



**City of Mobile, Alabama
Community and Housing Development Department
HOME Investment Partnerships Program**

**Community Housing Development Organization (CHDO)
Application and Recertification**

2021

**Neighborhood Development Department
205 Government Street, South Tower, 5th Floor, Room 508
Mobile, AL 36602
251-208-6290**

TABLE OF CONTENTS

| | |
|--|----------------|
| INSTRUCTIONS | Page 2 |
| APPLICATION SUBMISSION | Page 2 |
| APPLICANT INFORMATION | Page 3 |
| AFFORDABLE HOUSING GOALS | Page 3 |
| PROGRAM ELIGIBILITY STATEMENT | Page 4 |
| CONFLICT OF INTEREST POLICY | Page 6 |
| CHDO BOARD MEMBER CERTIFICATIONS | Page 7 |
| REQUIRED ATTACHMENTS | Page 10 |
| ANNUAL RECERTIFICATION AGREEMENT | Page 10 |
| ATTACHMENT “A” - CPD Notice 97-11 | Page 11 |

CHDO APPLICATION and RECERTIFICATION

INSTRUCTIONS

1. Review the Program Eligibility Statement (page 4) to determine your agency’s eligibility to apply.
2. Complete the entire CHDO application. Your organization’s Authorized Signatory must sign the Program Eligibility Statement, Conflict of Interest Policy, Overall Board Member Certification, and the Annual Recertification Agreement. All Board Members must individually complete CHDO Board Member Certifications.
3. Submit all required attachments listed on page 10. Applications will not be considered for City of Mobile CHDO Certification (or Recertification) until all required information is submitted. CHD Staff reserves the right to ask for additional information as necessary in order to confirm initial and ongoing eligibility.

APPLICATION SUBMISSION

Applications will be accepted and reviewed by City of Mobile Community and Housing Development (CHD) staff as submitted. CHD staff will provide written eligibility notification within thirty (30) days from the time that all required documentation is submitted, and eligibility is determined.

Send: One original and one copy of the Application and Required Attachments to:

Jamey Roberts
City of Mobile
Neighborhood Development
205 Government Street, 5th Floor South Tower, Room 508
Mobile, Alabama 36602

APPLICANT INFORMATION

Name of Organization:

Address:

City, State, Zip:

Telephone:

Email Address:

Contact Person:

Title:

EIN#:

CHDO Service Area:

CHDO Fiscal Year:
(Date Begins – Date Ends)

Number of rental units developed:
New construction or rehabilitation?

Number of homeownership units developed:
New construction or rehabilitation?

Provide a brief statement on the goals and plans your agency has to further the development of affordable housing in the City of Mobile:

PROGRAM ELIGIBILITY STATEMENT

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:
 - i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;
 - ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members; and
 - iii) 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;
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 member 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 for Financial Management Systems";
7. Has among its purposes the provision of decent housing that is affordable to low and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;
8. Maintains accountability to low-income community residents by:

- i) Maintaining at least one-third of its governing board’s membership of 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 area, it may be a neighborhood or neighborhoods, town village, county, or multi-county area (but not the entire State); and
- ii) Providing a formal process for low-income program beneficiaries to advise organization in its decisions regarding the design, siting, development, and management of affordable housing;

9. Has 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. Has a history of serving the community within which housing to be assisted with HOME funds is 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 organization or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

I certify that the above Nonprofit Agency meets the requirements corresponding to the items numbered above. I also certify that the information contained in this application and submitted to the City of Mobile Community Planning and Development Department, is true and complete.

The City reserves the right to request for more information in its effort to evaluate the qualification and capacity of the applicant for certification or recertification.

The above Non-profit Agency is of the full understanding that, under this application, City of Mobile Community Housing Development Organization (CHDO) designation is not a guarantee for HOME Investments Partnership Program (HOME) funding. The undersigned has full power and authority to apply for City of Mobile Community Housing Development Organization (CHDO) designation, according to the CHDO By laws and/or Resolutions of its governing body.

Authorized Signature

Date

Print Name

Title

**CONFLICT OF INTEREST POLICY FOR
HOME DEVELOPERS AND CHDOs**

No employee, agent, consultant, elected official, or appointed official of _____, (the “Organization”) may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

1. Any interest in any contract, subcontract or agreement with respect to a HOME assisted project or program administered by the Organization, or the proceeds there under; or
2. Any unit benefits or financial assistance associated with HOME projects or programs administered by the Organization, including:
 - Occupancy of a rental housing unit in a HOME-assisted rental project;
 - Receipt of HOME tenant-based rental assistance;
 - Purchase or occupancy of a homebuyer unit in a HOME-assisted project;
 - Receipt of HOME homebuyer acquisition assistance; or
 - Receipt of HOME owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of the Organization who occupies a HOME-assisted unit as the on-site project manager or maintenance worker. In addition, no member of the Congress of the United States, official or employee of the U.S. Department of Housing and Urban Development (HUD), or official or employee of the Participating Jurisdiction shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by the Organization in writing to the Participating Jurisdiction (City of Mobile). The Organization must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this Policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. The Jurisdiction may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply.

Authorized Signature

Date

Print Name

Title

**HOME INVESTMENT PARTNERSHIP PROGRAM COMMUNITY
HOUSING DEVELOPMENT ORGANIZATION (CHDO) OVERALL
BOARD MEMBER CERTIFICATION**

A Community Housing Development Organization (CHDO) must be accountable to the low-income residents of its service area by maintaining at least **one-third** of its governing body members as low-income community representatives. A governing body member can be qualified as a low-income community representative in any one of the following three ways:

1. Being a member of a low-income household (LICR);
2. Residing in a low-income census tract or block group (RLIN);
3. Appointment to the governing body through election by members of another organization consisting exclusively of residents of a low-income neighborhood (ER).

If the organization has a multi-county service area, the Board of Directors must represent at least one-third of the counties in the CHDO's service area.

Public representatives **cannot** be qualified as low-income representatives, even if they meet the qualifying criteria.

Public representatives include individuals elected, appointed, or employed by the State or local government or an instrumentality of the State or local government (e.g. public housing authority, local school board, etc.).

OFFICER'S WARRANT:

By my signature below, I warrant that I am a duly qualified **OFFICER** of the organization, that the information provided on all current board members of the organization is true and correct, and I have reviewed written documentation in the organization's files that support the information provided.

Authorized Signature

Date

Print Name

Title

CHDO BOARD MEMBER CERTIFICATION

(This form must be filled out individually for each board member.)

Signature: _____ Date: _____

Printed Name: _____

Date Appointed to Board: _____ Expiration Date of Term: _____

Select Only One:

Public Official or Employee

I currently hold a publically elected office; am employed by a State, local government, or an instrumentality of the State or local government; or serve on any commission, board, or other regulatory body by an appointment of an elected official or other political body.

Member of Low-Income Household (LICR)

I am a member of a household of _____ (number of persons) that has a combined total expected annual income for the year _____ which is less than 80% of the area median income for a household of this size.

Resident of Low-Income Area (RLIN)

I reside in census tract/block group number _____ which in the 2010 census, has at least 51% of its households with incomes less than 80% of the area median income.

Elected Representative of a Low-Income Group (ER)

I am elected by the membership of an organization whose membership is open to all residents of a defined neighborhood in which the 2010 census shows that more than 50% of the households have incomes less than 80% of the area median income, and my position on our governing body is primarily as a representative of that neighborhood group. The group name is _____, and the census tract/block group numbers served by the neighborhood group are: _____.

Not a Low-Income Representative

**CHDO BOARD OF DIRECTORS COMPOSITION
SUMMARY TABLE**

| | Board Member Name & Address | Occupation | LICR (Y/N) | RLIN (Y/N) | ER (Y/N) | Public Official (Y/N) | Other |
|----|--|-------------------|-------------------|-------------------|-----------------|------------------------------|--------------|
| 1 | | | | | | | |
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| 12 | | | | | | | |

- Public representatives **cannot** be qualified as low-income representatives, even if they meet the qualifying criteria. No more than 1/3 of the Board Members may be Public Officials.
- CHDOs must be accountable to the low-income residents of its service area by maintaining **at least 1/3** of its governing body representing the established service area.
- The **1/3** of low-income resident and public official representations are based upon the total maximum number of board members identified in the by-laws. Vacancies in the board membership do not reduce these requirements.

REQUIRED ATTACHMENTS

(Must be attached to this application, in order for Application to be considered complete).

Attachment 1: 501(c)(3) or 501(c)(4) Designation/Status (Provide tax exemption ruling from the Internal Revenue Service.)

Attachment 2: Articles of Incorporation/By-Laws (Provide a copy of most recent By-Laws and Articles of Incorporation, including any Amendments).

Attachment 3: Signed Program Eligibility Statement

Attachment 4: Copy of the organization’s most recent audited financial statements and management letter.

Attachment 5: Copy of the agency’s most recent 990’s.

Attachment 6: Copy of the organization’s current Operating Budget that distinctly identifies all sources and amounts of funding received.

Attachment 7: Map of the organization’s Target Area.

Attachment 8: Listing of all Board Members (include addresses). Also include the Board Member Certification (signed with the Officer’s Warrant), individual CHDO Board Member Certification sheets for all Board Members, and the CHDO Board Composition Summary Table.

Attachment 9: Description of formal process for low-income beneficiary input into the agency’s decision-making process, as well as the latest written or recorded input obtained.

Attachment 10: Statement of the organization’s history of providing affordable housing and other community initiatives and outreach.

Attachment 11: Resumes that describe the experience of key paid staff members who have successfully completed affordable housing projects.

Attachment 12: Signed HOME Conflict of Interest Policy

ANNUAL RECERTIFICATION AGREEMENT:

Your agency acknowledges that City of Mobile CHD conducts an annual recertification of all Community Housing Development Organizations. During this recertification process, your agency will be required to submit updated documentation to CHD, according to HOME Regulations. By signing below, your agency agrees to undergo the annual recertification process.

Authorized Signature

Date

Print Name

Title

ATTACHMENT "A"

GUIDANCE FOR CHDOs UNDER the HOME PROGRAM CPD NOTICE 97-11

U.S. Department of Housing and Urban Development
Community Planning and Development

Special Attention of: Notice: CPD 97-11
All Secretary's representatives
All State/Area Coordinators Issued: October 8, 1997
All CPD Division Directors Expires: October 8, 1998
All HOME Program Coordinators

All HOME Participating Jurisdictions
 Cross Reference: 24 CFR Part 92
 Supersedes: CPD Notice 94-02

Subject: Guidance on Community Housing Development Organizations (CHDOs) under the HOME Program

I. BACKGROUND: Among the purposes of the Cranston-Gonzalez National Affordable Housing Act of 1990 (NAHA), as amended, are: (1) to promote partnerships between States, units of general local government and nonprofit organizations, and (2) to expand nonprofit organization's capacity to develop and manage decent and affordable housing. To assist in achieving these purposes, participating jurisdictions (PJs) under the HOME Investment Partnership (HOME) Program must reserve not less than 15 percent of their HOEM allocations for investment in Organization (CHDOs). Each participating jurisdiction must identify CHDOs that are capable, or approved housing strategy. A CHDO is a specific type of nonprofit organization as defined in September 16, 1996. Although many nonprofit organizations share common characteristics with CHDOs, not all non-profits qualify as CHDOs under the HOME program. Only nonprofit organizations that have been certified by HOME participating jurisdictions as CHDOs can receive funds from the minimum 15 percent set-aside. CHDOs play an important role in developing affordable housing. It is essential, therefore, that participating jurisdictions be encouraged to build and strengthen partnerships with them.

II. PURPOSE: This Notice was developed to provide updated guidance to Field Offices, participating jurisdictions, and nonprofits on CHDO requirements and eligible activities, and to set forth HOME Program requirements relating to CHDOs contained in the HOME final rule. Attachment "A" is a checklist describing CHDO eligibility criteria and necessary supporting documentation which is recommended for use by participating jurisdictions to certify or recertify CHDOs.

III. CHDO Requirements and Eligible Activities

In order for a CHDO to be eligible for set-aside funds, the CHDO must be organized and structured according to the standards provided in the HOME regulations (as described in Attachment A), and must develop, own or sponsor the HOME-assisted housing (92.300). In any of these capacities, the CHDO must have effective project control. Where these conditions do not exist, the CHDO is operating as a Subrecipient and CHDO set-aside funds may not be used. Because tenant-based rental assistance, existing homeowner rehabilitation projects and direct homeownership assistance, existing homeowner rehabilitation projects and direct homeownership assistance are not eligible development, ownership or sponsorship activities, the CHDO set-aside may not be used for these purposes, except that the Final Home Rule in 92.300(a)(1) permits a CHDO to use its CHDO set-aside to provide direct homeownership assistance (e.g., down payment assistance) in connection with housing it also develops, sponsors or owns using CHDO set-aside funds.

CHDOs, as entities operating independently of the participating jurisdiction, differ from not-for-profit subrecipients in that the uniform administrative requirements in 92.505 (including those related to procurement of goods and service), the audit requirements in 92.506, and the conflict of interest provisions found in 92.356 do not apply to them, except for 92.356(f) which applies to all owners, developers and sponsors, including CHDOs. Subsection 92.356(f) (1) prohibits any officer, employee, agent or consultant of the owner, developer or sponsor, whether private, for profit or nonprofit, from occupying a HOME-assisted affordable housing unit in a project. This provision does not apply, however, to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. The method for obtaining an exception to this prohibition is explained in 92.35(f)(2).

In order to determine the eligibility of projects under the CHDO set-aside, the following definitions for “developer”, owner”, sponsor” will be used:

A. CHDO as a “Developer”

A CHDO is a “developer” when it (1) either owns a property and develops a project, or has a contractual obligation to a property owner to develop a project; and (2) performs all the functions typically expected of for-profit developers, and assumes all the risks and rewards associated with being the project developer.

- (1) For rental housing, the CHDO must obtain financing, and rehabilitate or construct 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 long-term ownership and management. If it does not own the property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ.

OR

- (2) For homebuyer programs, the CHDO must obtain project financing, rehabilitate or construct the dwelling(s), and have title of the property and the HOME loan/grant obligations transferred to a HOME qualified homebuyer within a specified timeframe. If it does not own the property, the CHDO must enter into a contractual obligation with the property owner. This contractual obligation is independent of the PJ.

In both of the above scenarios, developer fees negotiated with the PF are eligible soft costs under Section 92.206 of the HOME regulations.

B. CHDO as “Owner”

The CHDO is an “owner” when it holds valid legal title to or has a long term (99 year minimum) leasehold interest in a rental property. The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities. If it owns the project in partnership, it 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.

C. CHDO as “Sponsor”

A CHDO is a “sponsor” for HOME-assisted rental or homebuyer housing according to the circumstances outlines below. (In either case, the CHDO must always own the property prior to the development phase of the project.):

- (1) For HOME-assisted rental housing, the CHDO may develop a project that it solely or partially owns and agrees to convey ownership to a second non-profit 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 HOME funds the non-profit organization that will obtain ownership of the property. The non-profit assumes from the CHDO the HOME obligation (including any repayment of loans) for the project at a specified time. If the property is not transferred to the non-profit organization, the CHDO sponsor remains liable for the HOME loan/grant obligation.

The non-profit organization must be financially and legally separate from the CHDO sponsor. (The second nonprofit may have been created by the CHDO; nevertheless, it is a separate entity from the CHDO.) The CHDO sponsor must provide sufficient resources to the non-profit organization to ensure the development and long-term operation of the project.

OR

- (2) For a HOME-assisted homebuyer program, the CHDO owns a property, then shifts responsibility for the project to another nonprofit at some specified time in the development process. The second nonprofit, in turn, transfers title along with

the HOME loan/grant obligations and resale/recapture requirements to a HOME-qualified homebuyer within a specified timeframe. The HOME funds are invested in the property owned by the CHDO. The other nonprofit being sponsored by the CHDO acquires the completed units, or brings to completion the rehabilitation or construction of the property. At completion of the rehabilitation or construction, the second nonprofit is required to sell (transfer) the property along with the HOME loan/grant obligations to a homebuyer.

The sponsorship role could include a lease-purchase approach whereby the second nonprofit would lease the property to a homebuyer for a period not to exceed three years. At the expiration of the lease, the second nonprofit must sell or transfer the property along with the HOME loan/grant obligations to the homebuyer. If the property is not transferred, the second nonprofit retains ownership and all HOEM rental requirements will apply.

IV. Uses of Funds

A. 15% Set-aside

Participating jurisdictions must invest at least 15% of their HOME allocation in housing owned, developed or sponsored by CHDOs (92.300). Non-profit organizations not meeting the criteria for CHDOs can receive HOME monies. However, these nonprofits are not eligible for any of the funds set aside for CHDOs. PJs have up to 24 months from the end of the month in which HUD signs the HOME Investment Partnership Agreement to reserve their 15% set-aside for CHDOs. Set-aside funds not reserved for CHDOs within 24 months are recaptured by HUD and are no longer available to the PJ or the CHDO. PJs using the HOME Cash and Management Information (C/M) must use a specific C/MI from (HUD -40098) to reserve CHDO funds. OJs using IDIS must use the sub grant process reserve funds to CHDOs as described in Chapter 12 of the IDIS User Manual.

B. Capacity Building Funds

If, during the first 24 months of its participation in the HOME program, a PJ cannot identify a sufficient number of capable CHDOs, up to 20 percent of the minimum CHDO set-aside of 15 percent (but not more than \$150,000 during the 24 month period) may be made available to develop the capacity of CHDOs in the jurisdiction. (While this is no longer an option for participating jurisdictions that received allocations in the beginning of the program, the ability to use capacity-building funds is possible for newly designated PJs.) For example, a newly designated PJ receives a HOME allocation of \$400,000. The 15 percent set-aside for CHDOs is \$60,000 of which \$12,000 is available to the new PJ for CHDO capacity building activities. Please note that the term “capacity building” does not include in its meaning the day to day or regular ongoing operating expenses of a CHDO.

C. Project Specific Loans

Up to 10% of each PJ’s funds set aside for CHDOs may be used for special project-specific loans (92.301). These loans assure that CHDOs have access to HOME funds upfront for project pre-

development expenditures not otherwise available to other developers. All loans may not exceed customary and reasonable project preparation costs and must be repaid to the PJ from construction loan proceeds or other project income. Repayment of these loans may be waived by the PJ in part, or in whole, if there are impediments to project development that the PJ determines are reasonably beyond the CHDOs control. HUD will not require repayment of these funds by the PJ (92.503(b)2)).

There are two types of project specific loans: (1) technical assistance and site control loans; and (2) seed money loans.

(1) “Technical assistance and site control loans” are to be used to determine the feasibility of eligible projects by CHDOs in the early stages of site development. These loans may be used only to pay the costs of:

Consulting, legal, engineering, and/or architectural fees; Preliminary financial applications; Initial feasibility studies; Engaging a development team; Site control and title clearance for the project(s); and option to acquire property.

(2) “Seed-money loans” may be used to cover preconstruction project costs, including, but not limited to the costs of obtaining: Firm construction loan commitments; Architectural plans and specifications; Zoning approvals; and Engineering studies and legal fees for the projects(s).

The activities included under the “technical assistance and site-control loans” category do not require environmental clearance prior to funds being committed to them. (Please note that an option agreement is allowable prior to the completion of an environmental review only if the cost of the option is a nominal portion of the purchase price. Refer to 58.22 for further guidance.)

HOME funds may not be committed for any “seed money loans” prior to HUD approval of a request for a release of funds (RROF) for the projects required under environmental regulations (24 CFR Part 58). (Part 58 applies to any decision by a PJ or CHDO that is choice limiting.)

D. Operating Expenses

Under 92.208, PJs may use up to 5 percent of their annual HOME allocations for the payment of operating expenses for CHDOs. (This is separate and apart from the minimum 15 percent CHDO set-aside and does not count against the PJ’s 10 percent administrative funds.) As is the case with PJ administrative funds, HOME funds expended for CHDO operating expenses do not have to be matched by the PJ.

CHDO operating expenses are defined in 92.208 as reasonable and necessary costs for the operation of the CHDO. Such costs include salaries, wages and other employee compensation and benefits; employee education, training and travel; rent; utilities; communication costs; taxes; insurance and equipment, material and supplies.

If a CHDO is acting only as a Subrecipient or contractor, the CHDO is not eligible to receive any of the 5 percent available to the PJ for the payment of CHDO operating expenses. A PJ may provide a portion of its 10 percent administrative funds to a CHDO for costs incurred while the CHDO is acting solely in the capacity of a Subrecipient or contractor. However, even in this case the CHDO can be provided with CHDO operating expense funds if it is expected that it will be receiving CHDO project set-aside funds within 24 months of receiving funds for operating expenses. The PJ must enter into a written agreement with the CHDO specifying the terms and conditions upon which this expectation is based (92.300)(e)).

For any fiscal year, a CHDO may not receive HOME funded support in an amount that provides more than 50% of the organization's total operating budget in the fiscal year or \$50,000 annually, whichever is greater. This includes funds for operating expenses under 92.208, pass-through funds provided through intermediary organizations selected by HUD, and funds provided to the CHDO from the 20% of the minimum CHDO set-aside that are intended to develop their capacity. HOME administrative funds provided by the PJ under 92.207 to a CHDO which is also acting in a Subrecipient or contractor capacity do not count toward this cap.

E. Pass-Through Funds

Through direct contract with the Department, many intermediary organizations provide technical assistance and support to CHDOs and potential CHDOs throughout the country. PJs work closely with these intermediary organizations to identify nonprofit organizations they wish to work with to develop affordable housing. In addition to technical assistance, these intermediary organizations can also pass through to CHDOs a portion of their contract funds to provide housing education and organizational support.

V. CHDO PROCEEDS

The HOME Final Rule at 92.300(a)(2) permits participating jurisdictions to allow a CHDO through the terms of the written agreement to retain any proceeds resulting from the investment of its CHDO set-aside funds for use in HOME eligible or other housing activities which benefit low-income families. This option provides CHDOs with an equity stake in their projects. Examples of CHDO proceeds include funds resulting from: the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan; the sale of CHDO sponsored rental housing to a second non-profit; the sale of CHDO developed homeownership housing; the principal and interest payments from a loan to a buyer of CHDO developed homeownership housing. Rental income which is generated by a CHDO-owned project does not constitute CHDO proceeds.

CHDO proceeds which are retained by a CHDO are not subject to the requirements of the HOME regulations, except for the requirements of 92.300(a)(2). (This paragraph states that HOME funds recaptured because housing no longer meets affordability requirements under 92.54(a)(5)(ii) are subject to HOME requirements.) Thus, the Davis Bacon Act, National Environmental Policies Act and Uniform Relocation Assistance and Real Property acquisition Policies Act do not apply to that use of CHDO proceeds. However, because CHDO proceeds are

derived from the expenditure of HOME funds, any activities which are funded with CHDO proceeds may not be contributed as match.

Once CHDO proceeds are used, there are no further HOME requirements which must be met. Funds generated from the use of CHDO proceeds are not CHDO proceeds.

The participating jurisdiction determines what requirements must be met by the CHDO in using the CHDO proceeds which it retains, consistent with 92.300(a)(2). The participating jurisdiction may use its own definition of "low-income". The participating jurisdiction may also authorize a CHDO to use its proceeds to undertake housing activities which are not eligible for HOME funding, such as emergency repairs, ongoing project operating costs or reserves, or additional CHDO operating expenses. If the written agreement expires before all CHDO proceeds are generated, the written agreement must identify the requirements which continue to apply to the use of these CHDO proceeds for HOME-eligible or other housing activities which benefit low-income persons.

Participating jurisdictions also have the option of requiring that CHDO proceeds be returned to the PJ. Proceeds which are returned to the PJ constitute program income, and must be used in accordance with all HOME requirements.

CHDO proceeds do not include any proceeds generated by HOME assisted activity which is undertaken by a CHDO acting as a Subrecipient. Such proceeds are program income. CHDO proceeds also do not include funds which are recaptured by a CHDO in accordance with the homeownership recapture provisions of 92.254(a) (5) (ii).

For a complete discussion of HOME requirements pertaining to program income, recaptured funds, repayments and CHDO proceeds, please refer to Notice CPD 97-09 issued on September 12, 1997.