.
- Organizations that have been debarred, suspended, proposed for debarment or suspension, declared ineligible or voluntarily excluded from any transactions or construction developments involving the use of governmental funds, including but not limited to CDBG, RHS, Federal Home Loan Bank, HOME, National HTF, LIHTC, SC HTF are NOT eligible applicants.
- SC Housing will maintain a list of CHDOs meeting the general CHDO requirements that will be posted on SC Housing's HOME program web page.

Debarments/Suspensions

If any matters that significantly reflect on the applicant's management and financial integrity are discovered, including (but not limited to) if any key individuals have been convicted or are presently facing criminal charges, SC Housing reserves the right to:

- a) Deny the CHDO certification, deny funding, or in the case of a continuing award, consider suspension or termination of an award immediately for cause;
- b) Require the removal of any key individual from association with management or implementation of the award; and
- c) Make appropriate provisions or revisions with the respect to the method of payment or financial reporting requirements.

A false statement in an application is grounds for denial of the requested CHDO certification and/or termination of an award by SC Housing.

SC Housing may debar and/or suspend a CHDO Applicant in accordance with SC Housing's Debarment and Program Suspension Policy which can be found on SC Housing's website.