



**APPLICATION FOR  
COMMUNITY HOUSING DEVELOPMENT  
ORGANIZATION (CHDO)  
CERTIFICATION / RECERTIFICATION**

**November 2010**

**Planning Department  
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Portsmouth, VA 23704  
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**APPLICATION FOR CITY OF PORTSMOUTH  
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO)  
CERTIFICATION / RECERTIFICATION**

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## **I. INTRODUCTION**

The National Affordable Housing Act of 1990 (the Act) created the HOME Investment Partnerships Program (HOME). The Act's objectives include promoting partnerships between states, local governments and nonprofit organizations and increasing the capacity of nonprofit organizations to develop and manage affordable housing.

To help achieve these objectives the Act requires that participating jurisdictions (PJs) set-aside at least 15% of their HOME funds for housing that is developed, owned, or sponsored by Community Housing Development Organizations (CHDOs). CHDOs are a specific type of nonprofit organization defined in the HOME Final Rule (24 CFR Part 92).

This application for CHDO certification covers the following topics:

- 1) Provides the HOME Program definition of a CHDO;
- 2) Outlines the criteria for qualifying as a CHDO;
- 3) Describes the eligible uses of CHDO set-aside funds;
- 4) Describes the City of Portsmouth process for certifying CHDOs;
- 5) Provides supplemental material for organizations interested in becoming a CHDO and information on technical assistance available to nonprofits; and
- 6) Provides reference materials as appendices.

## **II. DEFINITION OF A CHDO**

The HOME Program definition of a CHDO is found in 24 CFR 92.2 (see Attachment A of this Application).

The definition outlines the criteria that an organization must meet to qualify as a CHDO. The criteria focus on the legal status of the organization, its capacity and experience, the organizational structure, and the relationship of the CHDO to for-profit entities. The CHDO Checklist (see Attachment B) outlines these criteria in detail. The following is a summary of some of the key criteria to qualify as a CHDO.

### **Legal Status**

- 1) The CHDO must be organized under state law.
- 2) One of the purposes of the organization must be the provision of decent housing that is affordable to low-income and moderate-income persons.
- 3) The CHDO must have nonprofit status under §501(c)(3) or (4) of the Internal Revenue Code of 1986.
- 4) The organization must have a clearly defined geographic service area.

### **Capacity and Experience**

- 1) The CHDO must have at least one year of experience serving the community.
- 2) The organization must show that its key staff members have the capacity to implement housing activities.
- 3) The CHDO must have financial management systems that meet the federal standards outlined in 24 CFR 84.21. The most recent version of OMB Circulars A-110 (24 CFR 84) and A-133 may be obtained at <http://www.whitehouse.gov/omb/circulars>

## Organization Structure

- 1) At least one-third of the organization's board of directors must be representatives of the low-income community. The CHDO is required to certify the status of low-income representatives. There are three methods to meet the HOME requirement that stipulates 1/3 of the organization's board be representatives of a low-income community served by the CHDO. If a potential board member fits one of the following descriptions, then they count towards fulfilling this requirement:

- The person lives in a low-income neighborhood where 51% or more of the residents are low-income. This resident does not have to be low-income.

In order to qualify under this criterion, the board member must live in a low-income neighborhood where 51% or more of the residents are low-income. The board member does not have to be low-income. **Neighborhood** means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government;

- The person is a low-income resident of the community.

In order to qualify under this criteria, the board member must be a low-income resident of a community that the CHDO is certified to serve. **Low-income** is defined as 80% or less of area median family income.

- The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups.

In order to qualify under this criteria, the board member must be elected by a low-income neighborhood organization to serve on the CHDO Board. The group must be a neighborhood organization and it may not be the CHDO itself. If the board member is qualifying under this criterion, a copy of signed resolution from the neighborhood organization naming the individual as their representative on the CHDO is required.

- 2) No more than 1/3 of the CHDO's board may be public officials or employees of the PJ. If a person qualifies as a low-income person and a public official, their role as a public sector representative supersedes their residency or income status. Therefore, the official counts toward the 1/3 public sector limitation.
- 3) The balance is unrestricted and 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.

- 4) The CHDO must also involve low-income program beneficiaries in affordable housing project design. (This is in addition to serving on the board of directors.)

### **Relationship to For-Profit Entities**

The CHDO cannot be controlled by for-profit organizations or individuals (See Appendix A).

### **III. THE CHDO SET-ASIDE**

At least 15% of the City's HOME allocation must be invested in housing developed, owned, or sponsored by a CHDO (see Section IV). Other nonprofit organizations not meeting CHDO criteria can receive HOME funding for projects they develop, own, or sponsor, but these projects do not count toward the CHDO set-aside. CHDOs and other nonprofits can also receive HOME funds as a sub-recipient but these funds also do not count toward the 15% CHDO set-aside.

#### **Eligible and Ineligible CHDO Set-Aside Activities**

Only certain types of activities count toward the 15% set-aside. The **eligible** activities (when carried out by a CHDO acting as a developer, owner or sponsor) are:

- 1) Acquisition and/or rehabilitation of rental housing;
- 2) Construction of new rental housing;
- 3) Acquisition and/or rehabilitation of properties for home ownership;
- 4) New construction for home ownership.

The following activities are **not eligible** for the CHDO set-aside:

- 1) Tenant-based rental assistance;
- 2) Rehabilitation of owner-occupied properties;
- 3) Direct home buyer assistance for existing housing (not developed, owned, or sponsored by the CHDO).

### **IV. ALTERNATIVE CHDO ROLES**

The 15% CHDO set-aside can only be used for projects in which a CHDO is the developer, owner, or sponsor.

#### **CHDO as Developer**

A CHDO is a "developer" when it either owns a property and develops a project or has a contract with a property owner to develop a project. The CHDO must perform all the functions usually expected of for-profit developers as well as assume all the risks and rewards associated with being a developer.

- 1) **Rental Housing** For rental projects the CHDO must obtain financing and build or rehabilitate the project. If it owns the property, the CHDO may maintain ownership and manage the project over the long term, or it may transfer the project to another entity for management.

- 2) **Home Ownership** For home ownership projects the CHDO must obtain financing and build or rehabilitate the units. Title to the property and HOME obligations must be transferred to qualified home buyers within a specified time frame of project completion.

### **CHDO as Owner**

A CHDO may be considered an “owner” of a rental development. The CHDO is an owner when it has valid title or a long term leasehold interest (at least 99 years). A CHDO can own a rental property with other legal entities (including, but not limited to, individuals, corporations, and partnerships). If it owns the project in partnership, the CHDO or its wholly owned nonprofit or for-profit subsidiary must be the managing general partner with effective control (i.e., decision making authority) of the project. The CHDO may be both owner and developer, or may have another entity as the developer.

### **CHDO as Sponsor**

A CHDO may be a “sponsor” for either a rental or a home ownership project. When a CHDO is a sponsor it must always own the property prior to the development phase of the project.

- 1) **Rental Housing:** The CHDO (or another entity) develops a project that the CHDO solely or partially owns and agrees to convey ownership to a second nonprofit organization at a predetermined time prior to or during development or upon completion of the development of the project. The HOME funds are invested in the project owned by the CHDO. The CHDO sponsor selects prior to commitment of the HOME funds the nonprofit organization that will obtain ownership of the property.
- 2) **Home Ownership:** The CHDO owns a property and transfers responsibility for development to another nonprofit organization at a specified time in the development process. The second nonprofit transfers title to the property and HOME obligations to qualified home buyers within a specified time frame.

For a more detailed description of the alternative CHDO roles, see HUD Notice CPD 97-11.

## **V. PROCESS FOR CITY OF PORTSMOUTH CHDO CERTIFICATION OR RECERTIFICATION (required whenever a CHDO receives an allocation of HOME funds from the City of Portsmouth).**

The following is the process for obtaining City of Portsmouth CHDO certification:

- 1) Complete the CHDO Checklist (Appendix B) and provide the required supporting materials.
- 2) Submit the Application material and the CHDO Checklist to the City of Portsmouth Planning Department HOME Program Administrator. Generally, material will be reviewed within 30 days of submission.

- 3) If the Application material submitted is complete and meets the criteria for qualifying as a CHDO (as described in Section II of this Application and in the CHDO Checklist) the City will notify the organization in writing that it has been certified as a CHDO.
- 4) If the Application is not complete or if the organization does not meet the requirements for CHDO certification, a letter will be sent to the organization that describes what it must do to meet the certification criteria.
- 5) The City will maintain a list of City-certified CHDOs. Certified CHDOs will be asked to recertify their status by providing updated information on the organization and its projects whenever they request an additional allocation of HOME funds from the City of Portsmouth.

## **VI. TECHNICAL ASSISTANCE AVAILABLE TO CHDOs**

The HOME Program Administrator is available to assist CHDOs in structuring project proposals to best meet City program requirements as well as to assist CHDOs in implementing these projects once they are funded.

## APPENDIX A

### EXCERPT FROM HOME INVESTMENT PARTNERSHIPS PROGRAM FINAL RULE 4/1/02 24 CFR 92.2 DEFINITIONS

*Community housing development organization* 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:
  - 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; and
  - c) The Community housing development organization must be free to contract for goods and services from vendors of its own choosing;
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1);
5. Does not include a public body (including the participating jurisdiction). An organization that is State or locally chartered may qualify as a community housing development organization; however, the State or local government 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 the participating jurisdiction or State recipient. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members;
6. Has standards of financial accountability that conform to 24 CFR 84.21, "Standards of Financial Management Systems;"
7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
8. Maintains accountability to low-income community residents by:
  - a) 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
  - b) Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

9. Has a demonstrated capacity for carrying out activities assisted with HOME funds. An organization may satisfy this requirement by hiring experienced key staff members who have successfully completed similar projects, or a consultant with the same type of experience and a plan to train appropriate key staff members of the organization; and
10. 10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

## APPENDIX B

### CHDO CHECKLIST

The information contained in this checklist refers to a Community Housing Development Organization (CHDO) as defined in Subpart A, Section 92.2 of the HOME Final Rule (24 CFR Part 92). Other information applicable to CHDOs is found in Subpart G of the Rule. Please submit this form and the required documentation to:

Jeffrey Crimer, HOME Program Administrator  
City of Portsmouth Department of Planning  
City Hall, 4<sup>th</sup> Floor  
801 Crawford St.  
Portsmouth, VA 23704

**Please include all supporting documentation as “Attachment A”. Supporting documentation should be included for each item checked off. Please label each document included with the corresponding checklist question number.**

#### I. Contact Information

Organization Name	
Phone Number	
Fax	
Mailing Address	
Executive Director	
E-mail Address	
Service Area	

#### II. Legal Status (attach all supporting documentation)

A. The nonprofit organization is organized under state or local laws, as evidenced by:

- Charter  Articles of Incorporation

B. No part of its net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:

- Charter  Articles of Incorporation

C. It has a current tax exemption ruling from the Internal Revenue Services (IRS) under Section 501(c) of the Internal Revenue Code of 1986, as evidenced by: No part of its net earnings inure to the benefit of any member, founder, contributor, or individual, as evidenced by:

501(c) (3) or (4) Certificate from the IRS.

D. It has among its purposes the provision of decent housing that is affordable to low- and moderate-income people, as evidenced by a statement in the organization's:

Charter

Articles of Incorporation

By-laws

Resolutions

### III. CAPACITY (attach all supporting documentation)

A. The nonprofit organization conforms to the financial accountability standards of Attachment F of OMB Circular A-110, "Standards for Financial Management Systems" 24 CFR 84.21, as evidenced by:

A notarized statement by the president or chief financial officer of the organization

A certification from a Certified Public Accountant

A HUD-approved audit summary

B. The nonprofit organization's staff has a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by:

Résumés and statements that describe the experience and current roles of key staff members who have successfully completed projects similar to those to be assisted with HOME funds.

C. The non-profit organization has a history of serving the community where housing to be assisted with HOME funds will be used, as evidenced by:

A completed Housing Activity Chart (see Appendix D).

A narrative describing Development Project Experience.

The narrative should outline 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 involvement in the project (if a rental project(s)); describe any projects that are currently under development, and any future plans for development projects.

*The applicant organization must have completed at least one CHDO-eligible development in the past two years to be considered for CHDO certification. Eligible*

*developments are acquisition and/or rehabilitation of rental housing; Construction of new rental housing; acquisition and/or rehabilitation of properties for home ownership; and new construction for home ownership.*

**IV. ORGANIZATION STRUCTURE (attach all supporting documentation)**

- A. The nonprofit organization maintains at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations as evidenced by the organization's:

By-laws                       Charter                       Articles of Incorporation

*Under the HOME program, for urban areas, the term "community" is defined as one or several neighborhoods, a city, county, or metropolitan area.*

- B. It provides information on current Board of Directors as evidenced by:

A completed Board of Directors Chart (see Appendix E).  
 Certification of Low-Income Representation (see Appendix F).

- C. It provides a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of all HOME-assisted affordable housing projects, as evidenced by:

By-laws.  
 Resolution (see model in Appendix G if necessary).  
 Certification of Low-income Representation (see Appendix F)

Please also provide a description of your formal process for obtaining low-income input (Appendix G) and attach any relevant information. Approved CHDOs must maintain records that show the formal process has been followed for all projects receiving HOME from the City of Portsmouth.

- D. If the CHDO is sponsored or created by a for-profit entity, the for-profit entity may not appoint more than one-third of the membership of the CHDO's governing body, and the board members appointed by the for-profit entity may not, in turn, appoint that remaining two-thirds of the board members, as evidenced by the CHDO's:

Charter                                       Articles of Incorporation  
 By-laws                                       Not Applicable

**V. RELATIONSHIP WITH FOR-PROFIT ENTITIES (attach all supporting documentation)**

A. The CHDO is not controlled by nor receives directions from individuals or entities seeking profit from the organization, as evidenced by:

- By-laws                       Memorandum of Understanding (MOU)

B. A CHDO may be sponsored or created by a for-profit entity; however, the for-profit entity's primary purpose does not include the development or management of housing, as evidenced by:

- Not Applicable                       in the for-profit organization's By-laws

**VI. ADMINISTRATIVE AUDIT AND LEGAL ISSUES (attach all supporting documentation)**

A. Has your organization been placed under administrative restrictions from federal, state, or local sources at any time in the past 5 years?

- Yes                       No

B. Has your organization been involved in any lawsuits?

- Yes                       No

C. Are there any outstanding judgments against your organization?

- Yes                       No

D. Has your organization defaulted on any loans in the past 5 years?

- Yes                       No

E. Has your organization had any audit findings in the past 5 years?

- Yes                       No

***If you answered "Yes" to any of the above questions, attach a complete explanation labeled as "Attachment C"***

**VII. CERTIFICATIONS**

By signing below:

A. The Applicant Organization certifies that the information provided in this application for certification as a City Community Housing Development Organization is true and complete.

- B. The Applicant Organization understands that the Agency may conduct its own independent review of the information herein and the attachments, and may verify information from any source; and
- C. The Applicant Organization understands that the City of Portsmouth will not be responsible for any costs incurred by the applicant in developing and submitting this application, and that all applications submitted become the property of the City.

**Name of Authorized Official:** \_\_\_\_\_

**Signature of Authorized Official:** \_\_\_\_\_

**Title of Authorized Official:** \_\_\_\_\_

**Date:** \_\_\_\_\_





- 7) What controls are in place to determine whether disbursements are reasonable and allowable under grant programs? These disbursements must be allowable under the grant program as well as in accordance with the applicable Federal cost principles as documented in OMB A-122. Please provide written procedures.
  
- 8) What accounting systems do you have in place to ensure that all accounting records are supported by source documentation (i.e. accounting software)?
  
- 9) Does your organization have an annual audit? Is the most recent audit current?
  
- 10) Does the organization have a conflict of interest policy governing employees and development activities, particularly in the procurement of contract services and the award of housing units for occupancy?
  
- 11) Does the current balance sheet and budget indicate sufficient funds to support essential operations? Does the organization have a diversified and stable funding base for operations? What revenue sources are predictable year to year?
  
- 12) Does the organization have liquid assets available to cover current expenses?

I hereby certify that the responses to the above questions are true and accurate.

**Name of Authorized Official:** \_\_\_\_\_

**Signature of Authorized Official:** \_\_\_\_\_

**Title of Authorized Official:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**APPENDIX D**

**HOUSING ACTIVITY CHART**

Organizations pursuing designation as a City of Portsmouth Community Housing Development Organization (CHDO) must have completed a CHDO-eligible development *in the past 2 years*. The organization is also asked to comment regarding upcoming plans for housing development.

<b>Housing Units Produced In</b>	<b>Home Ownership Production</b>	<b>Rental Production</b>	<b>Transitional Housing Production</b>	<b>Other</b>
<b>2008</b>				
<b>2009</b>				
<b>2010</b> <i>indicate if completed or planned</i>				



## Appendix F

### CERTIFICATION OF LOW-INCOME REPRESENTATION

Each board member representing the interests of low-income families in the Applicant's service area must complete this certification. Please maintain a copy of this certification in your files and send a copy to the City of Portsmouth. Note: the board member needs to check at least one of the three criteria listed below but does not need to indicate the specific way in which he or she represents low-income community interests.

Board Member Name: \_\_\_\_\_

I certify that I am a current member in good standing of the governing board for \_\_\_\_\_ (name of the CHDO organization seeking certification) and that I represent the interests of low-income families in the Applicant's service area.

Date Completed: \_\_\_\_\_

**Please check and complete one of the following:**

I am a low-income resident of \_\_\_\_\_, a community in the Applicant's service area.

*In order to qualify under this criteria, the board member must be a low-income resident of a community that the CHDO is planning to serve or is currently serving. Low-income is defined as 80% or less of area median family income.*

**OR**

I am a resident of a low-income neighborhood in \_\_\_\_\_, a community in the Applicant's service area.

*In order to qualify under this criteria, the board member must live in a low-income neighborhood where 51% or more of the residents are low-income. The board member does not have to be low-income.*

**OR**

I am an elected representative of \_\_\_\_\_, a low-income neighborhood organization within \_\_\_\_\_, a community in the Applicant's service area.

*In order to qualify under this third criteria, the person must be elected by a low-income neighborhood organization to serve on the CHDO Board. The organization must be composed primarily of residents of a low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups. The group must be a neighborhood organization and IT MAY NOT BE THE CHDO ITSELF. If the applicant is representing a low-income neighborhood organization, please attach a copy of the signed resolution from the neighborhood organization naming the individual as their representative on the CHDO.*

**APPENDIX G**

**DESCRIPTION OF PROCESS FOR OBTAINING LOW-INCOME INPUT**

For example: In what ways was low-income input sought and implemented in the past year and what were the results?

How have the low-income residents and program beneficiaries in your service area been involved with the CHDO to advise on policies and procedures, program design, site location(s), and the development and management of affordable housing?

Are there any unique approaches you have taken to obtain feedback from low-income residents and what avenues will be pursued to overcome these barriers.

*Having low-income representatives on the board of directors does not satisfy the low-income advisory process. The low-income advisory process is designed to report the outreach efforts made by the CHDO to the low-income community.*

**MODEL PUBLIC INPUT RESOLUTION**

The following is hereby resolved by the Board of Directors of \_\_\_\_\_,

at a duly called meeting on \_\_\_\_\_,  
(date)

at which a quorum was present:

The following provision is hereby added to the By-laws, and shall be designated as Article \_\_\_\_\_.

For any housing project undertaken by this organization there shall be a formal process by which we gather input from intended beneficiaries, low-income residents of the proposed area, and other community members. This process will include:

- holding widely publicized open meetings;
- creating ad hoc committees of neighbors of a proposed development sites;
- forming a neighborhood advisory council;
- temporarily expanding our governing board to include neighbors during the period of planning and development of the housing project;
- other: \_\_\_\_\_

Input will be sought on project design, location of sites, development, management, and any other relevant issues.

**Name of Authorized Official:** \_\_\_\_\_

**Signature of Authorized Official:** \_\_\_\_\_

**Title of Authorized Official:** \_\_\_\_\_

**Date:** \_\_\_\_\_