

## NOFA Appendix G

### HOME CHDO Annual Recertification Documents

#### For existing CHDOs last certified prior to January 1, 2014 ONLY

I. Section 92.300 of the 2013 Final Rule requires the PJ to confirm and document the capacity of existing CHDOs to own, develop, or sponsor housing ***each time*** it commits CHDO set-aside funds to an organization for a specific project. Please submit all of the documents listed in Section III. with your HOME Application.

II. The 2013 Final Rule has significantly changed the definitions “Owner”, “Developer” and “Sponsor” as they apply to CHDOs and effective project control. The Final Rule also requires that CHDOs demonstrate experience and capacity to carry out the obligations of each role that the CHDO will perform.

#### CHDO Roles

**Owner:** The CHDO is required to own (in fee simple absolute or long-term ground lease) the HOME project during development and throughout the period of affordability. As owner, the CHDO is required to oversee all aspects of the development process. In instances where the CHDO lacks developer capacity, the CHDO may own the project and hire a qualified project manager or contract with a development contractor to oversee all aspects of development. This option is available to CHDOs having experience and capacity to own and operate affordable rental housing, but lack the experience or capacity to develop the project. This option is NOT available where the project is owned by a partnership entity (see Sponsor)

**Developer:** The CHDO may act as developer if the CHDO owns (in fee simple absolute or long-term ground lease) the HOME project. As developer, the CHDO must be in sole charge of all aspects of the development process, including obtaining zoning and other approvals, securing financing, selecting contractors, overseeing work progress and determining reasonableness of costs. The CHDO must own the project during development and for multi-family rental projects, throughout the period of affordability. This option is NOT available where the project is owned by a partnership entity (see Sponsor).

Prior to publication of the 2013 Final Rule, CHDOs were allowed to act as developer in projects where the CHDO had no long-term ownership interest if the CHDO had a contractual relationship with the project owner (i.e. a Development Services Agreement) to develop the project, This option is no longer available.

**Sponsor:** The 2013 Final Rule provides two definitions of “Sponsor” of HOME-assisted rental housing

1. A CHDO “sponsors” a project when the property is “owned” or “developed” by:
  - a. An affiliated subsidiary of the CHDO, which is wholly owned by the CHDO;
  - b. A limited partnership in which the CHDO or its wholly owned affiliated subsidiary is the sole general partner; or
  - c. A limited liability company in which the CHDO or its wholly owned affiliated subsidiary is the sole managing member.

Note: Selection “b” is the option most commonly used in tax credit projects, which applies to most, but not necessarily all of the multi-family rental project applications received by the Department.

2. A CHDO may “sponsor” a project in situations where the CHDO owns (in fee simple absolute) and develops the housing and agrees to convey the housing to a different private non-profit organization at a predetermined point in time after completion of the development. The non-profit to which the project will be conveyed does not need to be a CHDO, but must be identified and approved by the Department prior to commitment of HOME funds. Additionally, this non-profit cannot be created by a governmental entity. If for any reason the project is not transferred to this non-profit, the CHDO remains liable for the HOME funds and the project for the term of the affordability period.

### **Capacity of the CHDO**

The CHDO must demonstrate capacity for each role (Owner, Developer or Sponsor) it intends to undertake. The 2013 Final Rule emphasizes that the CHDO must have **paid key staff members** who have housing experience appropriate to the role the CHDO undertakes. Thus, a CHDO in the role of developer must demonstrate development experience and a CHDO in the role of owner/manager must demonstrate ownership and management experience. If the CHDO lacks development experience or capacity it may be certified only as an Owner/Operator. Capacity is evaluated during the certification process as well as **each time** the CHDO applies for funding.

The capacity requirement cannot be met through the use of volunteers or staff that is donated by organization, including the parent organization, if applicable.

### **Use of Consultants to Demonstrate Development Capacity (New CHDOs ONLY)**

The CHDO cannot rely exclusively upon consultants to demonstrate development capacity, but a consultant may be hired to fill a capacity gap, provided that the following conditions are met:

- a) The CHDO and consultant must enter into a written agreement which specifies the tasks to be performed by the consultant ;
- b) The consultant must demonstrate sufficient experience to perform the assigned tasks;
- c) The written agreement must include a provision that the consultant will provide training to CHDO staff; and
- d) A detailed training plan must be submitted with the certification application. The plan must specifically state the scope of the training and a timeline for completion of the training. Training must commence within 6 months after the CHDO is certified and must be completed no later than two years of the certification date.

**III.** To be submitted by currently certified CHDOs **ONLY** (see link at end of section for attachments):

- 1) A statement prepared on organization letterhead and signed by the Board Chair, which certifies that the organization is currently in compliance with all State requirements for CHDO certification.
- 2) A copy of any and all amendments to the organization's bylaws, which were made after the initial date of the current certification. If none, so state in the Board Chair's certification statement.
- 3) A copy of any and all amendments to the corporation's articles of incorporation, which were made after the initial date of the current certification. If none, so state in the Board Chair's certification statement.
- 4) Board of Directors:
  - (i) Attachment 17.1 "Certification of Board Status.
  - (ii) Attachment 16.1 "Board Member Certification" for each new Board Member, if any. Include this attachment only if any Board Members were added or changed since the initial date of the current certification. If no changes, so state in the Board Chair's certification statement.
  - (iii) Attachment 17.2 "CHDO Board Compliance Certification"
- 5) Staffing and Experience
  - (i) Attachment 11.1 "Organization Staffing Plan".
  - (ii) Attachment 11.2 "Key Staff Core Competencies".

(iii) For new staff, if any, include resumes and statements describing their qualifications and experience in development, ownership and/or operation of affordable housing projects. Resumes must specifically describe the role and duties performed on prior projects.

Attachments are available in the certification application at:

[http://www.hcd.ca.gov/fa/home/certification\\_CHDO.html](http://www.hcd.ca.gov/fa/home/certification_CHDO.html).