

Alabama Housing Finance Authority

Community Housing Development Organization Manual



Table of Contents

<u>I. HOME Investment Partnership Program</u>	1
<u>II. Definitions</u>	1
<u>III. General Requirements</u>	3
Application Submission	3
Application Review Process	5
<u>IV. Negative Actions after Determination of CHDO Eligibility</u>	5
<u>V. CHDO Requirements</u>	6
Section 1	6
Section 2	6
Section 3	8
A. Legal Status	8
B. Independence	8
C. Accountability to Low-Income Community	9
D. Capacity	11
Sections 4 & 5	12
<u>AHFA CHDO Checklist</u>	Appendix A
<u>Required Forms</u>	Appendix B
<u>Necessary Documents</u>	Appendix C
<u>Sponsor Ownership Structure Examples</u>	Appendix D
<u>Example of Board Resolution on Low-Income Community Input</u>	Appendix E
<u>Identifying Paid Employees</u>	Appendix F

I. HOME INVESTMENT PARTNERSHIPS PROGRAM

The Home Investment Partnerships Program (HOME) is a federally funded housing program established in 1990 as part of the Cranston-Gonzalez National Affordable Housing Act (the “Act”). Under guidelines from the United States Department of Housing and Urban Development (HUD), Alabama Housing Finance Authority (AHFA) is the designated administrator and designer of Alabama’s HOME Program. AHFA has specifically designed the HOME Program to meet the needs of low- and moderate-income Alabamians consistent with HUD guidelines.

II. DEFINITIONS

Capitalized terms used in this HOME Community Housing Development Organization (CHDO) Manual have the meanings set forth below or elsewhere in the AHFA HOME Action Plan or this CHDO Manual. Capitalized terms not defined herein shall have the meanings assigned in the AHFA Plan Defined Terms available at www.AHFA.com or as regulations or other context require. Singular terms include the plural as well as the singular, and vice versa.

Act: the Cranston-Gonzalez National Affordable Housing Act passed in November 1990. This Act contains the provisions for the HOME Program and is further defined in 24 CFR Part 92.

AHFA-Approved CHDO: A CHDO that has received prior approval from AHFA to submit a funding application. The process for requesting such approval is set forth in the current year HOME Action Plan. Without this prior approval, a CHDO will be treated like a non-CHDO applicant under AHFA’s programs and will not be eligible for funding under the mandatory CHDO set-aside established by the HOME Program.

Alabama Housing Finance Authority (AHFA): AHFA was designated the administrator of Alabama’s HOME Program by the Governor of the State of Alabama on February 22, 1991.

Application Cycles: a period of time established by AHFA during which applications for funding under Alabama’s HOME Program may be accepted.

Community Housing Development Organization (CHDO): To qualify as a CHDO, an organization must be a non-profit organization and meet the requirements specified in 24 CFR Section 92.2 and the AHFA CHDO Checklist and forms. The qualifying CHDO must have staff that is experienced in developing projects of the same size, scope and level of complexity as the activities for which HOME Funds are being reserved or committed. HUD defines CHDO staff as paid employees responsible for day-to-day operations (volunteers, board members, and consultants are not considered staff). The organization must recertify annually to remain an active and qualified CHDO for purposes of applying for HOME Funds.

Consolidated Plan (Plan): the consolidated plan designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the CPD formula block grant programs: Community

Development Block Grant (CDBG) Program, HOME Investment Partnerships (HOME) Program, Housing Trust Fund (HTF), Emergency Solutions Grants (ESG) Program, and Housing Opportunities for Persons With AIDS (HOPWA) Program.

HOME Funds: funds made available under Alabama’s HOME Program through allocations and reallocations and may consist of any repayments and interest or other return on the investment of these funds.

Participating Jurisdiction: a unit of state or local government that has met the requirements of Section 216 of the National Affordable Housing Act and receives a separate appropriation of HOME Funds to be used within its jurisdictional boundary. The State of Alabama is the Participating Jurisdiction for the HOME Funds administered by AHFA. The local Participating Jurisdictions in Alabama: Anniston, Birmingham, Huntsville, Jefferson County, Mobile, Mobile County, Montgomery, and Tuscaloosa.

Project: a site or an entire building or two or more buildings, together with the site or (when permissible) sites on which the building or buildings are located, that are under common ownership, management, and financing and are to be assisted with HOME Funds made available under a Written Agreement, as a single undertaking. Project includes all the activities associated with the site(s) and building(s).

Recipient: an individual, public agency, for-profit developer(s), CHDO, non-profit developer(s), or any entity that receives State of Alabama HOME Funds.

Written Agreement: Alabama’s HOME Investment Partnerships Program Written Agreement. The Written Agreement is an agreement executed by AHFA and the entity approved to receive an allocation of HOME Funds.

III. GENERAL REQUIREMENTS

Application Submission:

Applications are accepted annually for eligibility to compete for the CHDO set-aside in the annual competitive application cycle. Cycle timeline and application deadlines are published via Multifamily Notices and are posted on the AHFA website. CHDO Eligibility is valid only for the following HOME application period.

Applications may be delivered by mail, other shipping service, or by hand delivery to:

Alabama Housing Finance Authority
Attn: MULTIFAMILY DIVISION
CHDO Designation Application

Physical Address:
7460 Halcyon Pointe Drive, Suite 200
Montgomery, AL 36117

US Mail Address:
PO Box 242967
Montgomery, AL 36124-2967

- Facsimile or email transmissions will NOT be accepted.
- Provide one (1) original application (must include original signatures on all AHFA Forms), and one (1) digital copy.

All AHFA CHDO Application Materials are found at:

<https://www.ahfa.com/multifamily/multifamily-programs/home-housing-credits/chdos>.

CHDO Application: The CHDO Application must be contained entirely within a 3-ring binder of suitable size to contain the necessary documentation **AND** a digital copy of the entire CHDO Application. Complete the **AHFA CHDO Application** and **AHFA CHDO Forms Package**. Please place a copy of the cover of the application on the outer cover of the binder and include a copy as the first page within the binder. All AHFA CHDO Forms must be completed and included per the **AHFA CHDO Checklist** (see Appendix A). Mark the boxes in the checklist for the required documents which are applicable for the non-profit organization. All application and supporting documentation must be indexed and labeled per the AHFA required format (See Appendix B: Index Format Example). There are 3 application sections to be completed. Section 3 contains Parts A-D, each representing a component part of the CHDO characteristics. Tabbed divider sheets labeled with the corresponding application Section and Part should be placed at the beginning of each section within the CHDO application package binder. Provide supporting documents and appropriate AHFA CHDO Forms evidencing the requirements addressed within each section. Label the document with the applicable tab number (example: A1). Follow the instructions at the top of each form **and within the CHDO Application**. Any information on the forms which is not applicable should be marked N/A.

AHFA CHDO Determination

Certification: Non-profit organizations intending to compete for the AHFA CHDO Set-Aside in a Competitive Application Cycle must apply for CHDO Eligibility prior to each Competitive Application Cycle in which they intend to apply.

Recertification:

Non-Profit organizations with Active previously awarded CHDO projects (within the compliance period) must Recertify those projects annually. Recertifications for organizations with previously awarded AHFA CHDO projects will fall into one of the following two categories:

1. Organization is Applying in Current Competitive Cycle: Organizations with previously awarded, Active CHDO projects, applying during a competitive cycle, should identify both the new project for which certification is requested, and the Active project(s) for which recertification is requested. The single application package will serve as both the application for CHDO eligibility in the current cycle and as Recertification of CHDO status for Active project(s). All projects requiring recertification must be listed Section 2 of the CHDO Application.
2. Organization is Not Applying in Current Competitive Cycle: Complete Sections 1 and 2 for the project(s) requiring recertification. If there are material changes affecting how the organization meets the AHFA CHDO Requirements since the award of the project(s), then use Section 3 and the necessary AHFA CHDO Forms to provide the pertinent documentation. If there are no changes, provide updated certifications to confirm the original status exists.

The CHDO Recertifications for existing projects should be submitted with the **Annual Owner Certification**. Information on the Annual Owner Certification is found in the Compliance section of the AHFA website (see link below).

<https://www.ahfa.com/multifamily/compliance/annual-project-submissions>

AHFA CHDO Checklist: The AHFA CHDO Checklist (see Appendix A) is provided as a guide to assist applicants in ensuring the required documentation is included in the application. Complete the sections highlighted in yellow and include a copy of the checklist with the CHDO Application Package. Any items on the checklist which are not applicable should be marked N/A on the checklist.

Articles of Incorporation, By-Laws, Charters, Memorandums of Understanding, Contracts, Certifications, and Resolutions must be signed and dated by the Board President or other authorized signor(s). Supporting documents should be provided in their entirety the first time they are referenced in the application. Subsequent references to the document should be evidenced as appropriate excerpted page(s) satisfying the requirement.

Application Review Process:

- AHFA Multifamily staff will review the CHDO application and the required documents to ensure the application package is complete.
- Applicants with eight (8) or more missing and/or incorrect documents will be disqualified from participation as a CHDO in the upcoming HOME funding cycle but may still apply as a non-profit.
- Applicants that receive a deficiency letter with seven (7) or fewer missing and/or incorrect documents will be allowed to submit corrected or missing documents. These Applicants will be allowed ten (10) business days to submit any missing or incomplete documents. There will only be one (1) opportunity for these applicants to submit missing and/or incomplete documents for review before being disqualified for CHDO eligibility.
- Applicants should receive a **CHDO Eligibility Statement** from AHFA prior to the Application Date for the AHFA Competitive Application Cycle. Those eligible to compete as a CHDO will include a copy of the **CHDO Eligibility Statement** in the CHDO Section of the project application.
- AHFA will publish the list of eligible CHDOs prior to the competitive application cycle.

IV. Negative Actions after Determination of CHDO Eligibility

Should any of the following actions occur after the **CHDO Application** has been submitted the application will terminate unless otherwise provided below:

- 1) Change or alteration of any kind in the organization or Board of Directors.
- 2) Change in ownership of the Ownership Entity (e.g., addition of a new general partner/member or removal of an existing general partner/member).
- 3) If AHFA receives a determination from a federal, state, or local regulatory authority or agency of significant or uncorrected non-compliance on applicant's Non-AHFA Projects, AHFA may terminate the application.
- 4) Any Development Team Member (listed in the application) who has instances of excessive, flagrant, or uncorrected non-compliance within the timeframe provided by AHFA, Housing Credit, HOME, TCAP/Exchange, National Housing Trust Fund, or Multifamily Housing Revenue Bond regulations on existing projects.
- 5) Any Development Team Member listed in the application is presently debarred, suspended, proposed for debarment or suspension, declared ineligible or voluntarily excluded from any transactions or construction projects involving the use of federal funds or Housing Credits.
- 6) Applicant has a project that goes into foreclosure or has been foreclosed within the last ten (10) years.
- 7) Any material adverse change relating to the Project or Responsible Owner. AHFA will determine whether the change(s) is material and/or adverse in its sole discretion and further reserves the right to terminate an application.

- 8) Applicant (including all Development Team Members listed in the application) has any outstanding fee(s) due to AHFA on other projects.
- 9) If AHFA determines that the applicant failed to materially adhere to AHFA’s defined environmental standards, including without limitation, the failure by the applicant to identify any unsatisfactory environmental condition that the applicant (or any Responsible Owner of applicant) knew or should have known about or failed to investigate fully prior to application submission.

The above list of negative actions is not all-inclusive. The Application Package itself will list other necessary requirements via forms, related instructions, and other items. AHFA will terminate consideration of an application if it determines that the application contains Misleading Information.

V. CHDO Requirements

HOME CHDO Requirements: The primary purpose of the HOME program is to expand the supply of decent, safe and affordable housing for low-income families. Federal regulations require a minimum of fifteen percent (15%) of HOME funds be set-aside annually for use by specific types of nonprofit housing organizations known as Community Housing Development Organizations (CHDO). CHDO set-aside requirements are set forth at 24 CFR Part 92.2 and 24 CFR Part 92.300. Additionally, AHFA requires non-profit organizations to meet the definitions and requirements included in the AHFA CHDO Forms and this Manual. Although many nonprofit organizations share common characteristics with CHDOs, not all nonprofits qualify as CHDOs under the HOME program requirements.

Section 1: Organization and Key Contacts

Applicants will identify the Non-Profit Organization seeking status and key contact information in **Section 1** of the AHFA CHDO Application.

Section 2: CHDO Role and Activities

AHFA CHDO Role:

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.

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. Sponsored rental housing, as provided in this [paragraph \(a\)\(5\)](#), is subject to the following requirements:

(i) The private nonprofit organization may not be created by a governmental entity.

(ii) The HOME funds must be invested in the project that is owned by the community housing development organization.

(iii) Before commitment of HOME funds, the community housing development organization sponsor must select the nonprofit organization that will obtain ownership of the property.

(A) 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.

(B) 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.

Documentation for the role of the organization in the project behind Tab F must evidence:

- 1) The subsidiary of the community housing development organization may be a for-profit or non-profit 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.
- 2) The HOME funds must be provided to the entity that owns the project.
- 3) The identity of the Ownership Entity.
- 4) The ownership structure in a chart.
- 5) The Partnership Agreement(s).
- 6) Articles of Incorporation for the Ownership Entity.
- 7) AHFA Form **CF-6 Certification of Signatures and Addresses**
- 8) A Tenant Participation Plan.

As some of these documents (specifically Partnership Agreement(s) and Articles of Incorporation for the Ownership Entity) may not be available at the time of the submission

of the application for CHDO Eligibility, draft documents may be submitted. In that event, fully executed documents must be provided with the project application in the AHFA Competitive Cycle. This should be noted on the CHDO Checklist and in the appropriate tabbed location within the CHDO Application.

AHFA Eligible CHDO Activities: New construction of multifamily rental properties with no fewer than twelve (12) units and no more than fifty-six (56) units.

Section 3: AHFA CHDO Qualifying Criteria and AHFA CHDO Application and Checklist

The AHFA CHDO Requirements are identified in the AHFA CHDO Checklist (Appendix A) and the AHFA CHDO Application. The application is divided into (3) sections, Section 3 is divided into Parts A-D:

A. Legal 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 AHFA as a CHDO. The 501(c) designations permissible under HOME are:

- 501(c)(3) or 501(c)(4) status; or
- Section 905 status - a subordinate organization of a 501(c) organization; or
- 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.”

See 24 CFR §92.2 (4) for complete Legal Status definition terms.

The organization must maintain a “Good Standing” status with the Alabama 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: <https://www.sos.alabama.gov>.

AHFA Combines the HOME Program funding with IRS Low Income Housing Tax Credits. Therefore, the only defined CHDO Role applicable within the AHFA HOME Program is that of sponsor/owner or sponsor/developer/owner. 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. Examples of acceptable legal structures of the ownership entity are provided in Appendix C.

B. Independence: CHDO Applicants must demonstrate the organization is independent and free to make decisions, take action, and has the capacity to fulfill its role in the CHDO project without influence or direction from external entities. CHDO organizations may be

created by a government entity or for-profit entity, however, the following must be evidenced (behind Tab B) in those cases:

- 1) The organization is not a government entity.
- 2) If the organization is created by a government entity:
 - a. 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.
 - b. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the officers or employees of a governmental entity may not be officers or employees of a community housing development organization.
- 3) The nonprofit organization is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization.
- 4) If sponsored or created by a for-profit entity:
 - a. 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.
 - b. 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.
 - c. The community housing development organization must be free to contract for goods and services from vendors of its own choosing.
 - d. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization.

C. Accountability to the Low-Income Community: 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.

See AHFA's website for area income limits <https://www.ahfa.com/multifamily/compliance/income-rent-limits>.

- 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 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 AHFA CHDO Forms **Board Member Certification of Low-Income Representative** for each Low-Income member and **Board Member Certification of Public Official or Employee** for each public official or public employee member of the Board of Directors. An **AHFA Board Roster** will provide the full member listing of the Board of Directors. These forms will be used to determine if the organization's Board structure meets HUD regulatory requirements for board structure.

The organization will provide evidence detailing the formal process(es) by which the low-income beneficiaries advise the organization in decisions regarding the design, siting, development, and management of affordable housing. The organization will provide documentation evidencing the hierarchical structure of the Board and its relationship to the organization and the ownership entity. The organization must provide evidence of its history of service to 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 applying for the AHFA HOME CHDO Set-Aside.

D. Capacity: At a minimum, a CHDO Applicant must have financial accountability standards that conform to the requirements of 24 CFR 84.21, "Standards for Financial Management Systems." An 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. Documentation to evidence the following must be provided per the application:

- Documentation to evidence 24 CFR § 92.2(2).
- Documentation to evidence 24 CFR § 92.2(6).
- Financial Statements: The organization's most recent financial statements compiled, reviewed, or audited by an independent CPA 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.
- The most recent 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.
- Current Fiscal Year Operating Budget.

An organization applying for designation 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. The purpose of this capacity requirement is to build staff expertise. A CHDO must have its own professional, experienced staff. Skills necessary for a professional staff to sustain capacity include:

- a) Management of the organization daily - 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 crisis; 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.

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 the Authority.

Documentation for experience and staff capacity behind Tab D must include:

- Project Description per application
- **AHFA CHDO Staff Roster** with attachments of:
 1. Resumes/description of experience for staff assigned to development project.

2. W-2s or employment contracts, and/or consultant disclosure (if applicable) for identified staff
- **AHFA CHDO Affordable Housing Portfolio**

There are significant differences in the type of experience and capacity that is required to carry out CHDO eligible HOME activities. Therefore, experience in having completed similar projects draws a distinction between development/management of rental housing and development/sale of housing for a homeownership program. A CHDO must be separate from and not under the control of a government entity. A government entity is still permitted to create a CHDO but it is not permitted to control the CHDO by providing its employees to the CHDO as staff or officers.

Sections 4 and 5: Applicant CHDO Certification and AHFA CHDO Determination

Finally, **Section 4 CHDO Certification** and **Section 5 AHFA Determination** must be completed, as indicated in the application, by the applicant. These sections will be the final pages contained within the CHDO Application. AHFA staff will complete Section 5 after review of the application and return a fully executed copy to the applicant. Only applicants that receive a **CHDO Eligibility Statement** from AHFA are eligible to apply for HOME funds from the fifteen percent (15%) CHDO set-aside. A copy of Section 5 should be retained by the non-profit for audit purposes. A copy of Section 5 must be included in the CHDO Section of a Project Application in a Competitive Application Cycle.

Appendix A AHFA CHDO Checklist

CHDO Requirements	Rule Citation	Requirement satisfied & documented
ORGANIZATIONAL REQUIREMENTS		
1. Legal structure		
1.1. The organization is organized under state or local law.	§92.2 CHDO Definition ¶ (1)	
1.2. The organization has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons.	§92.2 CHDO Definition ¶ (7)	
1.3. The organization has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.	§92.2 CHDO Definition ¶ (2)	
1.4. The organization is not under the control or direction by any individual or entity seeking to derive profit or gain.	§92.2 CHDO Definition ¶ (3)	
1.5. The organization has one of the following IRS tax exempt statuses: 1.5.1. Exemption under 501(c)(3) or 501(c)(4); 1.5.2. Subordinate of a central nonprofit under IRC Section 905; or 1.5.3. A private nonprofit that is a wholly owned subsidiary of an organization that has 501(c)(3) or (c)(4) status and meets the CHDO definition.	§92.2 CHDO Definition ¶ (4)	
1.6. The organization is not a governmental entity (any of the following: participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority).	§92.2 CHDO Definition ¶ (5)	
2. Independence		
2.1. Public officials & employees of a governmental entity may comprise no more than 1/3 of the board.	§92.2 CHDO Definition ¶ (5)	
2.2. Officers and employees of a governmental entity cannot be officers (e.g. CEO, CFO, or COO) or employees of a CHDO.	§92.2 CHDO Definition ¶ (5)	

Appendix A AHFA CHDO Checklist

CHDO Requirements	Rule Citation	Requirement satisfied & documented
2.3. If the organization was created by a governmental entity, then the governmental entity that created the organization may not appoint more than 1/3 of the board members and board members appointed by the governmental entity may not appoint remaining 2/3.	§92.2 CHDO Definition ¶ (5)	<input checked="" type="checkbox"/> Applicable
2.4. If the organization was created by a for-profit entity, then 2.4.1 through 2.4.4 apply:		<input checked="" type="checkbox"/> Applicable
2.4.1. The for-profit entity that sponsored or created the organization may not have as its primary purpose the development or management of housing, such as a builder, developer, or real estate management firm.	§92.2 CHDO Definition ¶ (3)(i)	
2.4.2. 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.	§92.2 CHDO Definition ¶ (3)(ii)	
2.4.3. Officers and employees of the for-profit entity that created the organization cannot be officers or employees of the CHDO.	§92.2 CHDO Definition ¶ (3)(iv)	
2.4.4. The organization must be free to contract for goods & services with others.	§92.2 CHDO Definition ¶ (3)(iii)	
3. Accountability to the Low-Income Community		
3.1. The organization must have a designated service area (i.e., the "community" in which it produces housing). A community can be a neighborhood or neighborhoods, city, county, metropolitan area, or multi-county area (but not the entire State).	§92.2 CHDO Definition ¶ (8)(i)	
3.2. 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.	§92.2 CHDO Definition ¶ (8)(i)	
3.3. The organization has a formally adopted process for low-income beneficiaries to advise it on decisions regarding design, siting, development, and management of housing.	§92.2 CHDO Definition ¶ (8)(ii)	
3.4. The organization has at least 1 year of serving the community, or, if it is formed by local churches, service organizations, or neighborhood organizations, its parent organization meets this requirement.	§92.2 CHDO Definition ¶ (10)	
4. Capacity		
4.1. The organization has financial management systems that conform to 2 CFR 200.302 and 200.303	§92.2 CHDO Definition ¶ (6)	

Appendix A AHFA CHDO Checklist


CHDO Requirements	Rule Citation	Requirement satisfied & documented
4.2. 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.)	§92.2 CHDO Definition ¶ (9)	
4.2.1. During the first year of an organization's funding 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.	§92.2 CHDO Definition ¶ (9)	
CHDO ROLE		
5. CHDO set-aside project CHDOs can undertake either homebuyer or rental projects, as described below, with CHDO set-aside funds:		
5.2. Rental projects in accordance with §92.252 To qualify under CHDO set-aside, must meet one of the following:		<input checked="" type="checkbox"/> Applicable
5.2.3. Sponsor: Must meet one of the following:		<input checked="" type="checkbox"/> Applicable
5.2.3.2. The project will be owned and/or developed by an eligible CHDO affiliate, including: <ul style="list-style-type: none"> • 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)	

Appendix A AHFA CHDO Checklist

CHDO CERTIFICATION / RECERTIFICATION
<p>8a. CHDO Certification</p> <p>The organization <u>Type Non-Profit Organization Name Here</u> meets <u>all</u> CHDO regulatory thresholds, <u>AND</u>:</p> <p style="padding-left: 40px;">The organization has a project which meets the project eligibility requirements of 92.300 for a reservation of AHFA CHDO set-aside funds.</p> <ul style="list-style-type: none">• Project Name: <u>Type Project Name Here</u>• Project County: <u>Type Project County Name Here</u> <p>AHFA Reviewer Signature _____ Date _____</p> <p>AHFA Reviewer Name _____</p> <p>AHFA Reviewer Title _____</p>

CHDO CERTIFICATION / RECERTIFICATION
<p>8b. CHDO Recertification (provide one sheet for each project recertification)</p> <p>The organization <u>Type Non-Profit Organization Name Here</u> meets <u>all</u> CHDO regulatory thresholds, <u>AND</u>:</p> <p style="padding-left: 40px;">The organization has a project previously awarded AHFA CHDO set-aside funds.</p> <ul style="list-style-type: none">• Project Name: <u>Type Project Name Here</u>• Project County: <u>Type Project County Name Here</u>• Project Number: <u>Type AHFA Project Number Here</u> <p>AHFA Reviewer Signature _____ Date _____</p> <p>AHFA Reviewer Name _____</p> <p>AHFA Reviewer Title _____</p>

Appendix B Required Forms to include in AHFA CHDO Application



2022 AHFA CHDO Certification Application

CHDO Staff Roster
Type Organization Name Here

ex.	Employee Name*	Employee Title	Full Time/ Part Time	Hours/week	W-2 Employee Yes/No**	Also Employed by For-profit Parent Org	Also a Public Official or	Resume & Job Description	Project Role
1	Jonathan G. Highly-Qualified	Senior Development Coordinator	Full Time	40	Yes	No	No	Yes	Project management/Dev Team Coordinator
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
#									
21									
#									
#									
#									
25									
#									
27									
#									
#									
#									

Print additional sheets as needed to show all organizational staff

* Roster should list all organization staff with responsibility for the proposed CHDO project. Resumes need be provided for staff assigned to the proposed project evidencing their qualifications relative to their project role.

** If employee does not receive a W-2, provide a copy of employment contract for PJ review

I hereby certify that the above is an accurate roster of the agency staff as of 7/1/2022

I further certify that there are no agency staff not otherwise listed herein that are also public officials or governmental employees.

Signature of Executive Director: _____ Date: _____


AHFA Considerations

	Do key employees have sufficient time to manage/oversee this project in addition to existing responsibilities
	Are staff encouraged to build new skills, maintain technical skills, etc. through training opportunities
	Do key employees have the potential to learn/build new skills

AHFA Determination

Appendix B

Required Forms to include in AHFA CHDO Application



2022 AHFA CHDO Certification Application

CHDO Board Roster

Type Organization Name Here

Board Member Name*	Address	Occupation	Gov't. Official, Employee, or Appointee	Appointed by For-Profit Parent Entity	Low Income Representative**			Term Expires
					Member of LI Household	Resident of LI Neighborhood	Elected Representative of LI Neighborhood Org.	
0 George Q. Public	1234 Magnolia Street, Anytown, ST	Program Office, Community	No	N/A		X		#####
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								

AHFA requires a minimum 5-person Board of Directors.

* If there are any vacant seats on the board which are otherwise required by the organizational documents, indicate those positions by entering "Vacant" in the Board Member Name Column.

** If a Board member is an official, employee, or appointee of a governmental entity, he/she cannot be counted as a low income representative.

No. of Board Members (including any vacant seats called for in organizational documents)
 No. of Members who are Gov't Officials/Employees/Appointees
 No. of Members who are LI Representatives.

I hereby certify that the above is an accurate roster of the Board of Directors as of

Signature of Board Chair:

Printed Name:

Date:

Appendix B Required Forms to include in AHFA CHDO Application

CHDO BOARD MEMBER CERTIFICATION	
Name: Click here to enter Board Member Name	Address: Click here to enter Address Click here to enter City, ST, Zip
Name of Organization (prospective CHDO): Click here to enter Organization Name	Board Term: Click here to enter term (mo/year to mo/year)
LOW INCOME REPRESENTATIVES	
<p><i>Board members meeting Low Income Representation requirement must complete this certification</i></p> <p>I represent the interests of low-income families in this organization's targeted service area. I have checked below the manner in which I meet the qualification as a low-income representative:</p> <p><input type="checkbox"/> I qualify as a low-income resident under the HOME Program definition. The gross annual income of my household of ## people is at or below 80% of the Click here to enter County county area median income in the amount of Click here to enter \$(80% AMI limit); or</p> <p><input type="checkbox"/> I live in a low-income area (where 51% or more of the households in my US Census tract have incomes at or below 80% of the median household income, as defined by HUD), which is part of the CHDO's targeted service area. My census tract is Click here to enter census tract number. The Census tract data <u>must</u> accompany this certification. Or</p> <p><input type="checkbox"/> I am an elected representative of Click here to enter name of low-income neighborhood organization, located within Click here to enter name of neighborhood and city which is part of the CHDO's targeted service area. A signed resolution or signed minutes and election roster from the neighborhood organization naming the individual as its representative on the CHDO's board of directors must be provided. AND</p> <p><input type="checkbox"/> Further, I have completed an accompanying CHDO Board Member Certification as to my status as a Public Official/Governmental Employee and re-affirm here that I am <u>not</u> a public official, employee, or appointee of a governmental entity. <i>(Note: Board members who are public officials/governmental employees may not be counted as a Low Income Representatives for purposes of CHDO qualification.)</i></p>	
<p><i>Certification:</i> I hereby certify that the above is true and correct as of the date of my signature below. If my status as a Low Income Representative changes at any time during my tenure on the board, I will immediately notify the board chair and executive director in writing and update my certification.</p>	
Signature:	Date: Click to enter a date.
Printed Name: Click here to enter Board Member Name	

Appendix B Required Forms to include in AHFA CHDO Application

CHDO BOARD MEMBER CERTIFICATION	
<i>Name:</i> Click here to enter Board Member Name	<i>Address:</i> Click here to enter Member Address Click here to enter City, ST, Zip
<i>Name of Organization (prospective CHDO):</i> Click here to enter Organization Name	<i>Board Term:</i> Click here to enter term (mo/year to mo/year)
PUBLIC OFFICIAL/GOVERNMENTAL EMPLOYEE	
<p>All board members of the prospective CHDO must complete this certification.</p> <p>For purposes of this certification, governmental entities are any of the following: any HOME participating jurisdiction, other jurisdiction (e.g. state or local government), Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority.</p> <p>Public officials include any individual who is an elected or appointed member of any governmental entity (e.g. a city council member, a member of the local zoning board, a member of a local public housing authority board, etc.).</p> <p>A government employee is anyone who is employed by a governmental entity on a full or part time basis even if that individual's job function is not related to housing, HUD programs, or other federal funding (e.g. a county sheriff deputy, a sanitation department worker, a secretary in the city parks department, etc.). A governmental employee also includes anyone appointed by a governmental entity to a position for which they are compensated for services.</p> <p>A governmental appointee is anyone who has been appointed to the board of directors by a governmental entity even if that person is not otherwise a public official or governmental employee (e.g. a member appointed to the board by the local mayor).</p>	
<p><input type="checkbox"/> I am <u>not</u> a public official, employee, or appointee of a governmental entity.</p> <p style="text-align: center;">or</p> <p><input type="checkbox"/> I <u>am</u> a public official, employee, or appointee of a governmental entity. <i>If checked, describe your role and identify the governmental entity:</i></p> <p>Click here to enter Entity Name and Role</p>	
<p>Certification: I hereby certify that the above is true and correct as of the date of my signature below. If my status as a public official and/or government employee changes at any time during my tenure on the board, I will immediately notify the board chair and executive director in writing and update my certification.</p>	
<i>Signature:</i>	<i>Date:</i> Click to enter a date.
<i>Printed Name:</i> Click here to enter Board Member Name	

Appendix B Required Forms to include in AHFA CHDO Application

CHDO ROLE FORM RENTAL—CHDO SPONSORED/AFFILIATE DEVELOPED	
Submitted by:	Click here to enter Non-Profit Organization Name
Project Name:	Click here to enter Project Name
Required elements §92.300(a)(4) and §92.300(a)(3)	<p>Project involves the development of new or rehabilitated rental housing that will be leased to income eligible tenants.</p> <p>One of the following types of CHDO affiliate will develop the project:</p> <ul style="list-style-type: none"> <input type="checkbox"/> CHDO's wholly owned subsidiary. <input type="checkbox"/> CHDO or wholly owned subsidiary will be sole general partner of limited partnership. Partnership agreement can only allow removal of CHDO or its subsidiary for cause and must provide for replacement by another CHDO. <input type="checkbox"/> CHDO or wholly owned subsidiary will be sole managing member of limited liability company. Operating agreement can only allow removal of CHDO or its subsidiary for cause and must provide for replacement by another CHDO. <ul style="list-style-type: none"> <input type="checkbox"/> Affiliate must solely own the property in fee simple (or via long term ground lease) during the development period. <input type="checkbox"/> Affiliate must solely own the property for the required affordability period. <input type="checkbox"/> Affiliate must be in sole charge of the development process, including <ol style="list-style-type: none"> 1. Obtaining zoning and other approvals, 2. Obtaining other non-HOME financing needed for the project, 3. Selecting architects, engineers, general contractors, and other members of the development team, and 4. Overseeing progress of work and determining cost reasonableness.
Additional considerations	<ul style="list-style-type: none"> • PJ must enter into written agreement with the entity that actually owns the property [§92.300(a)(4)(ii)] and determine the form of assistance [§93.200(a)(7)] • For complex ownership/financing structures, CHDO staff should have relevant experience with projects that had similar ownership/financing
<input type="checkbox"/> Attach hierarchical Ownership organizational structure chart including % of ownership.	

Appendix B Required Forms to include in AHFA CHDO Application

CHDO ROLE FORM RENTAL—CHDO SPONSORED/AFFILIATE OWNED	
Submitted by:	Click here to enter Non-Profit Organization Name
Project Name:	Click here to enter Project Name
Required elements §92.300(a)(4) and §92.300(a)(2)	<p>Project involves a HOME-assisted rental project. One of the following types of CHDO affiliate will own the project:</p> <p>CHDO's wholly owned subsidiary.</p> <ul style="list-style-type: none"> <input type="checkbox"/> CHDO or wholly owned subsidiary will be sole general partner of limited partnership. Partnership agreement can only allow removal of CHDO or its subsidiary for cause and must provide for replacement by another CHDO. <input type="checkbox"/> CHDO or wholly owned subsidiary will be sole managing member of limited liability company. Operating agreement can only allow removal of CHDO or its subsidiary for cause and must provide for replacement by another CHDO <ul style="list-style-type: none"> <input type="checkbox"/> Affiliate must solely own the property in fee simple (or via long term ground lease) <input type="checkbox"/> Affiliate must solely own the property for the required affordability period <p>CHDO will</p> <ul style="list-style-type: none"> <input type="checkbox"/> Hire a project manager/developer to oversee development of newly constructed rental housing. The project manager will: <ol style="list-style-type: none"> 1. Obtain zoning and other local approvals, 2. Secure non-HOME financing, 3. Manage the selection of a general contractor/builder, and 4. Oversee work progress including cost reasonableness.
Additional considerations	<ul style="list-style-type: none"> • PJ must enter into written agreement with the entity that actually owns the property [§92.300(a)(4)(ii)] and determine the form of assistance [§93.200(a)(7)]
<input type="checkbox"/> Attach hierarchical Ownership organizational structure chart including % of ownership.	

Appendix B Required Forms to include in AHFA CHDO Application

AFFORDABLE HOUSING PORTFOLIO

List all low-income housing developed, owned or managed.

Project Name	Location	# of Units	Placed in Service Date	Organization Role	Designated CHDO
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.
			Click or tap to enter a date.	Choose an item.	Choose an item.

I certify that the information provided above is accurate and give AHFA consent to verify the information listed above.

By: _____ Date: _____

(Signature)
Name of Staff Member

Revised 5/26/2023

Appendix C

Necessary Documents to include in AHFA CHDO Application

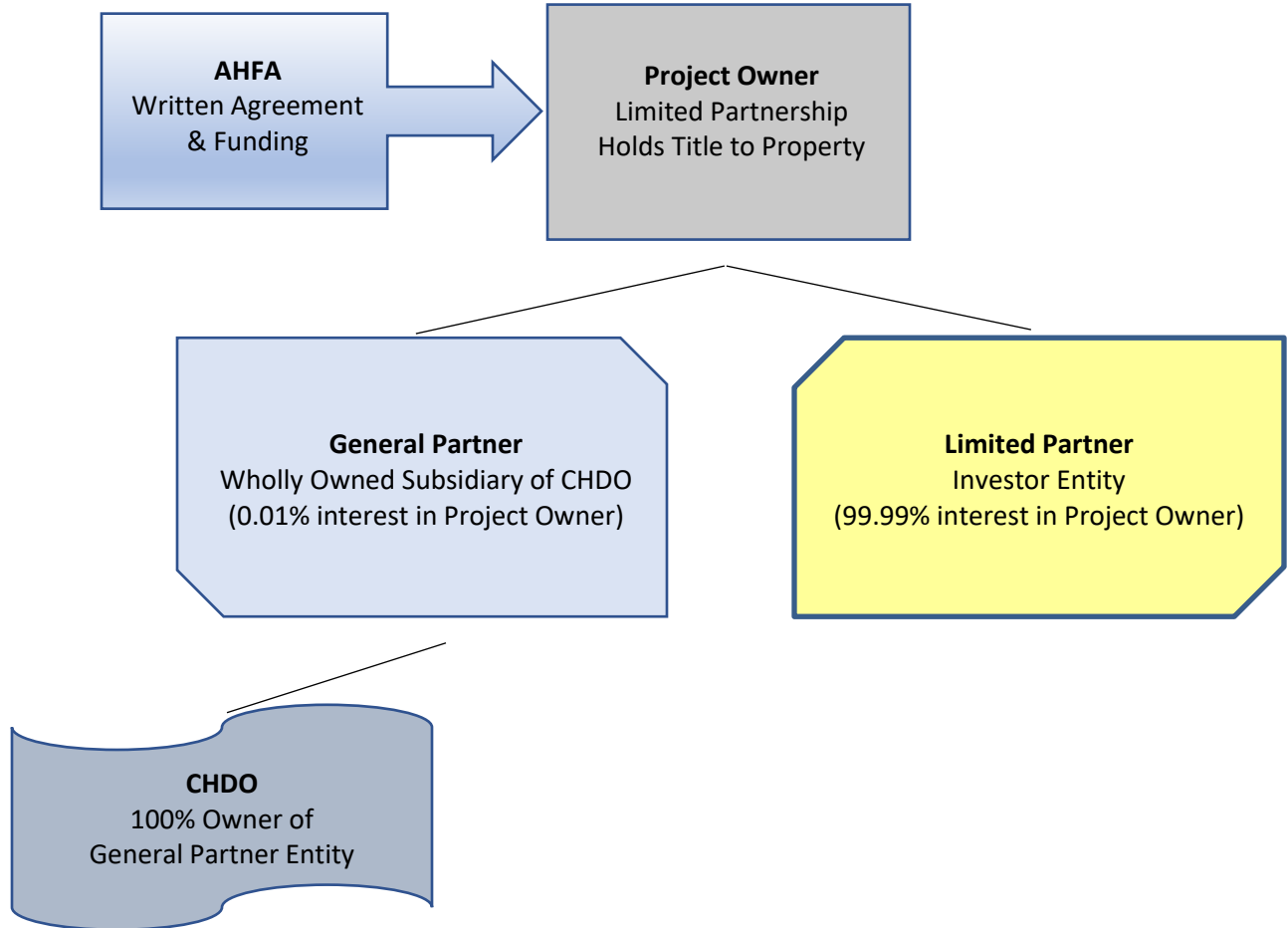
Necessary Documents:

- Articles of Incorporation/Charter
- Current Bylaws
- Certificate of Good Standing or Existence (issued not less than 60 days prior to application)
- IRS Nonprofit Designation letter
- Map and Description of Service Area
- Current Board Roster, must indicate Low-Income (LI) representatives and public official/employee status
 - Board Member Certifications of Governmental Official/Employee Status
 - Board Member Certifications of LI Representation Status
- Corporate profile of for-profit entity that created organization (if applicable)
- Adopted policy (e.g., board resolution) defining process for LI Beneficiary Input
- Statement outlining results of input process, including documentation such as notes/minutes/reports of input received on proposed project(s)
- Corporate profile for prospective CHDO describing at least one year history of providing service within the organization's service area; regional organizations should highlight service history in the specific local community where proposed CHDO project is located
- CHDO Staff Roster (with the following supports for each staff member)
 - W-2s for staff assigned to proposed project
 - Resumes/biographies for staff assigned to proposed CHDO project
 - Job descriptions for key staff positions responsible for proposed CHDO project
- 2 CFR 200.302 and 200.303 Financial Standards Certification/Documentation
- Current fiscal year operating budget
- Most recent IRS Form 990
- Strategic business plan, including description of ongoing and pipeline projects
- Description of previous HOME funded CHDO projects, including any funded by other PJs
- Any other documents (not previously named) necessary to satisfy requirement(s)

Appendix D

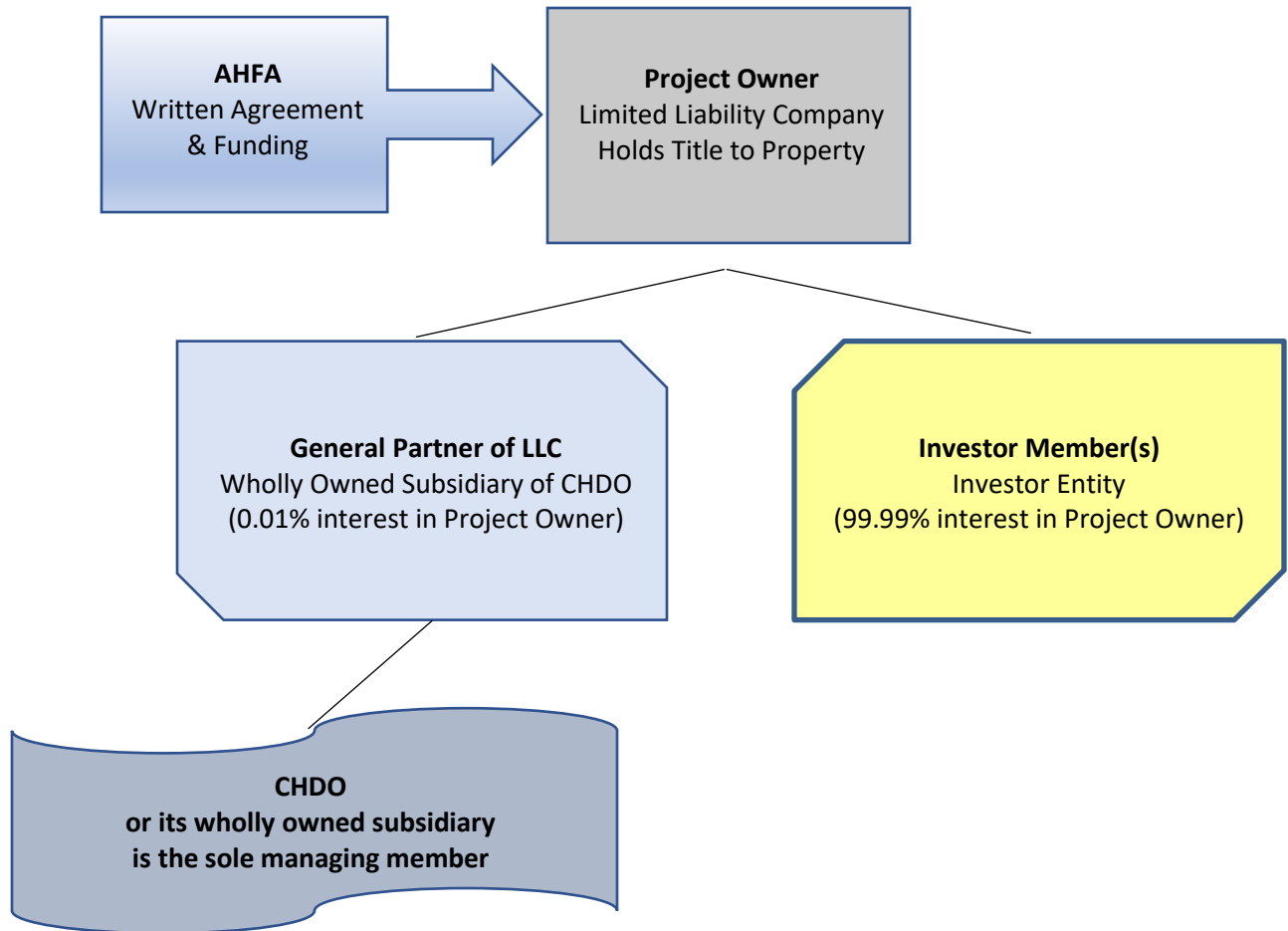
Examples of AHFA CHDO as Sponsor Ownership Structures

1. LIMITED PARTNERSHIP



Appendix D
Examples of AHFA CHDO as Sponsor Ownership Structures

2. LIMITED LIABILITY COMPANY



Appendix E

Example of Board Resolution on Low-Income Community Input

Resolution YEAR-X

WHEREAS, ACME CHDO manages its affairs consistent with the requirements of a "Community Housing Development Organization" (CHDO) outlined in the HOME Final Rule at 24 CFR Part 92; and

WHEREAS, among the requirements for CHDOs is maintaining a formal process by which potential low-income beneficiaries can advise the organization on decisions related to the design, siting, development, and management of affordable housing; and

WHEREAS, ACME CHDO wishes to provide operating guidance to its Board and staff about how the organization will seek input from low-income community members;

THEREFORE, BE IT RESOLVED that ACME CHDO will take the following actions to seek input from low-income community members about the development and operation of affordable housing that is or will be owned, developed, or sponsored by ACME CHDO:

- Hold not less than two (2) open neighborhood meetings annually (which can be held at previously established and scheduled neighborhood association meetings) to discuss all future development projects to be held within any neighborhood in which the agency shall be providing affordable housing.
- Maintain representation of at least one person from the neighborhood in which it is providing affordable housing on any one of agency's Advisory Boards.
- Invite organized neighborhood group(s) to attend the open meetings and allow them to appoint the one person (at minimum) who shall serve on the Advisory Boards as designated by the Board of Directors.
- Gather input as follows regarding satisfaction, preferences and needs in housing (including location, physical layout, size of units, number of units per building, etc.):
 - Conduct phone and paper surveys of low-income persons served. One survey will be provided at delivery of service. Another survey will be conducted six (6) months after delivery of service.
 - Hold a focus group annually with previous clients, members of their families, and representatives from neighborhood organizations within ACME CHDO's service area.
- Periodically review the adequacy of this process and adopt updates as needed to ensure that substantive input is being received.

The preceding resolution was adopted by the ACME CHDO Board of Directors at a regular meeting held MONTH DAY, YEAR.

Approval Moved by: _____ Seconded by: _____

Vote: ___ Yes ___ No

Attested by Board Secretary: _____ Date: ____/____/____

{Signature}

Appendix F Identifying Paid Employees

Identifying a CHDO's Paid Employees

The HOME statute requires CHDO set-aside funds to be invested in affordable housing projects that are owned, developed, or sponsored by CHDOs. To ensure that CHDO set-aside funds are only provided to organizations that have the capacity to carry out and complete the projects for which they are being funded, the definition of "community housing development organization" at 24 CFR 92.2 of the 2013 HOME rule requires that, at the time it commits CHDO set-aside funds, a PJ must certify that the organization has paid employees with housing experience in the role it will undertake (i.e., owner, developer, or sponsor) for that specific project. The PJ must certify that the organization meets the CHDO requirements each time it commits CHDO set-aside funds to a project. This issue brief describes what constitutes a paid employee for the purpose of meeting the CHDO capacity requirements of the HOME rule.

Capacity and the Role of the Organization

The 2013 HOME Rule describes the roles of owner, developer, and sponsor for CHDOs. To qualify as a CHDO, the rule requires an organization to have paid employees with demonstrated housing experience relevant to the prospective CHDO's role for the project for which it seeks CHDO set-aside funds. Therefore, when assessing capacity, a PJ must consider the role an organization will undertake for the project.

- An "owner" must demonstrate the capacity to own and manage the housing, as well as oversee any development that is to occur.
- A "developer" must demonstrate the capacity to own, manage, and develop the housing.
- A "sponsor" must demonstrate the capacity to develop the housing and, if it is not transferring ownership of the housing to another organization at completion of the development, must also have the capacity to own and manage the housing. If the sponsor is acquiring standard rental housing it must have the capacity to own and manage the housing.

If the organization's paid employees do not have demonstrated housing experience, the capacity requirement may be met through a consultant with relevant housing experience, but only during the organization's first year of funding as a CHDO. The consultant must train the paid staff so that the CHDO will have in-house capacity at the end of the first year.

The capacity requirement cannot be met through board members, volunteers, or staff that is donated by another organization. Consultants or volunteers may fill occasional skill gaps or undertake activities that are required only on a periodic basis (e.g., project underwriting) but their experience cannot serve as the basis of a determination that an organization has paid staff with the required capacity.

Who Is A Paid Employee?

A person whose salary, payroll taxes, and unemployment insurance are paid by the organization and from whom the organization withholds payroll and income taxes is a paid employee. Receipt of a W-2 from the organization is sufficient evidence that an individual is a "paid employee." Paid staff may be full- or part-time depending on the needs of the project but must be directly paid by and accountable to the organization seeking CHDO project funding.

Appendix F Identifying Paid Employees

What if the Employee Does Not Receive a W-2?

When considering if a person who does not receive a W-2 is a paid employee, the PJ should consider whether the organization has the right to direct and control how the person does the job. The employment contract between the organization and the individual worker will likely serve as the key documentation for making this decision.

If the organization gives the worker instructions about when, where, and how to work, the worker is likely an employee. However, an organization does not have to actually direct or control how the worker performs assigned tasks in order for a worker to be an employee. A worker is an employee as long as the employer retains the right to direct and control the work performed by the employee. In some organizations, especially those with highly specialized professionals or workers who require little or no instruction, directing and controlling work is functionally more difficult; but, if the organization retains the right to control the details of the worker's performance, the worker is an employee.

If the organization has an evaluation system to measure performance of the employee or provides training to the worker on how to perform the worker's job in a particular manner, the worker is likely an employee.

Who is not a paid employee?

To be counted as a paid employee, for the purpose of establishing capacity, the employee must be directly paid by the prospective CHDO and, therefore, cannot be donated by, contracted through, or cost-allocated through another organization, such as the entity that created the CHDO.

The regulations place additional restrictions on employees of for-profit organizations that create CHDOs and on employees of governmental entities. An organization cannot be designated as a CHDO if any of its employees are also employees of the for-profit organization that created the prospective CHDO. Similarly, an organization cannot be designated as a CHDO if any of its employees are also officials or employees of any governmental entity (any of the following: participating jurisdiction, other jurisdiction, Indian tribe, public housing agency, Indian housing authority, housing finance agency, or redevelopment authority).