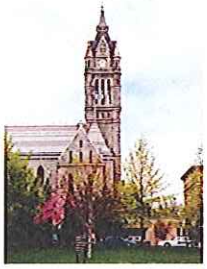

# Holyoke-Chicopee-Westfield Consortium
# Holyoke Community Development Department

## Community Housing Development Organization (CHDO) Policies & Procedures

- Requirements
- CHDO Set-Aside and CHDO Roles
- Eligible and Ineligible Activities
- How to Apply for CHDO Certification

Office for Community Development
Room 400, City Hall Annex
Holyoke, Massachusetts 01040
(413) 322-5610

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# Holyoke-Chicopee-Westfield Consortium
# Community Housing Development Organizations (CHDO) Procedures Manual

## 1. Background

The HOME Investment Partnerships (HOME) Program was established under Title II of the National Affordable Housing Act. The purpose of HOME funding is:

A. To expand the supply of:

- Decent, affordable housing
- Nonprofit housing providers

B. To strengthen:

- Ability of state and local governments to provide housing
- Public-private partnership

The HOME program is administered through the U.S. Department of Housing and Urban Development (HUD). The Holyoke-Chicopee-Westfield Consortium, as a participating jurisdiction (PJ), receives funds under the HOME Program. HUD HOME regulations require PJs to set aside 15% of their HOME allocation for Community Housing Development Organizations (CHDOs). The CHDO funds can be obtained by organizations that have a qualified project without match requirements.

## 2. Purpose

A CHDO is a private, non-profit, community based organization whose primary purpose is to develop affordable housing for the community it serves. The CHDO either has staff or has a contract with an organization that has staff with the capacity to develop affordable housing. The contracted organization must have a written plan for training the CHDO's staff.

## 3. Regulatory Requirements for CHDO Certification

The U.S. Department of Housing and Urban Development has established standard criteria for organizations to be eligible for CHDO certification.

A. Organized under State/Local Law: The nonprofit organization must show their articles of incorporation as evidence of being organized under state and local law.

B. IRS Nonprofit Status: Organizations must have a 501(c)3 non profit status of exemption letter of certification from the Internal Revenue Service (IRS).

C. Purpose of Affordable Housing: Providing decent and affordable housing must be the organization's primary purpose. This is evidenced by the organization's By-laws or Articles of Incorporation.

D. Benefit No Individual: No part of the CHDO's profits may benefit any members, founders, contributors, or individuals. This requirement must be evidenced in the Articles of Incorporation.

E. Service Area: The organization must have a clearly defined geographic service area in its Articles of Incorporation and/or By-laws and a map of the service area must be attached to the application.

F. Board Representation: The board of directors must contain no more than 1/3 representation from the public sector and a minimum of 1/3 representation from the low-income community it serves.

G. For-Profit Sponsorship: CHDOs may be sponsored by for-profits; however, the CHDO cannot be controlled by the for-profit and must be free to contract for goods and services. The primary purpose of the for-profit cannot be housing ownership/management as evidenced by the for-profit's Articles of Incorporation.

H. Low-Income Input: A formal process that is described in the By-laws or Resolutions, has been established and implemented for low-income program beneficiaries from the organization's service area to advise the organization in all of its decisions regarding design, location, development and management of affordable housing.

I. Capacity and Experience: Key staff and board members must have significant experience and capacity to carry out CHDO eligible HOME-assisted projects in the community where it intends to develop affordable housing as evidenced by resumes. Capacity can also be demonstrated by contracts with consulting firms or individuals who have successfully completed projects similar to those to be assisted with CHDO funds. The consulting firms or individuals must have written plans detailing the training of CHDO personnel.

J. Serving the Community: A minimum of one year of relative experience serving the community (or communities within the Consortium) where the organization intends to develop affordable housing must be demonstrated. Demonstrate via letters of community support and written statement of organization's community activities.

K. Accounting Standards: The organization must meet and adhere to financial accountability standards found in 24 CFR 84.21.

L. Organizations having revenues in **excess** of $300,000 **MUST** submit an audit performed by a Certified Public Accountant, along with their most recently filed IRS Form 990.

Organizations having income **less** than $300,000 **MUST** submit the organization's most recently filed IRS Form 990, along with the items from either **(a)** **or** **(b)**:

**a)** A set of Basic Financial Statements, which MUST include the industry equivalent of a "Balance Sheet", "Statement of Cash Flows", "Income Statement" and the "Notes to the Financial Statements". These must have been certified as official financials and evidenced by a copy of the board minutes showing that they were presented and accepted as official financial statements by the entity's board or governing body.

**OR**

**b)** A compiled set of Basic Financial Statements, along with a letter that the compilation was performed in accordance with American Institute of Certified Public Accountants' industry standards. The compilation must include the industry's equivalent of the "Balance Sheet", "Statement of Cash Flows", "Income Statement" and the "Notes to the Financial Statements".

**NOTE**: Audit or Certified Financial Statements must be completed in accordance with generally accepted accounting principles and prepared during the last fiscal year.

**4. Holyoke-Chicopee-Westfield Consortium Requirements for CHDO Certification**

In addition to the regulatory requirements from HUD, the Consortium has established additional criteria for CHDO certification. The organization must:

A. Maintain a record of good standing with the Massachusetts Secretary of State's office;

B. Maintain a record of good standing within the Holyoke-Chicopee-Westfield HOME Consortium.

The criterion above is not all-inclusive and Holyoke-Chicopee-Westfield Consortium may require additional information prior to determining CHDO certification. Meeting the above requirements does not guarantee CHDO certification and Holyoke-Chicopee-Westfield Consortium reserves the right to deny or revoke CHDO certification based on its evaluation of the nonprofit organization's performance.

**5. Organizational Structure Requirements for CHDO Certifications**

HUD has established organizational structure requirements for CHDOs to ensure that the governing board is not controlled by influence from outside the community it serves. These requirements are also designed to ensure that the CHDO is capable of decisions and actions to serve the community needs.

The requirements relating to the organization's board must be evidenced in the organization's Articles of Incorporation or By-Laws.

A. Low Income Representation: At least one-third of the organization's board must be representatives of the low-income community the CHDO serves. To meet the 1/3 minimum requirement, the organization's board could consist of either:

- Residents that live in the low-income community where 51% or more of the residents are low-income. The persons need not be low income;
- Residents of the community who are qualified as low-income (below 80% of the median income); or
- Elected representatives of low-income neighborhood organizations.

The CHDO is required to certify the status of all low-income representatives and the low-income Board representation should be included in the CHDO's By-laws, Charter or Articles of Incorporation.

B. Public Sector Limitations: A CHDO may be chartered by state or local government, however restrictions apply. Only one-third or less of the organization's board may be representatives of the public sector, including elected public officials, appointees of elected public officials or employees of Holyoke-Chicopee-Westfield Consortium, as discussed in the CHDO's By-laws, Charter or Articles of Incorporation. If a person qualifies as a low-income representative and a public sector representative, the role of public sector representative supersedes their residency or income status. This person would therefore count toward the one-third public sector limitation.

C. Low Income Advisory Process: The CHDO must provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of affordable housing. This process must be described in the CHDO's By-laws or Resolutions. Each project the CHDO undertakes should allow for the potential program beneficiaries to provide input on the project from start to finish. This may be accomplished by creating a project advisory committee for each project located in the areas the project will serve. Proof of low-income beneficiary input will be required at the CHDO's annual recertification.

D. For-Profit Limitations: If a CHDO is sponsored by a for-profit, the for-profit may not appoint more than one-third of the board, as evidenced by the CHDO's By-laws, Charter or Articles of Incorporation. Board members appointed by the for-profit may not appoint the remaining two-thirds of the board members.

## 6. Experience, Capacity and Financial Accountability Requirements for CHDO Certification

Organizations must demonstrate sufficient experience, capacity and financial accountability to be certified as a CHDO.

A. Experience and Capacity: CHDOs must demonstrate a history of serving the community in which the housing activities will take place. This can be demonstrated by providing:

- A statement that documents one year of experience serving the community, or
- A statement that a parent organization (if applicable) has at least one year experience serving the community.

B. Financial Accountability: CHDOs must have financial accountability standards that conform to the requirements detailed in 24 CFR 82.21, "Standards for Financial Management Systems". This can be evidenced by a notarized statement by a Certified Public Accountant or the Chief Financial Officer of the CHDO to certify the organization's financial system is in compliance with financial accountability standards of 24 CFR 82.21.

## 7. CHDO Service Area

The Holyoke-Chicopee-Westfield Consortium CHDO service area includes the cities of Holyoke, Chicopee and Westfield, Massachusetts. A qualified CHDO may carry out HOME funded housing activities in any or all of the Consortium cities as geographically defined in its Articles of Incorporation and/or By-laws.

CHDOs will be required to provide updates on how active and visible their organization's contributions are to the community or communities they are serving.

## 8. CHDO Certification & Recertification

The Holyoke Office for Community Development, on behalf of the Holyoke-Chicopee-Westfield Consortium, accepts new CHDO applications throughout the year. As part of the certification process, the Consortium reviews the organization's structure, Board make-up, service area, experience and capacity (as described above) to assess the organization's ability to carry out a HOME funded project utilizing the required guidelines.

In addition to certification, the Holyoke Office for Community Development also has the responsibility of recertifying CHDOs for the Consortium. Non-profit organizations may experience transitions in board composition and management. Charters or by-laws may be amended at any given time. After the initial certification, the Consortium will re-certify CHDOs annually to keep all information current and verify that the organization still satisfies the criteria to be designated a CHDO.

In order to maintain CHDO status, the CHDO must re-apply on an annual basis during the annual recertification period. The CHDO annual re-certification period begins October 1st of each year. Upon review of completed re-certification applications and applicable documents, the CHDO will be certified from December 1st thru December 1st of the following year. If the re-certification application and applicable documents are not received by November 1st, the CHDO will need to complete a new certification application. Failure to submit an application for re-certification may cause the CHDO certification to expire and the organization will be ineligible for Consortium CHDO set-aside funds.

If the organization is not recertified, it is not eligible to receive any funds and/or services reserved for CHDOs until such time as the organization is able to prove to the satisfaction of the Holyoke Office for Community Development that they still meet all of the criteria necessary to obtain CHDO certification.

The status of the CHDO certification will be verified by Holyoke Office for Community Development prior to awarding Consortium CHDO funds.

## 9. Project Development Using CHDO Set-Aside

The HOME requirements in 24 CFR Part 92.300 require the Consortium to set aside at least 15 percent of its annual HOME allocation for projects owned, developed or sponsored by CHDOs.

A certified CHDO must be an owner, developer or sponsor of a HOME-eligible project to use CHDO set-aside funds. A CHDO may serve in one of these roles or in a combination of roles, such as being owner and developer.

A. CHDO as Owner: As owner, the CHDO holds valid legal title or has a long-term leasehold investment to the property (99 year minimum). The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities. However, the CHDO must be the managing general partner with effective control (decision making authority) of the property.

The CHDO may be both owner and developer of its own project.

B. CHDO as Developer: A CHDO is a developer when the CHDO owns the property and develops the project or has contractual obligations to the property owner to develop the project.

If the *CHDO owns* the property, it must rehabilitate or construct the project and obtain financing. The CHDO may maintain ownership and manage the property for HOME-assisted rental housing or it may transfer title to another entity.

- *HOME Assisted Rental Housing*
  Upon project completion, 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.

- *HOME Assisted Homebuyer Projects*
  CHDO transfers title of the property and the HOME obligations to an eligible homebuyer within a specific timeframe of the project.

If the CHDO *does not* own the property, it must have a contractual obligation to the property owner to obtain financing and rehabilitate or construct the property. All risks and rewards are assumed by the CHDO under this agreement. A written contract between the CHDO and the property owner must specify the CHDO's obligations.

If the CHDO develops the project for an owner according to a written agreement with the applicable Consortium member city, the CHDO is acting as a Subrecipient. Organizations receiving funds as subrecipients cannot use funds from the 15 percent CHDO set-aside for that particular project.

C. CHDO as Sponsor: CHDOs may sponsor HOME-assisted rental housing or homebuyer projects.

For HOME-assisted rental housing – The CHDO develops a project that is solely owned or partially owned by the CHDO and conveys ownership to a second nonprofit organization at a determined time. The conveyance may occur before or during development or upon completion of the project. The following requirements apply:

- HOME funds must be invested in the project owned by the CHDO sponsor. The CHDO sponsor must name the nonprofit organization that will obtain ownership of the property prior to commitment of CHDO set-aside funds. The second nonprofit must assume all HOME obligations, including affordability periods, for the project after conveyance. If the property is not transferred, the CHDO sponsor will remain liable for all HOME obligations.

- The nonprofit organization must be a legally and financially separate entity from the CHDO sponsor.

For HOME-assisted homebuyer projects – The CHDO is a sponsor when it owns the property and shifts responsibility to a second nonprofit at a specified time in the development process. The following requirements apply:

- HOME funds must be invested in the project owned by the CHDO, and

- The second nonprofit must acquire the completed units or complete the rehabilitation or construction of the property.

Upon completion of the project, the second nonprofit is required to transfer the property, along with all HOME obligations, to a HOME-qualified homebuyer.

D. CHDOs as Developers or Sponsors: The CHDO developer and sponsor roles are similar. In both, the CHDO assumes the principle project development activities, like acquisition, financing, construction management, and assembling a development team to complete the project; however, as developer, the CHDO need not own the property. As sponsor, the CHDO must own the property, in whole or in part, and shift the responsibility to another nonprofit at a specified time in the development process. The transfer could occur, for example, at the:

- Initiation of construction;
- Completion of construction; or
- Issuance of the certificate of occupancy.

The CHDO will be required to describe and justify its role in project applications to the appropriate member city of the Consortium. Such description will be reviewed and approved by the member city (including Holyoke) prior to submitting to the Holyoke Office for Community Development for allocation of any CHDO set-aside funds.

**10. Eligible and Ineligible Uses of CHDO Set-Aside Funds**

A. Eligible Activities – Owners, Sponsors, and Developers: A CHDO acting as owner, sponsor or developer may use the 15 percent CHDO set-aside for the following activities:

- Acquisition and/or rehabilitation of rental or homebuyer property;
- New construction of rental or homebuyer property; and
- Direct financial assistance to homebuyers of HOME-assisted property developed or sponsored by the CHDO.

CHDO set-aside HOME funds must be used during the construction or rehabilitation of the property.

B. Ineligible CHDO Activities - Ineligible uses of the HOME CHDO set-aside are:

- Homeowner rehabilitation;
- Tenant-based rental assistance (TBRA); and
- Downpayment and/or closing cost assistance to purchasers of housing not developed with HOME CHDO funds.

C. Operating Assistance - Up to 5 percent of the Consortium's HOME allocation may be used to provide funds for CHDO operating assistance. This allocation does not count toward the 15 percent set-aside funds used by CHDOs for projects. To be eligible for CHDO operating assistance, the CHDO must submit a funding application for a CHDO-eligible project.

CHDO operating assistance may not exceed whichever is greater:

- $50,000 each fiscal year, or
- Fifty percent (50%) of CHDO's total annual operating expenses for that year.

A certified copy of the CHDO's most recent operating budget must be submitted to the appropriate Consortium member city, for review by the Holyoke Office for Community Development, to determine amount of assistance. Operating funds are provided on a year-by-year basis provided funds are available and the organization has acceptable performance in the community. CHDOs applying for operating

funds must be prepared to submit detailed project plans. Operating assistance is provided on a performance basis in accordance with the project submitted.

Consideration will be given to organizations that are starting out and need a target area plan. The Planning section can help develop the plan and funding will be provided to the CHDO based on progress toward the plan.

The Consortium reserves the right to delay payment of operating funds if it is evident that the CHDO project is experiencing delays.

The Consortium reserves the right to reduce the amount of or not award operating assistance based on its evaluation of the CHDO's production, overall performance, responsiveness and/or need.

Eligible operating expenses are:

- Salaries, wages, benefits, and other employee compensation;
- Rent and utilities;
- Communication costs;
- Taxes and insurance; and
- Equipment, materials, and supplies.

The provision of CHDO operating assistance is to nurture successful CHDOs. The Consortium will periodically evaluate the performance of any CHDO wishing to receive CHDO operating funds.

D. Pre-development Loans: Cannot exceed 10 percent of the funding amount reserved as CHDO set-aside.

The Consortium has established a one year deferred balloon pre-development loan. Loans for pre-development costs are available to certified CHDOs to ensure access to funds for upfront, eligible project expenditures. The pre-development loan is only available to CHDOs with current Consortium certification. Eligible CHDOs requesting a pre-development loan must submit a funding application for a CHDO-eligible project, evidence the need for such pre-development loan, and detail the payback process.

The maximum pre-development loan award is $20,000, or 10% of the CHDO set-aside, whichever is less, for pre-development activities at a zero percent interest rate. The pre-development loan is amortized as a one year deferred balloon note. The term of the one year deferred balloon note is as follows:

*12 months* of deferred payments

*11 months* of amortized payments

*24th month*, final payment and balance due

The Consortium reserves the right to make changes as required to loan terms requested, based on an analysis of project feasibility.

*Eligible Costs for Pre-development Loans*

* Market study
* Engineering studies

* Architect fees (plans and specifications)
* Legal
* Appraisals
* Site control expenses (Permits)
* Title clearance costs
* Consultation fees
* Zoning approval
* Cost of preliminary financial application

All costs must be related to a qualified HOME eligible project (rental housing or homeownership) in order to be eligible to receive pre-development loan option.

*Prohibited Costs*

Pre-development loans may not be used to pay CHDO staff or administrative costs.

Cost associated with any non HOME eligible projects.

Cost associated with projects other than specified on funding application.

All pre-development loans must be repaid from construction loan proceeds or other project income. Pre-development loans contain a special provision allowing for the forgiveness of loan obligation if there are impediments to project development, permanent financing cannot be secured or other documented information indicates the project is not feasible, as determined by the applicable Consortium member city.

**11. Progress Reporting**

To document progress and be eligible for CHDO operating funds, the CHDO must provide at least three quarterly progress reports coinciding with the quarterly draw requests for CHDO operating funds (the last quarterly report will be submitted with the annual CHDO application).

The CHDO must submit the quarterly progress report to the appropriate Consortium member city and:

A. Describe the status of the currently funded CHDO project.

B. A description of what the receipt of the CHDO operating funds has enabled the CHDO to accomplish that would otherwise have been unable to achieve and a detailed narrative of specific uses of the CHDO operating funds.

C. A report on the community involvement and participation in the CHDO with regard to beneficiaries of the projects as well as partner organizations and other entities involved in serving low-and moderate-income households.

D. A listing of activities and involvements of the board of directors in planning and development of CHDO projects.

E. A description of the ongoing development of its staff and board of directors; i.e., trainings completed, certifications achieved, recognition awarded, etc.

**12. Additional Requirements and Affordability Period**

A. Additional Requirements. In order to be eligible to receive operating assistance, CHDOs must also meet the following requirements:

- Demonstrate increasing production goals and/or expansion of its services to the community.

- Submit a copy of its annual audit. Document resolved compliance findings on any Consortium - funded projects in a timely manner. If a compliance finding is noted, it must be resolved before the next CHDO operating draw. The finding and resolution must be detailed in the quarterly progress report.

B. Affordability Period. To ensure affordable housing over the long term, the HUD HOME program imposes rent requirements and occupancy requirements. For properties with five or more HOME-assisted units, 20% of the HOME-assisted units must be occupied by families who earn <=50% of the HUD determined Median Yearly Family Income. For current Median Family Income limits and Fair Market Rents, please see the HUD website at www.hud.gov. Two HOME rents are used. High HOME rents are the lesser of:

- The Fair Market Rents (FMRs) for existing housing, or
- 30% of the adjusted income of a family whose income equals 65% of the median income.

Low HOME rents are imposed for properties with five or more HOME-assisted units; 20% of those HOME-assisted units must have rents no greater than:

- 30% of the tenant's monthly adjusted income, or
- 30% of the annual income of a family whose income is 50% of the median income.

The length of the affordability period depends on the amount of the HOME investment and the nature of the activity.

| Activity | Average Per-Unit Home Price | Minimum Affordability Period |
|---|---|---|
| Rehabilitation /or Acquisition of Existing Housing or New Construction Single Family Homes | $15,000/unit | 5 Years |
| | $15,000 - $40,000/unit | 10 Years |
| | >40,000/unit | 15 Years |
| Refinance of Rehabilitation Project | Any $ Amount | 15 Years |
| New Construction or Acquisition of Rental Housing | Any $ Amount | 20 Years |

## 13. Process for Drawing of CHDO Funds

CHDO funds are awarded on a calendar year basis. Draw requests for eligible expenses can be made on a monthly reimbursement basis. The CHDO must first expend the funds and then request reimbursement from the Office for Community Development for approval (if a Holyoke project) or to the Consortium member city for approval who will then submit the request to the Holyoke Office for Community Development. For example, the CHDO may submit a request for reimbursement in April for expenses incurred and paid in March.

## 14. CHDO Proceeds

Holyoke-Chicopee-Westfield Consortium may choose to allow a CHDO to retain proceeds. To be eligible for CHDO proceeds retention, the CHDO must provide a written plan for the use of such funds with the initial CHDO application.

Proceeds are funds resulting from:

- Permanent financing of a CHDO project used to pay off a CHDO-financed construction loan;
- The sale of CHDO-developed homeownership housing to a homeowner or a second non-profit; and
- Interest and principle payments from a loan to buyer of CHDO-developed homeownership housing.

## 15. CHDO Procurement

CHDOs are not subject to requirements of 24 CFR, Part 84 in regard to procurement of goods and services. This exemption is for CHDO-funded projects only; CHDOs must still follow appropriate procurement procedures that are compliant with Part 84 for their non-CHDO projects. The Consortium may request a copy of the CHDO's procurement policy for any non-CHDO project.

## 16. How to Apply for Holyoke-Chicopee-Westfield Consortium CHDO Certification

- Complete the Holyoke-Chicopee-Westfield Consortium CHDO Certification Application.
- Include all requested attachments, documentations and forms.
- Mail or hand-deliver the application and attachments to the address below. Fax or e-mail copies are not acceptable.

**Holyoke-Chicopee-Westfield Consortium**
**c/o Holyoke Office for Community Development**
**Room 400, City Hall Annex**
**20 Korean Veterans Plaza**
**Holyoke, MA 01040**

The applicant has 14 days to respond to any request for additional information. If the requested information is not received in 14 days, the CHDO application will be denied.