

Policies and Procedures for Community Housing Development Organizations (CHDOs) including: Application for CHDO Certification & CHDO Operating Funds

Approved by the MFA Board

October 15, 2014

# TABLE OF CONTENTS

[TABLE OF CONTENTS i](#_Toc396217095)

[EXECUTIVE SUMMARY 1](#_Toc396217096)

[GENERAL INFORMATION 2](#_Toc396217097)

[What is a Community Housing Development Organization (CHDO)? 2](#_Toc396217098)

[Why form a CHDO? 2](#_Toc396217099)

[How do you form a CHDO? 3](#_Toc396217100)

[CHDO Certification 3](#_Toc396217101)

[CHDO REGULATIONS – 24 CFR §92.2 Definitions 3](#_Toc396217102)

[CHDO Projects 5](#_Toc396217103)

[CHDO Operating Funds 6](#_Toc396217104)

[CHDO APPLICATION INSTRUCTIONS 8](#_Toc396217105)

[Submission Deadlines 8](#_Toc396217106)

[Application Format 8](#_Toc396217107)

[Required Documentation (Tabs) 8](#_Toc396217108)

[MFA CHDO APPLICATION 10](#_Toc396217109)

[Organizational Requirements 12](#_Toc396217110)

[CHDO ROLE 13](#_Toc396217111)

[CERTIFICATION FORM OF LOW-INCOME STATUS FOR CHDO BOARD MEMBERS 16](#_Toc396217112)

# EXECUTIVE SUMMARY

A Community Housing Development Organization (CHDO) is a specially formed non-profit organization established pursuant to federal regulations. Receiving a CHDO certification from MFA makes an organization eligible to apply for the HOME CHDO set-aside administered by MFA under the HOME Investment Program (HOME). This document is intended to provide guidance when applying for HOME CHDO set-aside and CHDO Operating funds, as well as a general overview of CHDO requirements. Application materials are included herein.

It should be noted that being certified as a CHDO is not a requirement for accessing MFA’s HOME allocation, or any other funding available through MFA. However, it is a prerequisite to receive HOME funds designated specifically for CHDOs (CHDO set-aside). Becoming an MFA certified CHDO does not guarantee funding from this set-aside. Organizations interested in accessing HOME-CHDO funds administered by the other HOME Participating Jurisdictions in New Mexico must contact them for information on their CHDO application and certification processes.

MFA receives HOME funding from HUD for the State of New Mexico with the exception of the jurisdictions of the cities of Albuquerque and Las Cruces, which receive their own allocation of HOME funds. MFA administers its own program and reserves the right to amend its policies and application process at any time. In addition, the HOME program is governed by federal regulations, most predominately those found at 24 CFR Part 92, which may be subject to revision from time to time. Special note: In July 2013 the U.S. Department of Housing and Urban Development (HUD) promulgated new Rules for the HOME program, some of which address the requirements for obtaining a CHDO designation. This application incorporates those requirements which became effective August 23, 2013.

CHDO certification applications may be submitted to MFA only when a non-profit organization submits a HOME loan request that is eligible for HOME CHDO set-aside funds. Information on the HOME loan application process is available <on> the “Developers” section of MFA’s public website. Questions regarding the CHDO certification process should be referred to MFA’s Housing Development Department.

# GENERAL INFORMATION

## What is a Community Housing Development Organization (CHDO)?

A Community Housing Development Organization (CHDO) is a specially formed non-profit corporation established pursuant to federal regulations and, in the case of MFA certified CHDOs, certified by MFA as meeting applicable federal regulations. The following information pertains to MFA-designated CHDOs only. Those interested in accessing another participating jurisdiction’s (PJ) HOME funds must contact that PJ for information. Other participating jurisdictions within the State of New Mexico are the cities of Albuquerque and Las Cruces. CHDO qualifications are specified in the federal HOME regulations at 24 CFR §92.2 (Definitions), published July 24, 2013.

## Why form a CHDO?

CHDOs are established to provide access to a certain set-aside of federal HOME funds. Federal regulations require PJs to set aside 15% of each fiscal year’s HOME fund allocation specifically for CHDO development-related activities. The following types of activities qualify:

1. Development projects, including new construction or acquisition and/or rehabilitation of rental or transitional housing units or single-family homes for homeownership opportunities. ***However, at this time MFA does not offer a qualifying CHDO Set-Aside HOME loan for homeownership development.***
2. CHDO Operating grants, in conjunction with a development project (but only in conjunction with an approved HOME set-aside allocation of funds).

It should be noted that funding for specific projects must be applied for through the standard HOME application process, which may be combined with Low-Income Housing Tax Credits (LIHTC) allocations, and used for gap financing. An MFA CHDO certification does not imply that an entity will receive funding, but only that it is eligible to *apply* and, if funded, may receive funding from the special CHDO set-aside. Applicantsare not eligible to receive funding from the CHDO set-aside until they have met all of the CHDO requirements *and* a letter of certification has been issued by MFA. Interested non-profits must apply for CHDO status at the same time they request a HOME loan award. If they are designated a CHDO then the HOME loan award may be awarded from the CHDO set-aside. If the non-profit does not qualify as a CHDO it may be awarded HOME funds for a development project from regular HOME funds. CHDOs are given priority for HOME funds and qualify for larger rental awards than non-CHDOs (see the “Developers” section of MFA’s public website for details).

Non-profit organizations seeking CHDO status should have a long-term commitment to the development of housing or to the management and long-term ownership of affordable rental properties within New Mexico. Preferably CHDO status should be attained by nonprofit organizations that have a desire to develop or own multiple projects, not simply to increase the chances of obtaining funding for a one-time only project.

## How do you form a CHDO?

The organizational structure that is required of CHDOs is outlined in the federal regulations governing the HOME program (see below). **It is rare that an organization would meet all of these qualifications without some reorganization or restructuring of its board or by-laws.** It is up to the organization interested in becoming a CHDO to either reorganize its structure to meet the CHDO guidelines or to establish a separate entity altogether.

## CHDO Certification

Once an organization believes that it meets the CHDO requirements and is ready to apply for a CHDO set-aside award of HOME funds, it should simultaneously submit an application for CHDO designation along with all the required documentation in the format described in the application instructions. MFA will review the CHDO application and, if everything is acceptable, issue a letter certifying that the CHDO meets the requirements, but only when a HOME CHDO set-aside award is approved. If, after review of the CHDO designation application, MFA finds that additional documentation is needed or that the organization somehow falls short of MFA’s interpretation of the regulations, MFA will notify the organization regarding the specific items that must be addressed before the application can be reconsidered. MFA will only certify, or recertify, a CHDO when it submits an application for a qualifying CHDO set-aside award of HOME funds for a development project. **Per HOME regulations, MFA must review CHDO capacity each time a CHDO requests set-aside funds.**

## CHDO Set-aside Closing

Following the certification of an organization as a CHDO, MFA will work with that organization to close on those funds by executing the following loan documents:

1. Loan Agreement.- The loan agreement is used as MFA’s written agreement. The written agreement is evidence of a commitment of a specific amount of HOME funds for a specific program or project, as signed and dated by MFA and the funded entity. A written agreement must be executed before any HOME CHDO set-aside funds are committed to a specific project in IDIS or disbursed. Required provisions of the written agreement vary depending on who the agreement is with (such as a state recipient, subrecipient, developer, or beneficiary). In general, the following provisions are often required for agreements with other entities:
   1. Use of funds, description of the project (address, number of units/households to be assisted), tasks, budget, and term of agreement,
   2. Affordability requirements, term of the affordability period, enforcement mechanism (e.g., deed restriction),
   3. Reversion of assets/program income requirements (specifying whether applicable funds can be retained or must be returned to the MFA for additional eligible activities) and any related conditions,
   4. Eligible and ineligible fees, and
   5. Uniform administrative requirements, as applicable.
2. Mortgage.
3. Mortgage Note.
4. LURA.
5. Guaranty.

## CHDO REGULATIONS – 24 CFR §92.2 Definitions

Pursuant to the federal regulations which govern the HOME program, as stated at 24 CFR §92.2 (published July 24, 2013). The following is a direct quote from the regulations:

“Community housing development organization (CHDO) means 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 community housing development organization may be sponsored or created by a for-profit entity, but:
4. 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.
5. 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;
6. The community housing development organization must be free to contract for goods and services from vendors of its own choosing; and
7. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.
8. 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 a 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;”
9. 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 community housing development organization; 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 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;
10. Has standards of financial accountability that conform to 24 CFR 84.21, “Standards for Financial Management Systems;”
11. 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;
12. Maintains accountability to low-income community residents by:
13. 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
14. 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;
15. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor 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 to train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of § 92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization.; and
16. 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.”

## CHDO Projects

In order to use CHDO set-aside funds, Per 24 CFR §92.300 (published July 24, 2013) a *CHDO* must be the owner, developer, or sponsor of HOME-assisted housing. As previously mentioned, at this time, MFA does not offer a qualifying CHDO set-aside HOME loan for homeownership projects. The following pertains only to rental projects and is a direct quote form the regulations:

“(2) 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 families 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.

(3) Rental housing is “**developed**” by the community development housing organization 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.

(4) 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.

(i) 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.

(ii) The HOME funds must be provided to the entity that owns the project.

(5) 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 pre-determined time after completion of the development of the project. Sponsored rental housing, as provided in this paragraph (a)(5), is subject to the following requirements:

1. The private nonprofit organization may not be created by a governmental entity.
2. The HOME funds must be invested in the project that is owned by the community housing development organization.
3. Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.
4. 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.
5. 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.”

## CHDO Operating Funds

The CHDO Operating Fund is intended to provide operating funds to non-profits that have obtained CHDO status. The PJ may, but is not required to, set aside 5% of its annual HOME allocation for this fund. CHDO Operating funds will be awarded in conjunction with MFA’s Housing Development Department HOME awards that meet the requirements of CHDO Set-Aside per §92.300 of the 2013 Final HOME Rule published in the Federal Register on July 24, 2013 and effective August 23, 2013. The development activity must either be for rental or homeownership development.

1. For rental, a CHDO must meet the definition therein for owner, developer or sponsor and be the sole owner or general partner/managing member via a wholly owned affiliate (i.e. excludes LIHTC investors). The investor and the CHDO must also agree that, if the CHDO is ever removed for cause, it may only be replaced by another CHDO.
2. At this time MFA does not offer a qualifying HOME homeownership development activity.

Non-profits organizations must apply for recertification of CHDO status at the time they apply for a qualifying CHDO set-aside award. If they have already received such an award in 2014, they may apply for CHDO recertification and CHDO Operating funds any time between July 1, 2014, and June 30, 2015 (i.e. the program year). CHDOs will recertify every time they apply for funding rather than on an annual basis as was previously the case.

For CHDOs that apply for a project in their current operating area, the maximum operating award will be $40,000, but may be up to $50,000 if the CHDO project is in a new area or activity. A CHDO may only apply for one operating award in any program year. Awards may not exceed 50% of the CHDO’s annual operating expenses based on the most recent fiscal year audited statement available. MFA currently sets aside 5% of its annual HOME allocation for CHDO Operating awards. CHDO Operating awards will be on a first-come first-served basis and are subject to availability of funds. Unused funds will not be carried over into the next program year. If a CHDO receives a CHDO Operating award and fails to complete the approved HOME CHDO set-aside project, it will not be eligible to apply for CHDO Operating funds for up to 24 months from the date of the last Operating award, at MFA’s discretion.

The following eligible uses of CHDO Operating grant funds are permitted per 24 CFR § 92.208(a) of the Final Rule:

“Operating expenses means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials; and supplies.”

MFA has chosen to limit reimbursements to “salaries, wages, and other employee compensation and benefits” to simplify the amount of paperwork required for a CHDO to provide proof of expenses paid and that were allocated to the qualifying CHDO set-aside project. Once an organization is designated a CHDO and receives an award of qualifying HOME CHDO set-aside funds the Development Loan Manager will issue a written agreement for CHDO Operating funds for either $40,000 (in the usual operating area) or $50,000 (in a new operating area) depending on the location of the qualifying HOME CHDO set-aside project. Once the CHDO has closed on all project funding and broken ground on the project, MFA will disburse the award amount in one in one lump sum (check or wire transfer) once the CHDO has provided proof of qualifying expenses (see website for CHDO Operating Exhibit A).

# CHDO APPLICATION INSTRUCTIONS

## Submission Deadlines

Applications for CHDO-Certification are accepted on an ongoing basis during regular business hours, Monday through Friday, 8:00 a.m. – 5:00 p.m. Applications must be uploaded to MFA’s Secure File Transfer-HD file sharing website.

CHDO certification applications will be processed as soon as possible but only in conjunction with an application for HOME funds from the CHDO Set-Aside. Processing time for both is estimated at 60 to 90 days.

## Application Format

Applications must be submitted as a fully tabbed PDF file that includes all required documentation.

## Required Documentation (Tabs)

The following items must be tabbed as follows:

1. **Cover letter.** Please include a cover letter briefly describing your organization, your mission and how it is related to the goal of being recognized as an MFA Certified CHDO.
2. **Index.** Provide an index of the required tabs.
3. **Application Forms**. Complete and include the application forms, pages 11-17.
4. **Proof of Non-Profit Status**. Applicants must provide a copy of the non-profit 501(c) ruling from the Internal Revenue Service. If status is pending, you are not yet an eligible applicant.
5. **Staff Resumes.** Current resumes of key ***paid*** staff members should be included in the application at this tab. Indicate whether staff is full or part time, how many years with the organization and in current capacity. Resumes should indicate that staff members have experience with the requested HOME CHDO Set-Aside project activities (i.e. owner, developer or sponsor) or consultant(s) with relevant development and HOME experience should be engaged to train the agency for the first year of operation as a CHDO and the consultant’s resume and contract with the organization should be included.
6. **Agency Audit and Management Letter**. Include a copy of the organization’s (1) most recent last fiscal year end (FYE) audit including a copy of the Management Letter, (2) unaudited FYE statement if the audit is than a year old, and (3) current YTD financial statement dated within 3 months of the application.
7. **Articles of Incorporation.** Include a copy of the Articles of Incorporation and any amendments.
8. **Agency’s By-Laws**. A copy of the organization’s most updated By-Laws must be submitted. Each requirement listed 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.
9. **Board Resolutions.** If any resolutions were passed in order to meet the CHDO Certification Regulations, include a copy of the applicable resolution(s).
10. **Financial Accountability Statement or HUD approved audit summary**. Included at this tab must be a statement from a Certified Public Accountant or a notarized statement by the president or CEO of the organization that certifies that the agency meets financial accountability requirements and including the following language: ***“It is our opinion that the management of the corporation maintains financial records in compliance with the standards outlined in 24 CFR Part 84, Section 84.21. We believe that our audit provides a reasonable basis for our opinion”.***
11. **Community Service Experience**. A statement showing that the organization has a history of serving the community where housing to be assisted with HOME funds will be used.
12. **Development Project Experience.** Please provide a written narrative outlining all development project experience. Describe all development projects completed to date, including: a description of the project(s), location(s), number of units, type of housing, population served, financing sources, and any ongoing property management involvement in the project (if rental); describe any projects that are currently under development, and any future plans for development projects.
13. **Board Member List and Low-Income Board Representative Certifications**. Attach the complete Board list and include a copy of the Low-Income Board Member Certification Form for each low-income representative on the board and include at this tab. *Board members who are public officials or employees of a governmental entity count towards the maximum one-third maximum Public Sector allowance regardless of whether or not they would otherwise count as low income board members.*

# MFA CHDO APPLICATION

Organization: Click here to enter text. Federal Tax I.D. (EIN): Click here to enter text.

Contact Person: Click here to enter text. Phone Number: Click here to enter text.

Title: Click here to enter text. E-Mail: Click here to enter text.

Street Address: Click here to enter text. Web Site: Click here to enter text.

City/State & Zip: Click here to enter text. DUNS Number: Click here to enter text.

**Board Composition:** Attach a complete list of Board Members at Tab M above, indicating name, Board position and if they are a low-income representative or public official. Certification required for low-income representative. The certification form is located at the end of this document.

**Annual Operating Budget:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Major sources of operating funds:**

|  |  |  |
| --- | --- | --- |
| **Source** | **Indicate whether State, Federal or Other** | **Amount** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

CHDO’s must serve a specific, clearly defined geographic area. They do not need to represent a single neighborhood but may include in their service area an entire community (i.e. city, town, village, county, or multicounty area but **not the whole state**, as long as they meet all other CHDO requirements.

**Current defined service area (i.e. before the proposed CHDO set-aside project)**: Click here to enter text.

Name, address and county of the CHDO set-aside project: Click here to enter text.

If the organization is expanding into a new service area it will be eligible for $50,000 in CHDO Operating funds rather than $40,000 for its current service area provided that it does not exceed 50% of the operating budget.

Is the Executive Director experienced in the CHDO activity for which you intend to exercise a CHDO designation?  Yes  No

Are others on staff experienced in the CHDO activity for which you intend to use a CHDO designation?  Yes  No

If staff is not experienced in housing development, has a qualified consultant been hired to train employees of the CHDO in HOME development activities during the first year of operation as a CHDO?  Yes  No

Number of full-time employees: Click here to enter text. Professional: Click here to enter text.

Support: Click here to enter text.

Parent organization, if applicable: Click here to enter text.

IRS Tax Status (check one) 501(c)3  501(c)4  905 subordinate

Date of Incorporation: Click here to enter a date.

Based on descriptions in the Policies and Procedures the CHDO expects to pursue the following CHDO roles (check all that apply):

Rental Owner

Rental Developer

Rental Sponsor – Scenario 1

Rental Sponsor – Scenario 2

Homeownership Developer – Not applicable at this time

|  |  |  |
| --- | --- | --- |
| Organizational Requirements | | |
| 1. Legal structure | | |
| 1. The organization is organized under state and local law as evidenced by its Articles of Incorporation. *Attach a copy & any amendments at Tab G & highlight relevant section(s).* | | §92.2 CHDO Definition ¶ (1) |
| 1. The organization has among its purposes provision of low income housing as evidenced by its By-laws. *Include a copy at Tab H & highlight relevant section(s).* | | §92.2 CHDO Definition ¶ (7) |
| 1. The organization has no part of its net earnings inuring to the benefit of individuals. *Provide evidence by highlighting the relevant section(s) of the Articles of Incorporation and/or By-Laws.* | | §92.2 CHDO Definition ¶ (2) |
| 1. The organization is not under the control or direction of any individual or entity seeking to derive profit or gain. Provide evidence by highlighting the relevant section of the Articles of Incorporation or By-Laws. | | §92.2 CHDO Definition ¶ (3) |
| 1. The organization has one of the following IRS tax exempt statuses (check one and provide a copy of the IRS ruling at Tab D):   Exemption under 501(c)(3) or 501 (c)(4)  Subordinate of a central nonprofit under IRC Section 905  Wholly owned subsidiary of organization that has 501(c)(3) or (c)(4)  status and meets the CHDO definition | | §92.2 CHDO Definition ¶ (4) |
| 1. The organization is not a governmental entity (including participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, redevelopment authority, zoning board or commission). | | §92.2 CHDO Definition ¶ (5) |
| 1. Independence | | |
| 1. Public officials and employees of a governmental entity may comprise no more than 1/3 of the board. *Provide evidence by highlighting relevant section(s) of the By-Laws.* | | §92.2 CHDO Definition ¶ (5) |
| 1. Officers and employees of a governmental entity cannot be officers or employees of a CHDO. *Provide evidence by highlighting relevant section(s) of the By-Laws.* | | §92.2 CHDO Definition ¶ (5) |
| 1. If the organization was created by a governmental entity, then the governmental entity that created the organization may not appoint more than 1/3 board members and public-appointed members may not appoint the remaining 2/3. | | §92.2 CHDO Definition ¶ (5) |
| Is the organization sponsored or created by a for-profit entity: Yes  No  If yes, answer the questions that apply. If no, then continue to 3.   * 1. If the organization was created by a for-profit entity:      1. The for-profit entity that created the organization may not be a housing builder, developer or manager.      2. The for-profit entity that created the organization may not appoint more than 1/3 board members, and for-profit-appointed members may not appoint remaining 2/3 of board.      3. Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO.      4. The organization must be free to contract for goods and services with others. | | §92.2 CHDO Definition ¶ (3)(i) |
| §92.2 CHDO Definition ¶ (3)(ii) |
| §92.2 CHDO Definition ¶ (3)(iv)  §92.2 CHDO Definition ¶ (3)(iii) |
|  |
| 1. Accountability to the Low Income Community | | |
| * 1. At least 1/3 of the board members are: 1) low-income; 2) residents of a low-income neighborhood; or 3) elected representatives of a low-income neighborhood organization. *The By-Laws must specifically address this issue. Highlight the relevant section(s).*   2. The organization has a formally adopted process for low-income beneficiaries to advise on decisions regarding design, siting, development, and management of housing. *Highlight the relevant section(s) of the By-Laws and provide minutes of the meetings with low income beneficiaries or a narrative of the process, as applicable, in compliance with the By-Laws.*   3. The organization has a least one year of serving the community, or, if newly formed, its parent organization meets this requirement. *Provide evidence or a signed statement addressing this issue at Tab N.* | | §92.2 CHDO Definition ¶ (8)(i) |
| §92.2 CHDO Definition ¶ (8)(ii) |
| §92.2 CHDO Definition ¶ (10) |
| 1. Capacity | | |
| * 1. The organization has paid employees with demonstrated experience relevant to the CHDO’s role in undertaking the HOME activity to be funded. *(Note: this does not include volunteers, board members, donated or shared staff, or consultants – except as described in 4.1.1 below. Provide resumes at Tab E.*) | | §92.2 CHDO  Definition ¶ (9) |
| * + 1. During the first year of an organization’s participation as a CHDO only, capacity can be demonstrated through a contract with a consultant who has housing development experience to train appropriate key staff of the organization. *If relevant, provide resume at Tab E.* | | §92.2 CHDO Definition ¶ (9) |
| * 1. The organization has financial management systems that conform to 24 CFR 84.21. *Provide required statements at Tab J.* | | §92.2 CHDO Definition ¶ (6) |
| CHDO ROLE | | |
| 1. CHDO set-aside project   CHDOs can undertake either homebuyer or rental projects, as described below, with CHDO set-aside funds: | | |
| * 1. Homebuyer project   To qualify under CHDO set-aside, must meet either 5.5.1 or 5.1.2, and 5.1.3.  ***Not applicable at this time – MFA does not offer a HOME homeownership development loan product that qualifies for CHDO set-aside.*** |  | |
| * + 1. Developer: The organization is or will be the owner in fee simple and the developer of new or rehabilitated units for sale to low-income buyers, or | §92.300 (a)(6) | |
| * + 1. Sponsor: The project will be developed by an eligible CHDO affiliate, including: * A wholly owned subsidiary of the CHDO; or * A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or * A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member. |  | |
| * + 1. The organization will control the development process including, at a minimum, arranging financing for the project and being in sole charge of construction.   ***Not applicable at this time – MFA does not offer a HOME homeownership development loan product that qualifies for CHDO set-aside.*** | §92.300 (a)(6)(i) | |
| * 1. Rental project   To qualify under CHDO set-aside, must meet one of the following: |  | |
| * + 1. Own: The organization is or will be owner in fee simple absolute (or will hold a ground lease) for at least the period of affordability. If project involves rehabilitation or construction, organization will **oversee** all aspects of development. | §92.300 (a)(2) | |
| * + 1. Develop: The organization is or will be owner in fee simple absolute (or will hold a ground lease) for at least the period of affordability, and will **be in sole charge** of all aspects of the development process. | §92.300 (a)(3) | |
| * + 1. Sponsor: Must meet one of the following:   5.2.3.1 The organization will own and develop project that it will convey at a predetermined time after completion to a designated nonprofit (that was not created by a governmental entity). | §92.300 (a)(5) | |
| * + - 1. The project will be owned and/or developed by an eligible CHDO affiliate, including: * A wholly owned subsidiary of the CHDO; or * A limited partnership of which the CHDO or its wholly owned subsidiary is the sole general partner; or * A limited liability company of which the CHDO or its wholly owned subsidiary is the sole managing member. | §92.300 (a)(4) | |
| 1. CHDO pre-development loan - ***Not applicable as, at this time, MFA does not offer such loans.*** |  | |
| 1. CHDO operating expenses   If CHDO operating expenses are being provided, the organization must meet the CHDO qualification requirements listed in Items 1-4 above, or the organization must meet requirements in 1-3 above and be receiving the operating funds specifically to hire staff to meet the requirements in 4 above.  In addition, the CHDO must meet the following requirements: |  | |
| * 1. The organization is funded from the set-aside for a project under development, or is reasonable expected to be funded within 24 months, from the CHDO set-aside. | §92.300(e) | |
| * 1. The operating expense funds will be used for eligible operating costs that are reasonable and necessary. | §92.208(a) | |
| * 1. Operating expense funding (including from other PJs and any pass-through funding) in the fiscal year will not exceed the greater of $50,000 or 50 percent of the CHDO’s total operating expenses in that year. | §92.300(f) | |
| **Applicant certifies that the information provided herein is true and correct.**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  Organization  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  Signature  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  Typed name and title  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  Date | | |

# CERTIFICATION FORM OF LOW-INCOME STATUS FOR CHDO BOARD MEMBERS

A form must be completed for each Board Member listed as one of the Low-Income Representatives

(Include at Tab M)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Name: Click here to enter text. | | | | | | | | |
| Home Phone Number: Click here to enter text. | | | | | | | | |
| Street Address: Click here to enter text. | | | | | | | | |
| City/State & Zip: Click here to enter text. | | | | | | | | |
| I certify that I am **not** a public official or employee of a governmental entity.  Please check one: | | | | | | | | | | | |
|  | | I certify that I have reviewed HUD’s definition of low-income for the area and that I qualify to represent the low-income community because my income is at or below 80% of the area median income adjusted for family size. | | | | | | | | | |
|  | | Name of Employer | |  | | Phone | |  | | | |
|  | | Annual Income |  | | Number in household | | | |  | | |
|  | | I certify that I am a representative of a low-income neighborhood organization. (NOTE: Organization cannot be the “CHDO” Organization) | | | | | | | | | |
|  | | Name of Organization | |  | | | | | | | |
|  | | I certify that I am a resident of a neighborhood designated as low-income because more than 51% of the residents of the neighborhood have incomes below 80% of the area median income adjusted for family size. | | | | | | | | | |
| Signature of Board Member \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | | Date | | | | |
| Notary \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | | | | | |