CHDO Survivor Kit

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

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Prepared for the U.S. Department of Housing and Urban Development, Office of Affordable Housing Programs, with HOME Program Technical Assistance funds.

Prepared by Monte Franke, Franke Consulting Group,
Under direction of:

- National Community Development Association
- National Association for County Community and Economic Development
- National Association of Local Housing Finance Agencies
- National Association of Housing and Redevelopment Officials

The groups are part of the National Affordable Housing Training Institute

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CHDO Survivor Kit:

A Guide to Success In a Performance-Based World

February 2007

Prepared by:

Monte Franke
Franke Consulting Group

Under Direction of:

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With CDTA funding from HUD

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Introduction

This guide is for Community Housing Development Organizations, or CHDOs, to help them navigate their way to success in a changing environment that is placing increasing pressure on them to perform in the HOME Program.

This guide also may be useful to nonprofit organizations aspiring to become CHDOs, to help them understand the environment in which they will be operating and the expectations that accompany the CHDO designation. However, this guide is not an introduction to CHDOs, the qualification criteria and process, or HOME Program rules. Readers that need an introduction to CHDOs are referred to:

- The HOME Program website (www.hud.gov/homeprogram/)
- The topical guide to CHDOs and relevant CHDO materials (www.hud.gov/offices/cpd/affordablehousing/programs/home/topical/chdo.cfm)
- The chapter on CHDOs in the Building HOME manual (www.hud.gov/offices/cpd/affordablehousing/library/building/ch08.pdf)
- The web-based training module How to Become a CHDO at the HOME Front at http://www.hud.gov/offices/cpd/affordablehousing/training/web/chdo/.

(For HOME Participating Jurisdictions, or PJs, the CHDO Toolbox was published to help PJs change their relationships with CHDOs in this performance-based environment. See www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2004/200408.pdf).

The guide is organized into three sections:

- **Part 1**: introduction to the emerging performance-based environment in the HOME Program;
- **Part 2**: a framework for how CHDOs can enhance their chances for survival in this environment; and
- **Part 3**: a collection of tools to help CHDOs perform.

The guide was written by Monte Franke, Franke Consulting Group, under contract to the National Community Development Association (NCDA), the National Association for County Community and Economic Development (NACCED), the National Association of Local Housing Finance Agencies (NALHFA) and the National Association of Housing and Redevelopment Officials (NAHRO), and funded with Community Development Technical Assistance (CDTA) funds from the U.S. Department of Housing and Urban Development (HUD).

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Key HOME Program Acronyms

AMI	Area Median Income (as defined by HUD)
CDTA	HUD CPD Community Development Technical Assistance
CFR	Code of Federal Regulations
CHDO	Community Housing Development Organization
CPD	HUD Office of Community Planning & Development
ELI	Extremely Low Income (30% of AMI)
NAHA	National Affordable Housing Act of 1990
HOME	HOME Investment Partnerships Program
HUD	US Department of Housing & Urban Development
IDIS	Integrated Disbursement & Information System
LI	Low Income (below 80% of AMI)
PJ	HOME Participating Jurisdiction
VLI	Very Low Income (below 50% of AMI)

Part I: The Performance-Based Environment of HOME

Federal programs, including HOME, are operating under a mandate from Congress to implement performance-based measurement systems to demonstrate results. The transition is underway, and will have a direct impact on CHDOs in the coming years. This section provides an overview about that transition.

1. So Where Did This Performance Stuff Come From Anyway?

When the National Affordable Housing Act created the HOME Program in1990, Congress and HUD initially placed emphasis on the timely commitment and expenditure of HOME funds. HUD created a disbursement and information system (originally called CMIS and now IDIS) that allows HUD and its Participating Jurisdictions to track commitment and expenditures and to report on the units completed using HOME dollars.

In 1993, Congress passed the Government Performance Results Act (GPRA), which required performance plans from Federal agencies and placed the Federal government on course to measure performance and results in all Federal programs. In 2002, the Office of Management and Budget (OMB) implemented the Program Assessment Rating Tool (PART) as a template for OMB to measure the performance of Federal programs.

In 2003, OMB applied PART to the HOME Program, and in the process HUD implemented the SNAPSHOT system for evaluating each Participating Jurisdiction on its performance. Utilizing information available from IDIS, the SNAPSHOT shifts the focus from program expenditures to outputs and outcomes, as required by GPRA and PART.

Also in 2003, HUD issued Notice CPD-03-09 to encourage Participating Jurisdictions to implement performance measures. In January 2005, HUD issued a Final Rule for the Consolidated Plan (24 CFR Part 91) that imposes performance measurement on local programs covered by the Consolidated Plan, including HOME. Changes to IDIS data collection and reporting went into effect on October 1, 2006. Each PJ is now required to collect additional information needed for national performance measures on the HOME Program.

2. How Is Performance Defined and Measured in HOME?

Currently, HUD is using the SNAPSHOT as the basis for defining performance in the HOME Program. The SNAPSHOT measure of performance is based on 8 key measures:

- % of funds committed;
- % of funds disbursed;
- Leverage ratio;
- % of completed rental disbursements to all rental commitments;
- % of completed CHDO disbursements to all CHDO reservations;
- % of 0 – 50% AMI (VLI) Renters to all Renters;

- % of 0 – 30% AMI (ELI) Renters to all Renters; and
- % of Occupied Rental Units to all Completed Rental Units.

The SNAPSHOT measures reflect the shift in focus from HOME funds (committed and disbursed) to performance based largely on completed and occupied units. For example, the CHDO performance measure gives credit for units only after the CHDO project is completed and occupied (as reported in the IDIS system). The same is true for the rental disbursements – credit is given at completion and occupancy of a project. (Both of these factors are double-weighted in the overall SNAPSHOT score, increasing their impact on the performance score.) CHDOs are also likely to impact the other measures. As a result, the performance of CHDOs is a central factor in a PJ's performance rating.

Check out your PJ's SNAPSHOT at:
http://www.hud.gov/offices/cpd/affordablehousing/programs/home/snapshot/index.

CHDOs need to be aware that performance will be defined and measured by data collection for the IDIS system. Compilation and submission of the data required by PJs will directly affect how performance is assessed.

3. And Then There Is That "Repayment" Thing!

Based on the HOME statute and the requirements in 92.503(b), HUD requires the full repayment of the HOME funds for any project where the project or assisted unit fails to maintain compliance with HOME rules for the minimum affordability period.[1] Full repayment is required of the PJ whether or not the HOME funds are recovered (for example in a foreclosure). Full repayment of all HOME funds invested in a rental project is required if the minimum affordability period is not achieved, and the same applies to homebuyer projects under resale restrictions, but the repayment liability for homebuyer units under recapture agreements are limited to the funds recovered under the recapture note and mortgage. Repayment can be done with non-Federal funds, substitution of affordable units not previously HOME-assisted, or the loss of future HOME funds.

This means that a PJ not only needs to ensure that each HOME-assisted unit is completed and occupied to meet performance standards, but that it also must be able to survive the minimum affordability period. In essence, the performance standard extends beyond completed and occupied units to "completed, occupied and viable" units.

[1] See HOMEfires, volume 5 number 2, issued June 2003, available at http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol5no2.cfm.

4. Looking For a Few Good Community-Based Developers

CHDOs are not just any nonprofit. They are developers. To succeed as a CHDO in a HOME environment that stresses production of viable units, CHDOs must be successful at development (and management, if rental housing is produced.) In an increasingly competitive environment with limited funding, CHDOs are going to have to focus on the following principles of CHDO performance and success:

1. **Occupancy defines CHDO success**. CHDO performance will be measured by completed and occupied low-income housing units, and this makes sense. Look at it this way -- you haven't helped anyone until they move in.

2. **You need to earn developer fees to survive**. Fees are the life-blood of all developers, including CHDOs. You have to earn developer fees like all other developers to sustain your organization and help you move on to the next project. You can't help anyone if you can't earn enough to survive as an organization. So make the transition from costs to fees.

3. **Get it done!** In development, time is money. Under a fee system, you don't get paid for just showing up; you get paid for getting the job done (i.e., the units completed and occupied). Anything that delays a project or adds time to the development process will slow completion and access to developer fees. In addition, the work is likely to expand to fill the time, meaning you will use up more of your fees on getting this job done.

4. **Be a developer, not a dabbler**. Successful developers build a pipeline, not just a project. Success breeds more success. To get funding for future projects, you must perform on current ones. And, as a matter of survival, you can't let too much time lapse between projects, so always be thinking ahead to the next project.

5. **Ask for help**. The HOME Program has ways to help build CHDO capacity to develop housing, but you must ask for that help, and show evidence that the help will enhance your ability to perform.

If you don't follow these principles, you may find it hard to survive as a developer. Even if you hang on, you won't be serving your community to the extent that you can. For your survival and success, you must embrace the performance environment as another challenge that you can overcome. The HOME Program and your community need you to be successful.

5. CHDOs Have To Know HOME Rules & Local Requirements

One other thing: if you are going to become (or continue to serve as) a CHDO and access HOME funding, *you are responsible* for learning the HOME rules that pertain to CHDOs and CHDO-eligible activities. This guide is not designed to teach you the HOME rules, but some key references are provided below. In addition, references are included in Part III to provide additional information – a list of HOME web site references as Tool 1, a quick reference to the HOME rules as Tool 2, and a quick reference to the CHDO requirements as Tool 3.

Most everything you will need for the HOME Program is available (and, in most cases, downloadable) at the HUD web site. You'll have to invest a bit of time learning your way around the site. Be sure to check out:

- Mailing list (under the heading "**Contact Us**") – to receive emails when new information is posted
- Library (under "**HOME Policy Guidance**") – to find the statute, rule, notices, HOMEfires Q&As, and other materials
- Program limits (under "**HOME Reports & Limits**") – to find current investment, sales price, income and rent limits
- Training (under "**HOME Policy Guidance**") – to access online training and listing of trainings around the country that you can attend
- Cross-Cutting Federal Requirements (under "**HOME Resources**") – to learn about other Federal rules that must be followed when using HOME funds (for example, accessibility, labor standards, relocation and environmental review)

> HOME Program web site:
> www.hud.gov/homeprogram/
>
> Community Connections:
> 1-800-998-9999

Most resource materials are downloadable from the HOME web site in Adobe PDF or other format (see the web links in Part III Tool 1), but you can also obtain hard copies of most materials for free through Community Connections. If you know the document name, you can phone in an order at the number listed above. Otherwise, go to the web site and download the Publications List, and check off and fax in the order.

You will want to pay careful attention to the following key sections of the HOME regulation regarding CHDOs:

- 92.2: Definition of CHDO (CHDO qualifications)
- 92.300 - 92.303: set-aside, pre-dev loans
- 92.208: CHDO operating expenses
- 92.504(c)(3): written agreements for developers (incl. CHDOs)

> ***The HOME Rule is at 24 CFR Part 92.***
> Anytime you see "92.___", it is a reference to the HOME Program Rule.

Depending on the type of project that you choose to implement with HOME and CHDO funding, the following sections of the rule might be relevant:

- **92.252**: key rental requirements & 92.253: lease requirements & prohibitions
- **92.254**: key homeownership requirements
- **92.251**: property standards
- **92.203**: income methods & documentation
- **92.206/.214**: eligible/ineligible costs
- **92.250**: maximum HOME subsidy per unit & subsidy layering
- **92.508**: recordkeeping

In addition, the following HOME Notices have specific information about CHDOs and their various types of funding:

- **CPD-97-11**: CHDO guidance
- **CPD-06-01**: CHDO operating expenses
- **CPD-97-09**: CHDO proceeds

There are many other notices pertaining to the activities that CHDOs may undertake. For example, CHDO projects may utilize multiple sources of public funds. In projects where HOME is to be combined with one or more public sources of funding, the subsidy layering requirements of 92.250(b) apply and Notice CPD-98-01 provides guidance on subsidy layering. Also keep in mind that the notices are subject to updating, so be sure to check for the most current notices at the HOME web site.

> For the current list of HOME Notices, check: www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/

Some other key program reference documents about CHDOs and their eligible activities include:

- HOMEfires Vol 2 No 1 (3/99): Eligible CHDO activities chart
- Training Manual: Building HOME, Chapter 8

There are other items that may be made available in the future, including updates of some of the items listed above. That is why it is important to get your email address listed for the Mailing List as noted earlier in this section.

The good news is that nearly all of the information you need to make sure you comply with HOME requirements are immediately available to you on the HOME web page. However, it is your responsibility to access that information.

The references to HOME and CHDO requirements above do not address local policies and limits that may have been placed on your HOME funding by your local PJ. While the HUD regulation sets minimum requirements, local PJs have the authority to establish higher or additional requirements that go beyond HUD minimum standards. And, PJs can choose not to implement certain options provided by the regulations. Please be sure to check with your PJ for any additional requirements or limitations imposed locally.

6. So What Is the Bottom Line for CHDOs?

Your Participating Jurisdiction is being rated in part on your performance in delivering completed and occupied HOME units, and can be held accountable for repayment if your units fail to meet the minimum affordability period. Going forward, CHDOs will need to ensure delivery of units in a timely manner, and that the units have an ability to remain in compliance with HOME rules for at least the minimum compliance period.

We like to talk about being “partners” in the process of developing affordable housing and revitalizing communities. CHDOs and PJs share values and mission, and neither PJs nor CHDOs can accomplish the mission without the other. We want to operate in an environment of collaboration.

However, it is important to acknowledge that CHDOs are borrowers and PJs are funders. Because of both performance and repayment requirements, the PJ has to act like a lender, rather than merely as a partner. The PJ needs to ensure that HOME program requirements are met and that units are produced in a timely manner, or incur repayment obligations. In this environment, your PJ is likely to consider some of the following actions or requirements:

- Competitive funding processes for allocating CHDO funds in order to ensure that it selects viable projects;
- Reluctance to commit or disburse CHDO project funds early to projects where there is a high risk of failure or non-performance;
- Performance-based contracts that tie fees paid to completion of milestones and projects;
- Project monitoring that focuses on timely performance and project sustainability, not just compliance; and/or
- Future funding based on past performance,

Your PJ may already be doing some of these things. But expect to see more emphasis being placed on performance.

As your PJ and you adjust to this changing environment, there are things you can be doing to increase your ability to be successful. Some ideas regarding how to position your organization for success are offered in Part II.

Part II: Increasing Your Chances for Survival

Let's examine whether you have what it takes to be successful as a CHDO developer in the HOME performance-based environment.   This section is a discussion of some of the elements of success, including:

- Structuring the organization to address the needs and risks of development;
- Selecting the projects that have a high probability of success for both you and your community;
- Managing the implementation process for success, defined as timely completion and occupancy of units; and
- Attending to the elements required for long-term success as a developer.

1.   1st Things 1st: Are You Set Up to Be a Developer?

Before you can focus on project selection and implementation, first you should take a look at your organization to assess whether you are truly ready to undertake development responsibility.

1.1.   Are You Qualified As A CHDO?

This guide is not about becoming a CHDO; it's about being successful as a CHDO. If you still need to qualify as a CHDO, then you should be talking to your State or local Participating Jurisdiction.   Also refer to the following items:

- The definition of Community Housing Development Organization in the HOME rule at 92.2, which can be downloaded from: http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/index.cfm
- The CHDO chapter (no. 8) in the Building HOME manual at: http://www.hud.gov/offices/cpd/affordablehousing/library/building/index.cfm
- The Checklist attached to HOME Program Notice CPD-97-11 available at: http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/index.cfm#1997
- The online guidance on "How To Become A CHDO" at: http://www.hud.gov/offices/cpd/affordablehousing/training/chdo/index.cfm

Additional links are provided in Part III as Tool 1.

Follow the guidance and talk to your PJ about their qualification process.   Some choose to conduct qualification only at certain times, while others maintain an open window. Some qualify CHDOs in a separate process, while others integrate qualification with their project application process.

Keep in mind that qualification is only one step in the overall funding process.   PJs separately determine your eligibility for the various benefits of a CHDO. Just because you are qualified does not entitle you to any CHDO funding.

Also keep in mind that you must maintain and be able to certify your CHDO status for the entire life of your project. PJs will continue to ask you to update your CHDO documentation and certification when you have open CHDO projects, including rental projects within their compliance period.

A PJ must reserve at least 15% of its annual allocation of HOME funding for CHDO eligible projects, but its choice of CHDO projects and use of the other three benefits listed below is discretionary. Some PJs use these discretionary resources, others do not. Some make them available equally to all of their CHDOs, others choose only to allocate where needed. Talk to your PJ about if and how these resources are being made available.

Potential Benefits of CHDO Status

The financial benefits of being a CHDO include <u>potential</u> access (at the PJ's discretion) to the following:

- ***CHDO project funding set-aside*** of at least 15% of the PJ's annual allocation of HOME funds [see 92.300(a)];
- ***CHDO operating expenses***, which a PJ may provide with up to 5% of its annual allocation from its non-CHDO project funds [see 92.208];
- ***CHDO pre-development loans***, which a PJ may provide with up to 10% of the PJ's annual allocation of funds to CHDO projects [see 92.300(c)], and which are forgivable if the project does not go forward through no fault of the CHDO; and
- ***CHDO proceeds***, which are the proceeds of any CHDO project investment that the PJ may allow the CHDO to retain and use for additional HOME or other low income housing [see 92.300(a)(2)].

You need to keep in mind that "success" as a CHDO developer is not determined by whether you have qualified as a CHDO, but whether you have the capability to undertake and manage housing development projects. Tool 4 in Part III combines the CHDO qualification standards (those items in the list where the "deficiency" column is grayed out) with some of the capacity issues needed for CHDO success as a developer.

Qualification is just the first step toward CHDO success. Read on for some of the other elements of success.

1.2 What Does It Take to Be a Successful Developer?

In part, success in development depends upon the developer being properly structured and having the necessary resources and capabilities available to support development. Some of the key organizational issues are:

- **Organizational capacity** – Development requires a range of skills, including project management, team management, financial packaging, physical planning and property management skills. The underlying expectation of the CHDO statute is that CHDOs will build these skills in staff over time. Does your organization currently have the staff skills, or are they adequately supplemented in the near term by board members, consultants and partners? And, is there a plan to develop those skills in house?
- **Organizational structure** – Is the organization structured so that the necessary focus can be given to development projects, and so that the other ventures and services of the organization can be separated from the high risks of development? Some organizations use development committees for focus, others use subsidiaries to achieve focus and risk insulation.
- **Dedicated resources** – Development requires money. Even if you are not going to be investing equity in your projects, in the near term you will need funds to pay bills until you can be reimbursed at a later closing. For example, you may need to get site control (options) and pay for architectural, engineering, environmental, legal and other consulting work needed to plan the project. Do you have funds available for capital advance, and is it dedicated to development?

Each of these elements – development capacity, structure and resources – is discussed below.

1.3 Assessing & Building CHDO Capacity to Develop Housing

One of the purposes of the HOME Program as stated in the Statute is to "expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing…." Participating Jurisdictions are required by the NAHA Statute to work with CHDOs and build the capacity of CHDOs.

While most HOME funding, including the CHDO set-aside, is for projects, the HOME statute and rule made several provisions for CHDO capacity building. In particular, CHDOs are eligible for certain benefits not available to other users of HOME funds, including:

> ***HUD-funded Technical Assistance to CHDOs***
>
> Your PJ may refer you for technical assistance available through the local HUD Field Office. Contact your PJ.

- **CHDO intermediary technical assistance** — TA from a network of HUD-approved advisors under contract to HUD and not charged to the local PJ or the CHDO;

- **<u>CHDO operating expenses</u>** — funds for CHDO general operations available to CHDOs with CHDO projects or expected to receive funding for a CHDO project within 24 months;
- **<u>CHDO pre-development loans</u>** — advances of HOME funds that are forgivable if the project does not proceed for reasons that are not the fault of the CHDO; and
- **<u>CHDO proceeds</u>** — the net proceeds of development that, subject to its written agreement with the PJ, a CHDO may keep and reuse for additional HOME or other affordable housing opportunities, without the usual restrictions on HOME program income (proceeds are limited to HOME or other affordable housing in their first reuse, subject to PJ monitoring.)

Additional information on these optional benefits is provided in the CHDO Quickfinder in Part III Tool 3.

These additional benefits are available at the *PJ's option*, and may or may not be available from your PJ. You are not entitled to them, but might be able to access them. PJs have limited amount of funding, and the decision to utilize HOME funds for these purposes may take away from other priorities.

The first form of assistance, especially for newer CHDOs or nonprofits wanting to become CHDOs, is likely to be technical assistance. The statute creates an obligation for HUD and PJs to help CHDOs build capacity, and also provides annual funding for technical assistance. Organizations called "CHDO intermediaries" are retained by HUD to work with CHDOs and organizations that want to become CHDOs. These organizations are assigned to work through HUD Field Offices to provide a range of assistance, including training, direct technical assistance, guides and even in some cases financial resources to help CHDOs build capacity to develop in compliance with HOME rules.

This form of TA is likely to be the first level of assistance, because this assistance does not diminish the funding available for projects locally, so PJs are not putting at risk repayable project dollars with CHDOs that are not yet fully ready to produce under HOME requirements.

A second resource for PJs to use to build CHDO capacity to manage development is CHDO operating expenses.

CHDO Operating Expenses

In **92.208**, the HOME rules permit a PJ to take up to 5% of its annual allocation to provide Operating Expenses to CHDOs for the "reasonable and necessary costs for the operation" of the CHDO. (Operating expenses are <u>not</u> for project-specific costs, which can be compensated as developer fees or project costs.)

Eligible costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials and supplies.

PJs may give Operating Expense funding to a CHDO that has a current project commitment of HOME funds, or is expected to receive CHDO funds within 24 months of receiving operating expenses. (92.300(e)) No CHDO may not receive HOME funding for any fiscal year that exceeds 50 percent of the CHDO's total operating expenses in that fiscal year, or $50,000, whichever is greater [§ 92.300 (f)].

A written agreement is required, although it can be part of a CHDO project commitment or reservation agreement. CHDO operating expenses are not subject to HOME match requirements.

Every nonprofit could use some additional funding for operating expenses. That is clear. However, bear in mind that CHDO operating expenses come from the pot of non-CHDO project funds, so the PJ's decision to award operating expenses reduces the number of HOME-assisted units that can be produced in that program year. Therefore, in this performance-based environment, you may need to make a convincing case to your PJ of how the investment of these optional forms of assistance in your organization will result in the timely production of more units in the future to offset any near-term loss of production.

HOME project funding might be withheld or deferred while the PJ provides some of these forms of capacity building assistance. If the PJ has concerns about your capacity to develop and manage the units, they might offer TA, operating expenses and/or pre-development funding (all of which are not subject to repayment) to build your capacity before committing repayable project dollars to you.

In the context of the repayment requirement of HOME, PJs have been cautioned not only to certify your organization as a CHDO under the statutory requirements, but also to assess the capacity to develop. In the CHDO Toolbox, PJs were given an assessment form similar to the one provided as Tool 4 in Part III of this Guide. You should use this guide to assess your own capacity, and talk with your PJ about accessing TA, operating expenses and/or pre-development funding, as appropriate, to make certain that you are ready to deliver.

Remember that HOME funding isn't the only resource for capacity building and operating assistance. Be sure to explore all possible sources.

1.4 Do You Need a Partner or a Consultant?

Some CHDOs are short on the funds and skills needed to develop affordable housing in a timely and efficient manner. Some have to seek operating support regularly, and this diverts their attention or delays their ability to implement projects on a timely basis. Many CHDOs do not have the capital to take on predevelopment costs and meet equity requirements. Community-based boards and staff might lack some of the key skills needed for cost-effective implementation of projects and programs. As a result, project opportunities may pass before nonprofits can take them on.

The CHDO Self-Assessment in Part III Tool 4 can help you assess board and staff capacity and your overall readiness to undertake housing development.

Even if you don’t have the current capacity, it may be possible to take on more and more complex projects through partnering or the use of consultants. Partners and consultants can help to leverage the skills and capacity of a CHDO to enable it to accomplish more than it could on its own.

The HOME rule at 92.300(a)(1) permits CHDO partnering with other entities: “If a CHDO owns the project in partnership, it or its wholly owned for-profit or non-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective project control.”

There are five important reasons why nonprofits might consider consultants or partnering with other nonprofit or for-profit entities in the development of affordable housing:

“Acquire” needed skills – When a nonprofit has limited skills pertaining to a certain type of development, partners can provide the needed skills and train the nonprofit staff while implementing the project.

Leverage your capacity – Sometimes a nonprofit has the required skills, but the staff capacity is devoted to other projects and is unavailable. Assigning staff to work on this development project would prevent them from doing other projects or activities – an “opportunity cost.” Partnering may enable the nonprofit to do another project while keeping staff resources devoted to other existing projects and activities.

Raise equity or resources – When nonprofits need equity, such as in Tax Credit projects, partners often are necessary. In other projects, long-term equity is not needed, but the capital advances needed during the planning and development process exceed the liquid resources the CHDO can provide. Other times, however, it is not equity or capital advances that are needed, but access to other capital, such as construction or conventional loans.

Risk sharing – In some projects, the near-term risks of development or the long-term risks of ownership and management are greater than a nonprofit can or wants to absorb. Partners assume some of the risks during development, during occupancy or both. Tax Credit projects, for example, have operating guarantees to the limited partners that a nonprofit might not want to absorb alone.

Long-term management participation **–** Some nonprofit developers want to develop, but do not want to assume the responsibility for property management and compliance in the long-term. HOME has specific compliance requirements, but certain kinds of projects can impose specialized management skills (such as in special needs or supportive housing projects) or compliance management skills (such as Tax Credit projects) over and above HOME compliance requirements.

The decision may be whether to take on a partner or just hire a consultant to do the work. If the issue is primarily one of “capacity”, and you just need certain technical development skills or temporary capacity to perform the required developer tasks, then a consultant may be the appropriate alternative.

However, if you need equity (or capital advances), access to other financial resources, risk sharing, and/or post-development participation, then a partner is the more likely alternative to meet your needs.

Consultants are useful in providing a discrete skill for a limited period of time, when you have the ability to oversee their work. A consultant relationship is not appropriate when you need them to take on unsupervised responsibilities or any financial obligations or risks.

CHDOs & Partnering

HOME rules at 92.301 permit partnering in projects with CHDO funds – as long as the CHDO retains "effective project control." **The HOME rule at 92.301(a)(1)** states that CHDO funds may be provided to "a community housing development organization, its subsidiary or a partnership of which it or its subsidiary is the managing general partner."

CPD-97-11 states that 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."

Please note that under current HOME rules, partnering can be done through a Limited Partnership, but the use of a Limited Liability Company (LLC) requires a HOME waiver.

For some affordable housing projects, the complex demands of project financing, development and ongoing operation may be met best by a joint venture of a for-profit and nonprofit entity. Such partnerships are essential to enhancing the capacity of the nonprofit industry to deliver an expanded range of affordable housing opportunities. In HUD's Building Public-Private Partnerships to Develop Affordable Housing, the benefits of partnerships were found to include increases in affordable housing production and "dramatic improvement" in the leverage of other funds.

Each partner brings a different but potentially complementary set of strengths. Private developers can bring important assets to the table:

- Equity & capital advance liquidity
- Bank relationships & access to construction and conventional permanent loans
- Personal guarantees to construction and other loans
- Development experience
- Complex project and construction management expertise
- Property management experience

Nonprofits might bring a number of assets to the table:

- Site control

- Neighborhood support
- Local government support
- Access to seed money and predevelopment funds
- Access to technical assistance in housing development and management
- Government & foundation funding, including both grants and low or zero interest loans
- Experience with the local approval process
- Access to and experience with the low-income customer base
- Willingness to operate the project long-term to preserve affordability

Together, these two types of organizations may produce a synergistic set of skills and resources that enhance long-term success – if a stable partnership or joint venture can be created.

What are the shared interests? For both nonprofit and for-profit developers, long-term success and survival depends on quality projects completed in a timely manner on budget. Neither can survive if we don't earn fees. For-profits cannot rely on other fundraising to cover their costs, but nonprofit long-term viability and productivity suffers when attention has to be diverted to fundraising.

What do you look for in a partner?

- **Developer skills –** Do they have project management skills that you don't have, or don't have in sufficient quantity to manage all of your current projects?
- **Technical skills –** Do they possess knowledge of specific project type or funding sources that will be needed for your project? For example, if you haven't done a Tax Credit project, working with an experienced partner who has placed Tax Credit deals and has contact with syndicators is important.
- **Unique access to property/resources –** Do they own the property you are interested in developing, or do they have access to the construction lenders or permanent conventional lenders that will facilitate your project?
- **Experience working with nonprofits partners –** Do they have prior successful experience in working with nonprofit partners? Do they understand what is unique about, and important to, nonprofits? Can they understand how nonprofits operate and make decisions?
- **Trustworthiness** – Can you count on them to meet their obligations, disclose any issues that affect you or your project, hold confidences that relate to you or your project, and take action to defend you or the project?

How do you find a partner? You have to rely on referrals and reputation searches to identify good potential partners. Ask funders, lenders and public agencies who they have worked with and found to be successful partners with nonprofits. Ask your nonprofit peers and nonprofit trade associations.

Once you have identified potential partners, interview them and check references with their past partners. Explore the total experience of partnering with the entity. Were they reasonable and respectful of the nonprofit? Did they meet their obligations? Were they responsive? Would you partner with them again?

Negotiating tools are provided in Part III, Tool 5. However, some tips are:

- If you need specific task/skill, hire a consultant; if you need resources, risk sharing &/or management, get a partner.
- Skills and resources aren't enough to justify selection of a partner. Seek a compatible partner(s) that you can trust.
- If you want to have control, you have to be able to put up equity or capital advances: Equity = ownership interest = control.
- Successful partnerships balance control, liability & rewards. Developer fees must reflect the split of work and responsibilities of the parties.
- Plan for the end(s) of the venture. Make provisions for the buyout or the handoff.
- Negotiate in good faith (with full disclosure of any "non-negotiables") and seek win-win arrangements.
- Document the business deal first in a joint venture memorandum; then let the lawyers turn it into a legal agreement with the appropriate legal protections.

1.5 Subsidiaries: Insulation from the Risks of Development

Many nonprofits assume that the simplest and quickest way to develop is to use their existing not-for-profit entity as the development vehicle. It may be convenient, but it also contains risks for the CHDO. Sometimes, a separate entity – perhaps a not-for-profit or for-profit subsidiary – is the more prudent approach.

HOME rules permit CHDOs to use subsidiaries. **The HOME rule at 92.301(a)(1)** states that CHDO funds may be provided to "a community housing development organization, ***its subsidiary*** or a partnership of which it or its subsidiary is the managing general partner." (Emphasis added)

Why should you consider a subsidiary or separate entity for development?

- ***Protect the parent from liability*** – Development has many risks associated with it, and failure of a project could drain financial resources from other assets and activities of the organization, putting the entire organization at risk. By creating a subsidiary, the risks of development generally can be contained to the assets of the subsidiary, without jeopardizing the other assets, programs and portfolio of the parent.
- ***Protect the parent's nonprofit status*** – Some development ventures have non-low-income components or are by nature are for-profit ventures.

Undertaking these projects within the parent nonprofit could jeopardize its nonprofit tax status. Creation of a separate entity ensures no co-mingling of nonprofit and for-profit revenues.

- ***Funding requirement for a single-purpose entity*** – Some funding sources require an entity that exists only for that project, in order to eliminate any confusion or co-mingling of assets and liabilities of a particular development with the other assets and programs of the sponsor. It also is necessary when there are unique "partners" for a specific project (e.g., LIHTC).
- ***Board skills and focus*** – Nonprofit boards are often a mixture of people with different skills and interests to promote and oversee the broad range of public benefit activities that a nonprofit might undertake. Housing development requires specific skills and substantial financial risk, and some board members might not be comfortable with their ability to oversee development activities. Creation of a subsidiary with a smaller board that possesses specific development skills will facilitate development activities while allowing the parent board to focus on a broader range of charitable purposes and activities.
- ***Board composition*** – Another advantage of the subsidiary is the ability to create a new board that meets the CHDO statutory requirement rather than having to change or add board members to the existing parent corporation board. However, you have to be careful that the pursuit of one funding source doesn't distort the original purposes or structure of your nonprofit.

On the other hand, **some of the potential costs or concerns of separate entities are:**

- ***Control*** – Creation of a separate entity, even if it is a subsidiary, means the transfer of day-to-day control of CHDO activities to that entity's board, and a loss of control by the parent board.
- ***Incorporation & annual filing costs*** – It will require legal and filing costs to create a separate entity, and hundreds of dollars annually in accounting costs and filing fees, including annual tax returns
- ***Tax burden*** – For-profit activities can result in taxes due.
- ***Arms-length transactions*** – Transfers of funds, provision of office support, and staff assignments require accounting as formal third-party transactions.
- ***Overhead and operating costs*** – Separate entities may also require additional office, staffing, accounting and other overhead costs.
- ***Meetings*** – Separate entities generally have separate boards, meaning separate meetings, notices, records, etc.
- ***Lender treatment of separation*** – Some lenders do not permit a firewall between the single purpose entity and its parent or sponsor, sometimes requiring guarantees or cross-collaterization that transfers some of the development risk back to the parent corporation.

So there are costs to using subsidiaries, but also some potential benefits of risk management. If you are not going to create a subsidiary to oversee development and operation of projects, then you should at least consider the creation of a development committee within the organization to oversee development.

1.6 Creating the Liquidity Needed for Development

Generally, affordable housing projects do not require the investment of equity capital. Equity is invested where there is expectation of a positive net cash flow from property operations to pay a reasonable return. Affordable projects tend to be structured to yield little or no net cash flow (other than the minimum levels required by debt service coverage and other underwriting criteria), so there is little or no incentive to invest equity. Tax Credit projects are the exception, but the return on that investment comes from the Tax Credits, not cash flow.

Even though long-term equity investment is unlikely in affordable projects, short-term investment of capital (commonly called "capital advances") is needed to meet the financial requirements of a project in advance of other funding sources becoming available. The heaviest capital advance requirements occur during the early planning stages, and become less significant after loan closings have occurred.

As a general rule, you should assume that these capital advances are going to approach 5 – 10 % of your project's total development cost. Do you have that level of funds available? And is it dedicated to development?

1.7 Beyond the Dollars: The Opportunity Cost of Development

Certainly, development has its direct costs and risks, including the tremendous time and financial resources that are invested or placed at risk during a lengthy development process.

> ***Opportunity cost of development:*** the things your CHDO can't do because of the project you have

But it also has indirect costs. Development is so time and resource intensive that it can displace or limit other things that a nonprofit can do.

Economists call the displaced activities the "opportunity cost" of a decision. In housing development, an organization is required to invest a tremendous amount of time and resources to make a development project happen. But just as important are the things that the CHDO <u>can't do</u> as a result of making the choice to develop the housing project:

- Are there other non-development activities that will be undertaken or might suffer the loss of some of the staff and management time otherwise available to it?
- Are there other development projects that cannot be considered because of the one you have chosen?

Foregone opportunities need to be considered as much as the direct costs, because these choices affect what your organization can accomplish for the community. Is the development role the right choice for the skills, capacity and interests of your nonprofit?

And, if development is the right choice, is this project the right project? That's our next topic.

2. Pick on Projects Your Own Size: Choosing an Appropriate Project

One of the most important things you can do to increase your chances of success is to carefully pick projects that have a high likelihood of success, and are able to be implemented in a timely manner. This section offers some hints about project selection.

2.1 Don't Let the Project Pick You!

A lot of projects are offered to nonprofits because someone or some agency in the community wants a project to happen, and they can't find anyone else to do it. The nonprofit becomes the "developer of last resort."

Well, there may be some good reasons that no one else wants to do it. For example, there might be some problems relating to the site or building, location or market that make the project a high risk or financially unattractive to other developers. Chances are, there are complications that make the project take longer and cost more.

Sure, there are a lot of good reasons to do a project that the community wants. But your first obligation is to your organization. Don't take on projects that could jeopardize your survival.

If someone offers you a project, ask yourself:

- Why me? Whose monkey is it? In other words, is someone trying to get the monkey off their back and shift it onto mine? Is someone trying to get me to take on their problem?
- Will it fit? Is it a match for my organization's capability? What's the probability of us being successful?
- What's it going to cost? How long is it likely to take? How much of my organization's resources will it require?
- What are my alternatives? What are the opportunity costs?

You may want to take a cue from for-profit developers, who look at multiple sites – 4, 5 or more – before picking one. They understand that not every site or project is a good project or a good fit for the developer. Why should you act differently?

Don't let the project pick you. Pick the project yourself to increase your chances of success.

2.2 Don't Skip the Market Analysis

Like other housing, affordable housing is developed and sold or rented in a marketplace. Just because the conventional housing market does not, or cannot, deliver affordable housing does not mean affordable housing is outside of the influence of market forces. The success of an affordable housing project is determined by the supply and demand conditions in the market, although the market is more targeted or focused on low-income segments of the population. Since affordable housing resources are so limited, public agencies cannot afford to invest in housing that will not be quickly filled and remain full.

A basic misconception has long existed in the affordable housing industry: "If we build it, they will come." Since we are confronted with enormous, almost overwhelming, needs for affordable housing, developers might assume that any affordable housing produced can be quickly filled. While that assumption is true in extremely tight housing markets, there are vacant affordable units in many locations – units that were built in the wrong locations, in unsuitable environments, at the wrong prices, and/or offering the wrong unit types and amenities.

Don't confuse need with demand. Housing development is an economic activity: focus on supply & demand.

The problem is: we mistakenly confuse need with demand. Need is a social concept; demand is the economic concept that people choose what they want and are willing and able to pay for. While we can all agree that all low-income households need decent and affordable housing, and choices for low-income households may be more limited than the choices enjoyed by households of higher income, each household still chooses how and what to spend on housing. As we look to build affordable housing, we need to consider those choices or options that low-income households have, and make certain that we provide what they "demand", not just what we think they "need."

We can't predict the future of housing projects or know the actual households that will occupy a proposed project, but we can and must look at evidence in the housing marketplace that lends support to the demand for additional units of housing. We can:

- Explore and quantify the characteristics of the segments of the population that are the likely customers of a particular type of housing;
- Specify the type of housing that is most appropriate to serving the identified housing demand; and
- Analyze the competitiveness and likely success of the proposed housing in the current marketplace.

That is market analysis. When it is done by an independent third party, it is called a market study.

The best time to do market analysis is at the very beginning of the process – when you have just identified a potential project or parcel, and want to consider the best development options for the site. However, keep in mind that market studies, where required by funders, have to be current at the time of application submission. So, in order to get information upfront and still have current conclusions at time of application, a two-step process is recommended.

Where market studies are not required, it is still critical to do market analysis. Nonprofits should realize that they have unique access to primary market data – information about and from their most likely customers. Waiting lists, client intake, community meetings and organization meetings are all extremely valuable opportunities to gain an understanding of the wants and needs of the potential customers.

Market studies or analyses are not just a funding application requirement. They are the source of critical information needed to inform our development funding decisions so we can be sure to deliver what low-income people want and are willing and able to pay for. Don't skip this critical step!

2.3 When Buying, Be Sure to Compare Apples to Apples

Nonprofits are often tempted by that free site made available by a donor or public agency. It's free, so that means lower cost, right?

Not necessarily! Free sites are often free because they have problems (when you hear the word "problem", immediately think "extra time and money") or no one else wants them. The "gift" might really be a monkey off the back of the donor. So by the time you are done overcoming the issues and getting the site ready for development, it might be a very expensive and time consuming project that costs more than sites that are not free.

> ***The True Cost of a Property***: For purposes of comparing potential sites, the true acquisition cost is the purchase price plus the costs you must incur to make the site ready for development

The best way to analyze and compare the costs of alternative parcels for acquisition is to make certain that the sites are comparable. Some sites are "shovel-ready," while others require a certain amount of work and additional investment to make them ready for development. To be able to compare prices, all costs needed to make the site ready for development should be included in the overall cost of acquisition. Key components of the total cost to acquire and make a site ready for construction are:

- **Acquisition Costs.** Land or property acquisition cost typically is the price paid to acquire property in order to undertake the project.
- **Environmental Remediation.** Some sites have environmental conditions that need to be remediated before development can occur. In addition to direct remediation costs, environmental issues that cause additional assessment can add significant time to the development process, and time is money in development.
- **Site Preparation.** Some sites have topographical and subsoil conditions that need to be addressed to make the site ready for construction. Leveling and compacting sites with excessive slopes and excavation or demolition of ledge conditions are two of the more typical conditions that are expensive to remediate.
- **Site Infrastructure and Improvements**. "Site improvements" refer to all of the costs necessary to make the site suitable and ready for development, typically including: excavation for foundations or utilities; grading of the site; installing on-site utility lines; any on-site roads, walkways or parking areas;

landscaping; outdoor lighting; or other permanent improvements to the land other than the buildings themselves. In some cases, it might also include off-site utility or road extensions (off-site infrastructure generally is not eligible as a HOME expense, although connections to off-site utilities are eligible). Even a rehabilitation project may have some land improvement costs such as upgrading utility connections or correcting poor drainage.

- **Relocation.** Relocation costs may be incurred when the property is occupied at the time that acquisition occurs. Relocation costs may occur in voluntary moves, involuntary displacement (such as for over-income occupants of a project that will have income limits), and economic displacement. When Federal funds such as HOME are being used, legal occupants are entitled to relocation protections, including notices, counseling, and financial assistance for moving expenses and incremental costs of their new residences. To estimate these costs, some information about tenants and tenant incomes is needed.

> ***HOME Relocation Requirements***. The Uniform Relocation Act and Section 104(d) of the Housing & Community Development Act of 1974 apply See 92.353 & HUD's Relocation web page

- **Demolition.** This cost may be carried as a separate line or as part of the construction cost. It is listed separately when the work occurs in a pre-construction phase, or there is other reason to separate it from the general construction.

Add up all these costs for each property you are considering to determine the true "acquisition cost" of the parcel. You may find that the free site is not only "not free", but it may be the most expensive parcel you could purchase!

2.4 Consider the Impact of NIMBY

Opposition to affordable housing is common, and can add substantial cost and time to the development process. Sites should be evaluated for potential local opposition. Sites that require rezoning, zoning variances, subdivision or PUD approvals, or special use permits trigger public hearings and the opportunity for opposition to impact the process, adding time and cost. Where possible, sites that can be developed "as of right" are preferable.

Where such development is not permitted as of right and public input will be required, be sure to evaluate the NIMBY factor and its potential impact on both the schedule and the budget.

Once potential opposition is recognized, deal with it directly, quickly and honestly. Consider the following guidance from nonprofit organizations that have faced NIMBY-ism with success.

1. **Anticipate**: Consider the NIMBY response when selecting properties to develop. Strong NIMBY response may delay the approval or even result in disapproval. Ask yourself: Am I willing and able to accept delay or even rejection of this project? Or is there an alternative site that will enable me to

provide affordable housing without encountering such opposition? Do I really have to engage in this battle to win the war for more affordable housing?

2. **<u>Be proactive</u>**: Make sure the community hears about your project from you first. If you let the grapevine or rumor mill be the means of communication, you lose control of the message and the information is likely to be distorted. You end up not only defending your project for what it is, but also denying what it isn't. Both nonprofit and for-profit developers and local officials must be prepared to spend time marketing the concept to local residents. Have information readily available and deal with NIMBY-ism in its early stages. Seek out the local newspaper reporters and tell your story directly. Find allies in churches, social service providers, and organizations that serve the intended residents of the development. Nonprofit and for-profit developers should seek support from local officials before proceeding with even the early stages of planning a development project. Politicians have been known to revoke building permits if public resistance is perceived as strong. Secure the critical political support before the opposition can sway opinions.

3. **<u>Put a face on it</u>**: As you reach out to explain your project, use the strategy perfected by Ronald Reagan: convert the concept into a flesh and blood example. Identify the beneficiaries…by characteristic, if not by name. Preferably, identify neighbors, people they can relate to. People have a harder time opposing something that will benefit real people they know.

4. **<u>Listen</u>**: Remember the Stephen Covey principle: Seek 1st to understand. If you aren't listening to them, why should they listen to you? Always remain polite, cordial, and respectful. And, don't take it personally. Chances are the feelings are long-standing based on previous projects and unrelated events or trends. You just happen to be the next in line.

5. **<u>Respond</u>**: Validate legitimate fears/concerns. They have a right to be concerned about future events and activities; we all feel a bit of loss of control of what is going around us. You are not necessarily causing the problems, but you might be contributing to the growing problems and concerns. And, you may be able to help the community address them. Think and talk community: you want to be perceived as a good and concerned neighbor. You want them to believe that you will be a responsive neighbor after occupancy, working with them to protect the neighborhood…as you should. Don't proselytize. You don't need to convert them to your cause; you just have to gain their respect and tolerance.

6. **<u>Negotiate</u>**: All of life is about compromise, and so it goes in development. Borrowing another Covey principle, think win-win. In the long run, we don't win when someone else loses. They will only be looking for ways to get even in the future…and we will be their neighbors. Seek the 3rd alternative – the one where everyone gets a bit of what they want. Negotiate in good faith, but don't promise what you can't deliver (see rule 7).

7. **<u>Deliver</u>**: Once you have completed negotiations, your life with the neighbors is only beginning. Make sure you deliver what you promise, or they will never trust you again. And, they will be stronger in their opposition to the next affordable housing project. If not for yourself, do it for the next project!

Regardless of the level of opposition, you must consider the amount of time required to deal with the abutters and local community. Since time is money in development, it may influence your choice of projects.

2.5 Make Sure the Project Can Meet the HOME Rules

HOME is a flexible program in that it can support housing to meet a variety of transitional and permanent housing needs. However, once a type of housing is selected, there are very specific statutory and regulatory requirements that must be met. And since many of these requirements are in the HOME statute, there is no option of not meeting the requirements.

Some of the key requirements are summarized below.

What is required of a HOME-Assisted Unit (HAU)?

Rental housing units assisted with HOME funds must comply with the following key statutory requirements:

- Occupants — Assisted Units must have eligible low-income tenants at or below 80% of Area Median Income (AMI), with further targeting to households at 60% and 50% AMI;
- Rents — Maximum rents are defined annually by HUD for all assisted units within the jurisdiction;
- Leases — Tenants must have leases that offer certain tenant protections
- Property standards — Units must meet one of four model code or other local housing codes and standards
- Compliance Period — Deed covenants or restrictions are recorded to enforce compliance for a minimum of 5 – 20 years depending on the level of HOME investment.

Homebuyer units assisted with HOME funds must comply with the following:

- Price/value limits — Properties must meet certain price or value limits for each jurisdiction that ensure it is housing of modest means
- Occupants — Eligible occupants must be below 80% of area median income (lower for rental)
- Property standards — properties must meet local codes or Section 8 HQS
- Resale or recapture — buyers are subject to recorded resale or recapture restrictions that apply for a minimum of 5 – 15 years, depending on the level of HOME investment.

In addition, there are other Federal requirements that apply in certain circumstances, including affirmative marketing, equal opportunity, Section 3, fair housing, Davis-Bacon, administrative guidelines, conflict of interest, and other standard Federal requirements.

This is not a complete listing of the requirements. A complete checklist of the HOME regulatory requirements is included in Part III as Tool 7. Refer to the HOME rule for additional information on project requirements.

Keep in mind that the HOME Program permits mixed income housing and mixed use properties. Units that are not HOME-assisted do not need to meet the rules, but they are ineligible for any HOME funding. If you are contemplating a mixed-use or mixed-income development, talk to your PJ about how they will decide which units will be classified as HOME-assisted. Guidance on the determination of HOME-assisted units is in the Notice CPD-98-02.

Also keep in mind that the requirements stated above are minimum Federal standards established by the HOME rule. Beyond these minimums, the Participating Jurisdiction may establish additional requirements as a matter of local policy. Be sure to check with your PJ to determine if there are additional requirements imposed by your jurisdiction.

2.6 Make Sure It Is Eligible As A CHDO Project

Not every project that is eligible for HOME is eligible as a CHDO activity. If you want to obtain CHDO funds for a HOME project, it will have to meet two additional requirements to be considered CHDO-eligible:

- **"Development" project** – CHDO activities must involve development. This is usually interpreted to mean that acquisition, construction and/or rehabilitation are occurring. Rental housing acquisition, rehabilitation or construction is considered CHDO-eligible, as is the new construction or acquisition and rehabilitation of homebuyer housing. Other HOME-eligible activities (such as rental assistance, owner-occupied rehabilitation and acquisition-only assistance to homebuyers) are considered assistance activities rather than development, and so are not considered eligible for the CHDO set-aside even though they are eligible for HOME funds.
- **Effective project control** – For the project to be eligible for CHDO funding, the CHDO has to have effective control of the development project. The CHDO may, but does not have to be, the sole owner of the project, but, if not the owner, the CHDO must have an agreement with the owner or partners to allow it to make the key decisions with regard to the selection, financing, improvement and management/disposition of the project.

For further information on activities that are eligible for CHDO funding, see Notice CPD-97-11 and HOMEfires Vol 2 No 1 (3/99),available at the HOME Program web site (see Part II Tool 1.

2.7 Be Prepared to Walk Away

Development has a high opportunity cost. It diverts the organization's attention and resources from other activities. When you choose to undertake a project, it displaces some other nonprofit activities that can't be done at the same time. And, when you choose to do a certain development project, it may mean that other development projects cannot be done.

If you start working on a project, and it ends up being much more of a commitment of time and resources, or the feasibility of the project becomes questionable, you need to ask whether or not to invest more time and money in this project, or seek out another project that will require less commitment or risk. A bad project may not be transformed into a good project by the investment of more resources. And, other projects may not happen while you divert resources to the risky and time-consuming project. There is danger in the statement: "We've got too much invested to quit now."

3. Project Implementation: <u>YOU</u> Have to Make It Happen

If you believe you are ready to do development and have selected a good project, then you are ready to focus on planning and implementing the project. This section offers some cautionary advice about how to plan and implement the project.

Let's consider some of the challenges before you.

3.1 So Who's In Charge?

You are the developer. But is the "you" an individual or an organization? Ultimately, it is both. The CHDO organization is responsible for the development and all performance obligations. However, from a day-to-day perspective, the developer is really the person who is the development team leader.

Many subscribe to the "key person" theory of development. Organizations can have track records as successful developers, but there is usually a single person or persons that can be identified as the reason that organization has been successful. Committees can oversee, but people manage.

The developer has a team of professionals to oversee, but the developer and the organization are ultimately responsible. If it is you, you have to make it happen! You have to make team members perform at the right time. There is always an excuse, but never a good reason, for delays. It ultimately rests on your shoulders.

Some tools for managing the team are described below in section 3.5.

3.2 Set Aside Funds for Pre-Development Costs

As noted in section 1.6, you can't do timely development if you don't have funds available to pay bills. Even if you only need to make capital advances that will ultimately be reimbursed, you are likely to need funds to pay for a variety of early planning costs, such as:

- Site options & site control
- Architectural and engineering planning
- Environmental review
- Legal work
- Market and feasibility studies
- Cost estimating
- Zoning application costs
- Application fees and production costs

- Loan commitment fees

Sure, you might get some of the professionals to do the initial work without upfront payment, but timely performance is more likely to occur when you can pay bills promptly. They might agree to perform services on spec, but they may perform more slowly. Time is money.

As noted in section 1.6 above, it is good to have organizational funds available to pay these costs, and a good rule of thumb is 5 – 10% of your estimated Total Development Cost (TDC).

> ***Development Liquidity***:
> For development, it is prudent to project a need for 5 – 10% of Total Development Cost in cash to pay bills prior to reimbursement.

This liquidity can be met through a variety of sources, such as foundation and corporate grants, intermediary loans and advances, and CHDO pre-development loans. (Keep in mind that CHDO Operating Expense funds are not for project costs.) However, all of these sources require you to do some fundraising, which takes time away from project planning and delays project planning. In the long term, the goal of a developer is to have enough profit or excess developer fees from previous projects to be able to meet the upfront capital requirements of the next project.

CHDO Pre-Development Loans

The HOME rules provide the option for a Participating Jurisdiction to offer CHDO Pre-Development Loans in 92.301. The total amount of CHDO pre-development lending by a PJ is limited to 10% of total amount reserved for CHDOs from its annual allocation. Pre-development loans are optional at the discretion of the PJ. There is no project-specific limit.

There are two types of pre-development loans: TA/Site Control Loans (92.301(a)) and Seed Money Loans (92.301(b)). The TA/Site Control loans are for upfront planning costs that can occur prior to environmental clearance, while the Seed Money loans are for more advanced planning costs that can be incurred only after environmental clearance.

Both types of loans are to be repaid from, or rolled into, the construction/permanent financing of the project as it proceeds. However, both loans are forgivable if there are project impediments beyond the control of the CHDO that result in the project not going forward.

3.3 Identify Environmental Review Issues 1st

If you think you might be using HOME or some other federal funds in your project, the first thing you should do is to check with your PJ to determine what environmental review is required. Why? Because there are a number of things that cannot occur until you have received environmental clearance – including acquisition, demolition, and construction/rehabilitation. This raises two potential concerns:

- The review process takes time, and any environmental issues may add time to your development schedule, which may have a cost impact. It may also have a more direct impact on the budget if remediation is needed.
- If you do any of these prohibited actions – called "choice limiting actions" in the regulation – that action is tainted and considered ineligible to receive federal funding, including HOME.

> ***HOME Environmental Review Guidance.***
> See 92.352 and HUD Notice CPD-01-11

You don't need to be an expert in the environmental review rule; that is the responsibility of your PJ. But you need to understand if environmental issues might affect project feasibility, and how it will affect your timeline and budget. So ask before you do something that causes you to lose access to funding.

3.4 Design for Sustainability: Affordable Doesn't Have to Mean Cheap

It's tough to raise funds for affordable housing. Nonprofits are vulnerable to the temptation to minimize the "improvements" paid for up front in order to keep budgets down and gaps for public funding to a minimum. We're only supposed to improve to the minimum property standards of the program, right?

Wrong! HOME has minimum property standards, but HUD guidelines also permit PJs to set standards for additional improvements to address useful life, energy efficiency, and other improvements that keep the housing competitive, as long as they are within the range of improvements for housing of modest means. Luxury improvements are not permitted.

We can only help one time. HOME Program rules allow PJs to invest in capital improvements at the time of initial funding, and prohibit additional HOME funds during the affordability period either for operations or capital improvements. So, if you limit improvements too much, try to get by with aging systems and roofs, use cheap materials and finishes that won't hold up, ignore energy performance, and don't provide for adequate management and preventive maintenance, there is a high probability you will regret those decisions during occupancy as you encounter higher than anticipated operating costs. And your PJ may not be in a position to help.

Some guidelines for thinking about improvements:

- Hire architects who think “green” and have experience with getting value out of limited affordable housing budgets.
- Always try to include the most energy efficient appliance, windows, insulation and other building components affecting energy usage. Energy Star compliance is one of the elements that is being added to IDIS for performance measurement.
- Try to ensure that the useful life of all building systems and structural components in the scope have useful lives at least equal to the minimum affordability period, if possible.
- And fight for the appropriate amount of funding needed to get these improvements!

Sure, the enhanced scope of work will likely cost more, and proper management and maintenance will affect cash flow and lower the amount of debt you can carry, creating a bigger gap. But that is the only time and way the HOME Program can assist you! If you fail to do adequate improvements upfront, it is likely to be your problem down the road.

HUD’s recent evaluation of HOME rental projects and lessons learned from HOME projects requiring workouts point to the need to be much more conservative in assumptions about operations. Be sure to consider the following:

- The rent decision is one of the most important decisions you will make. **Don’t plan to start with rents at the maximum HOME rents**. If you start out with rents at the maximum, you will have no room to move when HOME rent limit increases don’t cover increased operating costs. Also, no matter what the rent limits are, never structure rents higher than “street” rents. Rents higher than the competition can increase vacancies, reduce overall revenue, and put the project at risk.
- 5% vacancy & collection loss might not be a good rule of thumb for affordable housing. **Be realistic about your local market**. 7 - 10% might be a better starting point.
- **Budget for full property management and preventive maintenance costs from Day 1**. Don’t cut management costs because you are planning to self-management. Don’t eliminate maintenance just because components are new.
- Don’t create your baseline maintenance budget on a new project and typical first-year operations where few things go wrong (and many things are under warranty.) **Benchmark the property to other projects that are at least 5 years old.**
- Minimum debt service coverage might not be enough cash flow for a project. **Other benchmarks to consider**: annual cash flow should also be greater than 8% of operating expenses or 3% of Gross Potential Rent (GPR).
- **Replacement reserve contributions likely need to be more than the standard rule of thumb** of $300+ per unit per annum.

- If you are doing an enriched housing model with supportive services, **separate the real estate operating budget from the services budget**, so that it is clear what is needed to adequately fund operations.

Remember that you have to live with the consequences of your budget decisions for decades. Don't rely on overly optimistic assumptions or an attitude that "we'll just have to get by." You will regret it for years to come.

3.5 Management Tools for the Developer

A developer has the very challenging job of managing the inter-disciplinary project development team and coordinating the complex set of tasks. Keep in mind that the team members may work for you, but they also probably have many other clients. It will be important to keep their attention on your job.

Below are some of the key "tools" that a developer needs to maintain appropriate oversight and control of the implementation of the project:

- **Market Study or Analysis** – The market study defines the target audience, which should be a guiding beacon as the project evolves and changes. It is the constant reminder of who is to be served, and becomes the litmus test for whether the project is still on target as it evolves. This concept was discussed in the previous section on project selection.
- **Critical Path & Schedule** – Many activities are linked and interdependent. If a "critical" activity lags, it can delay the overall project and put it at risk of higher costs. To manage a complex project and understand the impact of delays, developers and contractors use the critical path method or other scheduling process to monitor the project timeline and gauge the impact of delays.
- **Development Budgets** – Budgets are estimates of the costs to complete the development, but they are dynamic and subject to constant revision. The developer must track the changes and update the budget throughout the process with actual costs to date and expected changes.
- **Project Team Meetings** – Everyone on the development team is likely to be busy with multiple projects. Regular team meetings are necessary to keep all team members focused on the schedule, and to address problems that must be resolved with all parties present. Special team meetings beyond regular meetings should occur at times when critical activities are occurring or a slowdown has occurred.
- **Disbursements** – The golden rule of development is that "the person who has the gold rules!" The developer holds the purse strings. When funds are disbursed before issues are resolved, the developer loses leverage. Retention of funds and the strict supervision of all disbursements are essential to retaining control over the project. On the other hand, habitually slow disbursements or payment stops can slow down performance on the project, so funds retention and payment stops must be used carefully.
- **Lender Relations** – During the development process, silence is not golden as far as lenders are concerned. When a lender does not hear from a

developer, the lender might become concerned that the project has slowed, or a problem is being concealed. Developers should report in regularly, so the lender knows “you are on the job”.

- **Neighbor Relations** – Some developers shy away from contacts with neighbors for fear of generating controversy, but concealment or avoidance can increase the mistrust and lead to stronger opposition to affordable housing projects in the future. The developer needs to accept the responsibility for meeting with neighbors and addressing their concerns. Ultimately, the developer and the neighborhood are in it together.

Together, these seven tools are things developers must use to stay on top of the process and ensure progress. Even with these tools, development is a difficult process, but without sound management using these tools, development becomes an even more difficult and extremely risky process.

3.6 Some Negotiating Tips

CHDOs will be involved constantly in negotiations – with applicants, contractors, partners, lenders and attorneys. Negotiation skills are essential to timely and satisfactory conclusions to all projects and issues. Failure to negotiate successfully can result in excessive costs or risks to the developer, or even the demise of a project.

Inexperienced developers may feel over-matched when going to the negotiating table with experienced partners, contractors, lenders and attorneys. While you may not have the training and skills to match the parties with whom you are negotiating, you should be able to achieve a satisfactory conclusion if you prepare properly and adhere to some basic guidance:

- ***Prepare***. Get ready for the negotiation by listing the known or expected issues, the bottom line for your organization on each issue, and the likely needs or concerns of the party with whom you are negotiating.
- ***Listen***. Follow the well-known advice to “seek first to understand, then to be understood.” If you don’t recognize all the concerns and issues of the other party, you will not be able to find a solution. If you don’t understand, ask again, or seek other advice.
- ***Communicate clearly***. State concerns, issues and needs that you have. Be clear about regulatory and political constraints that restrict your ability to alter terms.
- ***Seek win-win solutions***. Consider what’s important to you and what’s important to them. Can you achieve both? Focus on risk balancing: are the risks and rewards for each party in balance? If not how can we change, reduce and balance the risks?
- ***Get it in writing***. Document whatever has been discussed, agreed to, and unresolved from the meeting, and confirm it in writing.
- ***Read it before you sign it***. If a document or agreement is produced as a result of the negotiation, don’t sign it until you understand it. If you can’t understand it, find someone who can help you.

More negotiating tips are in Part III in the Negotiating with Partners Tool 5.

3.7 Understanding and Working With Your PJ

Success in development depends upon your ability to raise a range of funds – from lenders and public funders. When working with your PJ, keep in mind the following requirements placed on HOME PJs:

1. **The PJ has to follow its Consolidated Plan**[2] & address community priorities, which may affect their willingness and ability to fund the project you want to do.
2. **The PJ must underwrite the project to assure compliance with HOME rules** and for the appropriate level of HOME and other public investment (known as "subsidy layering").
3. **The PJ has to monitor the project** or units for compliance throughout the compliance period.
4. **The PJ is required to repay the HOME funds invested in any project that does not result in HOME-assisted units for the minimum required affordability period (5 – 20 years).** This repayment requirement may affect their willingness to commit and expend funds prematurely or in risky projects. Instead, they may wish to invest only if reasonable thresholds of risk are achieved.

> ***Subsidy layering:*** the underwriting analysis required when you combine HOME with one or more other public sources of money. See HUD Notice CPD-98-01

As a result of these parameters, your PJ is likely to take the perspective of a lender and apply underwriting or risk analysis to your CHDO projects. In fact, certain underwriting analysis is required by statute if you are combining HOME with any other public source. If you want to be successful in working with your PJ, you should anticipate the risk issues that are likely to come up in the underwriting process, and be ready to provide answers.

In the CHDO Toolbox, PJs were given an underwriting checklist to use as a tool in evaluating CHDO projects. The risk analysis portion of that tool is provided in Part III as Tool 8. A HOME compliance checklist has been added as Tool 7. Look at the questions PJs might be asking, and consider how you might structure the project to address the likely risk factors. Remember, if you fail, they have to repay the HOME funds.

[2] The Consolidated Plan is the plan that jurisdictions must develop to govern the allocation of HOME funds (as well as CDBG, HOPWA and ESG). It consists of a five-year Strategic Plan and annual Action Plans that designate the uses of the funds.

4. From Dabbler to Developer: The Pipeline to Long-term Success

4.1. What Are the Keys to Long-Term Success?

Below are some ideas for building the pipeline for long-term success.

Pipeline of projects – Developers have to survive in large part by earning fees. The fees from one project don't sustain you for very long. To be successful as a developer, you have to have a pipeline of projects.

Set-aside funds for capital advances – As noted several places in this guide, you need liquidity to be able to meet the upfront costs of selecting and planning projects, or you will be slowed down. Some of the capital for the next project may be earned through the profits or fees on your current job, but the CHDO rules also allow for the PJ to permit you to retain other proceeds from projects.

Avoiding conflict of interest – There is no faster way to damage your reputation and ability to do projects than conflict of interest situations.

Asset management – Your projects are your brick and mortar legacy. Preserving the physical and financial condition of your properties will help to preserve your reputation and leave you in a strong position to propose more projects.

Succession planning and training – Development is "key person dependent". Planning for turnover or loss of key staff is a key action you can take to preserve your organization's ability to sustain development in the long run.

The point of the title – "from dabbler to developer" – is that true developers must generate a series of projects to be successful in the long run. It is not meant to discourage the nonprofit that occasionally develops a project to supplement its services to its clients. However, the CHDO statute is about creating and building true community-based developers. To be a developer in the long run, you need not only to be focusing on your current development project, but also thinking about the next one as well – or, perhaps, more than one because not every project goes forward. The question is: when you finish this project, what are you going to do next?

4.2 Retaining CHDO Proceeds

The best way to build funds for future development activities is through timely completion of your current project(s). The faster you earn the developer fee, the more profit that you have to carry over to the next project. If completion is slowed, you are likely to have less left over.

The HOME program not only permits you to earn reasonable developer fees, but also provides the PJ with an option to permit you to retain other proceeds from your CHDO projects as a means to capitalize future low income housing activities. These are called "CHDO Proceeds." Again, we need to stress that this is an optional benefit that the PJ can choose to allow you to retain.

CHDO Proceeds

Under 92.300(a)(2) of the HOME rules, a PJ can permit a CHDO to retain proceeds from a project. At a minimum, the first reuse of the proceeds must be for HOME or other low-income housing activities. The Written Agreement with the PJ must specify whether the CHDO can retain proceeds & the reuse of those proceeds (type of activity permitted/required.)

CHDO proceeds are funds that are received from the HOME investment. In most cases, these funds must be returned to the PJ and are treated as HOME program income and are subject to all HOME rules in their reuse. However, the rules allow the PJ to permit the CHDO to retain and reuse these funds.

The most common example of CHDO proceeds are the net proceeds that come from the sale of a homebuyer unit. The CHDO invests HOME funds from the PJ in the development of a homebuyer unit. Upon sale of the unit, some or all of those HOME development funds are repaid from the buyer downpayment and first mortgage. After all approved expenses and fees are paid, any net proceeds are usually repaid to the PJ as Program Income. However, the rule allows the PJ to permit the CHDO to keep them. A worksheet has been provided in Part III Tool 10 to help you calculate the ultimate use of all HOME funds and what are to be considered the CHDO Proceeds of the sale.

Another common example of proceeds is the amortization of homebuyer mortgages. Please note, however, that “recaptured” funds – payoff of HOME homebuyer notes/mortgages on properties resold prior to completion of the affordability period – are subject to HOME rules (see recapture 92.503(d)), and must be returned to the PJ.

In effect, when you are permitted to retain CHDO proceeds, you can set up revolving loan funds, capitalize your fund to make capital advances to future projects, or otherwise pay for costs of HOME or other low income housing. Just remember that your PJ must set the parameters for that reuse, and must monitor at least the first reuse of those funds.

Not all PJs will permit you to retain it, as they may have strong demand for HOME funds and program income elsewhere. And they may only permit you to retain them when they know that you will reuse the funds quickly and competently. In other words, you may have to earn the right to retain them by proving that you are truly a “developer” with a pipeline of low income housing activities.

4.3 Protect Your Reputation: Avoid Conflict of Interest Situations

One of the fastest ways to ruin the reputation of your organization is to get into a conflict of interest situation. Potential and actual conflicts of interest can arise from two events or circumstances:

- Occupancy of a HOME-assisted affordable housing unit; and
- Receipt of (or financial interest in) a contract, subcontract or agreement with respect to a HOME-assisted activity, or the proceeds there under.

As a provider of publicly funded units, you must make certain that the potential benefits are available to all who might be eligible.

Whenever someone associated with your organization gains a benefit from your publicly funded activities, some outsiders might be concerned that the person received the benefit because they had:

- ***Access to inside information*** with regard to the award of a contract or unit assistance; and/or
- ***Undue influence*** on the policy or process by which a contract or unit occupancy is awarded.

And make no mistake about it – it is about *the appearance or perception of conflict* that matters, whether or not actual conflict of interest exists.

When such suspicions or accusations arise, there must be an objective method of establishing whether or not the potential conflict of interest is real, or whether the procedures followed ensured fair access.

The HOME Program rule defines a conflict of interest for anyone associated with the entity distributing the assistance, but the rules permit an "exception" if the PJ has determined in advance that there is no real conflict and the process is fair.

HOME Conflict of Interest Rule

The HOME regulation at 92.356(f) states that no CHDO officer, employee, agent or consultant of the CHDO may occupy a HOME-assisted affordable housing unit in a CHDO project, without prior exception granted by the PJ.

This limitation provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the CHDO who occupies a unit as the project manager or maintenance worker.

The intent is not to prohibit your board, staff and members from enjoying the benefits of HOME-assisted units, but to make certain that your PJ first determines that these persons have no unfair advantage over other applicants. Why require this determination in advance? Because an accusation requires an immediate response, and there is no easy way to correct such problems "after the fact."

All potential and actual conflicts must be disclosed to your public funders in advance in writing, with the following information:

- Full factual disclosure of the situation that gives rise to the potential conflict of interest, including the nature of the person's role and the potential financial benefit;

- The procedures that the CHDO will establish to ensure that a fair process will be conducted with no inside information or undue influence to the party in question; and
- The basis for requesting an exception following the standards for exception in 92.356(e).

It is HUD's intent to use these standards to enable related parties to continue to have access to the benefits of the HOME Program as they might otherwise be eligible, while ensuring that they do not gain an unfair advantage in access to the benefits. It may seem a bit restrictive, but it is for your protection.

Furthermore, please note that the rules currently do not extend to the award of contracts by CHDOs. However, many PJs have adopted more stringent conflict of interest policies that also extend to the award of contracts, not just unit benefits. That would prohibit the award of contracts to, say, an architect, realtor, lawyer or contractor on your board without prior review and exception granted by your PJ. A sample of such a policy is included as Tool 9.

This more inclusive policy is strongly encouraged for CHDOs. The award of contracts can also elicit accusations and concerns in the community about who is benefiting from the Federal funding, and suspicions alone can damage the CHDOs reputation. Don't put your reputation at risk. If your PJ has adopted the broader policy, or even if it hasn't, make sure you clear with your PJ in advance any contracts that might be awarded to related parties.

4.4 Beyond Compliance is Asset Management

As we deal with our PJ and HUD on matters of compliance and documentation, it is easy to become distracted from the true long-term challenge and obligation – to sustain the project for long-term affordability and decent housing. Because of the repayment obligation as well as your desire to provide affordable housing for as long as possible, it is important to exercise prudent management of HOME projects.

If you have a rental portfolio, consider these matters of advice:

- **Practice planned and preventive maintenance** – Don't wait for things to break. It will cost you more in the long run, create unpredictability in budgeting, and cause a strain on maintenance staff.
- **Raise rents regularly** – Do annual increases in small, regular increments (like you probably budgeted in your funding applications) to stay ahead of costs and to keep rent increases modest. Don't wait until you absolutely need it, and have to raise rents by an amount that causes people to leave.
- **Manage occupancy aggressively** – a vacant unit is a problem. Have a goal of no more than one month for unit turnaround: have applicants ready when vacancies occur; get the unit turnaround crew in immediately; coordinate the re-occupancy.

- **Make reserve contributions** – These are not optional, these are not “if you have money left over” payments. In the long run, they are as important as any other line item in the budget.

Remember that your projects are your “bricks and mortar” legacy. Failure to take care of the assets will be a very tangible reflection on your organization. It’s not about getting it built; it’s about making it last.

4.5 Long-Term Success Requires Succession Planning

You might be capable right now of doing CHDO-eligible development. You might have a knowledgeable board, capable development staff, skilled property management staff and other skills for implementing affordable housing development.

And then something happens. Your property manager gets a job offer, your project manager has to move for family reasons, a key board member leaves, or you decide to move on. As that person goes out the door, what key skills are lost to the organization? Can your organization continue down the developer path?

You need to consider “succession” planning – you must create an organization that can survive the loss of any one person. You need to consider:

- **Make sure there is adequate oversight** – Set up a board committee or senior staff to keep track of the project and ensure that adequate understanding of the project exists beyond the key person.
- **Apprentice each key role** – Select someone to be the backup person for each key role. Have them follow the process enough to be able to step in at any point if needed. For junior staff, this is OJT – on the job training.
- **Create career growth opportunities** – As the organization succeeds and grows, try to create job growth opportunities for staff.
- **Establish training as a core organizational value** – Be sure to seek out opportunities to train staff in development skills, funding sources, management functions and other related skill areas. You may think you can’t afford the time or resources for training…but can you afford not to? Training is essential to long-term organizational succession and survival, and it is a personal development activity that helps staff to stay engaged and grow in your organization. You owe it to them as much as yourself.
- **Create the paper trail** – Files aren’t just there to satisfy PJs and HUD. They are also the project history. Make sure the key documentation is not just in the “head” of a key person. If that person leaves abruptly, is there enough of a paper trail for you to pick up the pieces? Have they set up files, created meeting notes, implemented tracking tools and taken other steps to document progress and unresolved items?

5. The Final Word: Top 10 Survival Tips

This guide has communicated the dimensions of the challenge to survive and thrive in a performance-based world.

The HOME Program is looking for a few good community-based developers. CHDO funding is a great opportunity, but it doesn't guarantee success. It only provides some financial tools to help qualified nonprofits become capable developers. If you don't understand what it takes to be a developer, you may not be ready to be a developer. If you do, there are some great opportunities for you in this program.

Some final thoughts and tips for survival:

Top 10 CHDO Survival Tips

1. You have helped anyone until you have delivered a completed and occupied unit.

2. You can't help anyone if you can't survive. Make sure that development also takes care of your organization's needs, not just community needs.

3. Affordable housing may not always require developer equity, but it always requires liquidity – cash the developer can advance to pay bills until reimbursed. Lack of liquidity slows development.

4. The opportunity cost of development – the things your organization cannot do because you have committed your time and resources to development – may be as important as the direct costs.

5. Pick the project that's right for you. Don't let the project pick you. Beware of free property – the true cost of a property is the total cost to make it "shovel ready."

6. In development, time is money. Get it done! There are many excuses why development doesn't move forward, but only one person to blame – you, the developer!

7. It's not enough to get it built; you need to build it to last. Design and build for viability/sustainability.

8. Protect your reputation. Avoid the appearance of conflicts of interest.

9. Operating Expenses, Pre-development loans and CHDO proceeds are optional benefits that you might be able to access, but they are not an entitlement. Show your PJ the potential payback of those investments.

10. Always be thinking: What's next? A developer has to be thinking about the "project pipeline."

Part III: Tools for Survival

This section contains a series of tools that are available to help CHDOs understand their role, select and plan projects, and document compliance. The tools are:

Summary of Web Resources for CHDOs

Resource	Web address
Basic HOME information	
Building HOME – the basic HOME training course materials	www.hud.gov/offices/cpd/affordablehousing/training/materials/building/index.cfm
The ABC's of HOME – interactive web training	www.hud.gov/offices/cpd/affordablehousing/training/web/abc/
Statute & regulation	www.hud.gov/offices/cpd/affordablehousing/lawsandregs/
Basic CHDO information	
CHDO Guidance	www.hud.gov/offices/cpd/affordablehousing/programs/home/topical/chdo.cfm
How to Become a CHDO – interactive training	www.hud.gov/offices/cpd/affordablehousing/training/web/chdo/
Building HOME Chapter 8 – CHDOs	www.hud.gov/offices/cpd/affordablehousing/library/building/ch08.pdf
Key HOME References/Guidance	
CPD Notices	www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/
HOMEfires	www.hud.gov/offices/cpd/affordablehousing/library/homefires/index.cfm
HOME Model Guides (listing only; order from Community Connections)	www.hud.gov/offices/cpd/affordablehousing/library/modelguides/
Cross-cutting Federal requirements – info on env review, labor stds, other	www.hud.gov/offices/cpd/affordablehousing/lawsandregs/fedreq/
Trainings & Training Materials	
Scheduled training courses	www.icfhosting.com/hcd/cpd/hcdcpd.nsf/webpages/Welcome.html
HOME Front – interactive web-based training	www.hud.gov/offices/cpd/affordablehousing/training/web/index.cfm
CDTA providers	www.hud.gov/offices/cpd/about/cpdta/
Tools	
Income Calculator – for documenting household income eligibility	
Rental project underwriting template	www.hud.gov/offices/cpd/affordablehousing/training/web/index.cfm
Sample HOME Forms	www.hud.gov/offices/cpd/affordablehousing/library/forms/
Other	
Information for HUD grantees/nonprofits	www.hud.gov/groups/grantees.cfm
Affordable Housing Design Advisor	www.designadvisor.org/
Energy Star	www.hud.gov/offices/cpd/affordablehousing/programs/home/energystar.cfm

HOME *QuickFinder*

A Reference Guide to the HOME Program

HOME Investment Partnership Program – Title II of National Affordable Housing Act of 1990 (NAHA)

- Regulations: 24 CFR Part 92
- Web sites: HUD HOME Homepage: www.hud.gov/homeprogram/
  - HOME Rule, Notices, HOMEfires: www.hud.gov/offices/cpd/affordablehousing/library/index.cfm
  - Other documents: Community Connections 1-800-998-9999 or www.comcon.org

Eligible Activities

92.205

Major Eligible Activities	♦ Owner-occupied rehabilitation ♦ Rental housing	♦ Homebuyer assistance ♦ Tenant-based rental assistance (TBRA)
Rehabilitation	♦ Includes: relocation of structure, conversion of property to residential use, reconstruction of like unit, expanding existing unit outside existing walls	
New Construction	♦ Includes units with certificate of occupancy in past year, and reconstruction or conversion, units built beyond existing walls	
Acquisition	♦ Existing structures or vacant land for new affordable housing	
Conditionally Eligible Activities	♦ Eligible only when undertaken to produce HOME-assisted units: • Site improvements • On-site infrastructure & off-site utility connections essential to project • Demolition	
Direct Financial Assistance	♦ Direct assistance to homebuyers ♦ Tenant-based rental assistance	
Refinancing	♦ Homeowner rehabilitation: must lower existing homeowner debt, and HOME funds used for rehabilitation ♦ Rental projects: Only if refinancing necessary with rehabilitation to create or maintain affordable housing, and guidelines must be in ConPlan	

Prohibited Activities

92.214

- Emergency repairs, if property not up to standards
- Assistance to Federal public housing, including new construction, modernization and operation
- Assistance to temporary/emergency shelters
- Assistance to commercial (non-residential) property, or non-residential portions of property

- HOME may not be used as match for other federal programs (except McKinney Act funds)
- Project-based rental assistance
- Assistance to HOME-assisted units during the affordability period (exc. TBRA or homebuyer)
- Acquisition of PJ owned property unless acquired originally for a HOME project

Eligible Costs 92.206	
Project Hard Costs	♦ Improvements needed to meet local or program codes and standards ♦ Energy-related repairs or improvements ♦ Improvements necessary for persons with disabilities ♦ Abatement of lead-based paint hazards ♦ Other improvements in keeping with housing of modest means in the community
Project Soft Costs	♦ Typical project-related financing, professional fees, interim operating costs, including developer fees
Administrative Costs	♦ Up to 10% of PJ's annual allocation for program administration, including subrecipient administrative costs ♦ CHDO operating expenses (up to 5% of each year's allocation)
Relocation Costs	♦ Permanent and temporary relocation costs as set forth in the Uniform Relocation Act and Section 104(d) of HCDA 1974

Forms of Assistance 92.205(b)	
Forms of Assistance	♦ Interest or non-interest bearing loans ♦ Deferred loans (forgivable or repayable) ♦ Grants ♦ Equity Investments ♦ Loan guarantees (certain conditions)
Repayment	♦ HOME funds invested in units that do not meet affordability requirements (in foreclosure or noncompliance) for minimum affordability period are subject to full repayment (except homebuyer assistance where recapture is out of net proceeds)

Property Standards 92.251	
Standards	♦ Locally-adopted standards including all: • codes • rehabilitation standards • ordinances • zoning ordinances

	♦ If no local standards exist, model codes or Section 8 Housing Quality Standards ♦ Accessibility requirements of the Fair Housing Amendments Act and Section 504 ♦ New construction must conform to Model Energy Code (published by CABO) ♦ For pre-1978 properties, lead-based paint rules @ 24 CFR Part 35: • If homebuyer or rental acquisition assistance, Subpart K • If rehab, Subpart J • If TBRA, Subpart M

Amount of HOME Investment
92.205(c)

Minimum HOME Investment	♦ $1,000 per unit (excludes TBRA) ♦ Minimum is a per-project average for all HOME assisted units
Maximum HOME Investment	♦ The maximum amount of HOME investment per unit is the lesser of • maximum amounts published by HUD (221(d)3 limits); OR • the total project development costs; OR • the minimum required for project feasibility ♦ Maximum is a per-project average for all HOME assisted units

Eligible Beneficiaries of HOME Assistance
92.252/254 & 92.203

Income Requirements	♦ Household income $\leq$ **80% of median area income ("Low Income")**, adjusted for family size ♦ Deeper income targeting required for rental housing and TBRA (see below).
Verifying Income	♦ Must use one of three definitions of "annual income" • Section 8 definition (24 CFR 813) • US Census long-form definition (24 CFR 92.203 (b)(2)) • Adjusted gross income as defined by the IRS on Form 1040 ♦ Annual income must be based on projected income for the coming 12 months ♦ 3 ways to verify income for tenants of HOME-assisted rental projects: • Examine source documents (wage statement, interest statement, etc.) • Obtain written statement from family • Obtain written statement from government agency that has already certified the family's income ♦ Income certification is valid for 6 months ♦ Income determined annually for rental housing and TBRA

Affordability Requirements
92.252/254

- HOME assisted units must be affordable:
  - at initial occupancy and
  - over a minimum "affordability period" of 5 – 20 years for rental & homebuyer housing
- Rental units must meet income eligibility and property standards over the affordability period
- Homebuyer assistance is subject to resale or recapture provisions over the affordability period
- HOME investment in units that fail to meet affordability requirements for minimum required period subject to full repayment
  - Except homebuyer units must repay funds recaptured out of net proceeds

HOMEBUYER ASSISTANCE92.254	
Eligible Activities	♦ Acquisition ♦ Acquisition and rehabilitation ♦ New construction ♦ Conversion of HOME-assisted rental unit to homeownership ♦ Funds can be used for: • Downpayment and closing cost assistance • Second mortgages that reduce monthly housing costs on a first mortgage • Construction financing • Loan guarantees • Lease-purchase programs (if home purchased within 36 months)
Owner Requirements	♦ Low income ($\leq$ 80% of median) ♦ Must occupy home as primary residence
Property Requirements	♦ 1-4 unit property, condo, co-op, manufactured home ♦ Must meet property standards (local codes/HQS & LBP): • No health & safety dangers prior to occupancy and within 6 mos. of transfer • All program-wide property standards within 2 years after property transfer ♦ If acquisition only, purchase price < 95% of the area median purchase price ♦ If acquisition & rehab, after-rehab value < 95% of area median purchase price ♦ Limit determined by HUD (FHA 203(b)) or local market analysis
Affordability Period	♦ Assisted units subject to resale restrictions based on amount of HOME assistance: < \$15,000 — 5 years \$15,000-\$40,000 — 10 years > \$40,000 — 15 years
Types of Resale Restrictions	♦ 2 resale options if property sold during period of affordability: • Recapture funds • Resell property to eligible homebuyer ♦ Recaptured funds must be used to fund additional HOME eligible activities

Recapture Option	• Owner repays all or a portion of the HOME assistance that enabled homebuyer to buy the unit must be recaptured ("Development subsidies" for costs in excess of fair market sales price not subject to recapture) • 4 acceptable recapture methods: 1. Recapture entire amount of HOME investment, or 2. Reduction on a pro rata basis during affordability period, or 3. Owner investment repaid in full prior to recapture of HOME assistance 4. Shared proceeds: the homeowner and PJ can share in the proceeds proportionate to their investments
Resale Option	• New purchaser must be low income, property must be primary residence • Price of the property must: – allow for a "fair return" on homeowner's investment and improvements – be "affordable" to a reasonable range of low income purchasers • Buyer fulfills terms of remainder of affordability period

RENTAL HOUSING92.252	
Eligible Activities	♦ Acquisition ♦ Rehabilitation ♦ New construction
Affordability Period	♦ Tenant incomes and rents strictly controlled during affordability period ♦ Varies based on the amount of HOME invested and the activity undertaken. Rehabilitation or acquisition of existing housing: < $15,000 5 years $15,000-$40,000 10 years > $40,000 15 years Refinancing of existing rental housing: 15 years New construction/acquisition of new housing: 20 years
Rent Requirements	♦ **LOW HOME RENTS:** minimum 20% of units in projects with **5** or more units: **Lesser of**: – Section 8 Fair Market Rents, **OR** – Rents affordable at **50%** of area median income (**AMI**), adjusted for family size ♦ **HIGH HOME RENTS: remainder of units: Lesser of**: – Section 8 Fair Market Rents O**R** – Rents affordable at **65%** of AMI, adjusted for family size
Occupancy Requirements	♦ All assisted units occupied by tenants at least below **80%** of AMI ♦ 90% of initial occupants below **60%** of AMI ♦ If 5 or more assisted units, at least 20% of assisted units for 50% of AMI
HOME and Tax Credits	♦ The 9% credit is allowed when combining HOME and tax credits ♦ If the 9% credit is used with HOME as below market interest loan: • Project is not eligible for 130% eligible basis in qualified census tracts or difficult to develop areas

	• LIHTC threshold: at least 40% of assisted units must be rented to tenants with incomes < 50% AMI • Rents must conform to <u>both</u> HOME and Tax Credit limits
Property Standards	♦ Units must meet applicable property standards at occupancy or upon completion of rehab ♦ Units must be maintained to property standards for affordability period
Long term compliance	♦ Tenant income must be recertified annually during affordability period. If income increases above 80% of median, rent must be increased to the lesser of: – market rent OR – 30% of tenant's adjusted income (rent not increased in Tax Credit units) ♦ Rents must be reviewed annually for all HOME-assisted units ♦ File reviews & unit inspections: - annually for projects of 26 or more units - every two years for projects of 5-25 units - every 3 years for projects with 1-4 units

TENANT BASED RENTAL ASSISTANCE (TBRA)92.209	
What is TBRA?	Assistance that fills the gap between the amount a family can afford to pay for housing costs (rent and utilities) and the actual costs of housing selected by the family
Eligible Uses	♦ Free standing rental assistance to low and very low income families ♦ Special Purpose programs including: • <u>Self-Sufficiency programs</u>: self sufficiency program participation may be required • <u>Lease-purchase programs</u>: rental payments as part of a lease/purchase program for up to 36 months • <u>Targeted populations</u>: local preferences for special needs groups in a broad, community wide program or a program exclusively serving a special needs group(s) • <u>Anti-displacement assistance</u>: used to minimize displacement associated with HOME activities. • <u>Security and utility deposit assistance:</u> utility assistance only in conjunction with a TBRA program, security deposits may be provided with or without an ongoing TBRA program.
Ineligible Uses	♦ Project-based rental assistance ♦ Vouchers to homeless persons for overnight or temporary shelters ♦ To duplicate existing rental assistance which already reduces the tenant's payment to 30% of income
Eligible Tenants	♦ Tenants must be low income ($\leq$ 80% of median income) ♦ At least 90% of PJs HOME units for rental housing and TBRA (together) must be used to assist families at or below 60% of median ♦ May be selected with locally established preferences consistent with ConPlan and Fair Housing laws

Eligible Units	♦ Selected by TBRA recipient ♦ Must meet Section 8 Housing Quality Standards & LBP standards (if applicable) ♦ Rents must be reasonable, compared to rents charged for similar unassisted units ♦ Units may be publicly or privately owned ♦ TBRA not eligible for units receiving other rent subsidy (i.e., public housing or Section 8 Sub Rehab)
Amount of Subsidy	♦ Maximum Subsidy = Rent or payment standard minus 30% of the family's monthly adjusted income ♦ Must establish a Minimum Tenant Contribution ♦ Subsidy contracts cannot exceed two years ♦ Subsidy contracts can be renewed, based on HOME fund availability
Tenant Protections	♦ HOME TBRA recipients may return to the PHA's Waiting List and qualify for the same tenant selection preferences as when they were selected for the HOME assistance ♦ Certain provisions which in general have the effect of waiving a tenant's rights in advance are prohibited
Recertifications	♦ Tenant income must be recertified at least annually ♦ Rent and assistance is adjusted based on current tenant income and current payment standards ♦ If a participating tenant's income goes above the Section 8 Low Income limit at recertification, assistance must be terminated
Portability	♦ May require tenants to use the TBRA to rent a unit located within the jurisdiction ♦ May also establish a "portability" program permitting tenants to use the assistance outside the jurisdiction. (Inspection and recertification requirements still apply.)

OWNER-OCCUPIED REHABILITATION 92.254	
Eligible Activities	See "Eligible Activities" and "Eligible Costs," above
Owner Requirements	♦ Low income (< 80% of median) ♦ Must occupy home as primary residence
Property Requirements	♦ 1-4 unit dwelling, condominium, cooperative or manufactured home ♦ After-rehabilitation value < 95% of area median purchase price ♦ Units must meet applicable property standards (local codes or HQS, and LBP) upon completion of rehab
Affordability	♦ No long term occupancy or affordability requirements in rule; PJ determines

CHDO *QuickFinder*

A Reference Guide to CHDO Requirements of the HOME Program

HOME Investment Partnership Program – Title II of National Affordable Housing Act of 1990 (NAHA)

- Regulations: 24 CFR Part 92: key CHDO sections:
  - 92.2: Definition of CHDO (CHDO qualifications)
  - 92.300 - 92.303: set-aside, pre-dev loans
  - 92.208: CHDO operating expenses
  - 92.504(c)(3): written agreements for developers (incl. CHDOs)
- HOME Notices specifically addressing CHDOs:
  - CPD-97-11: general CHDO guidance
  - CPD-06-01: CHDO operating expenses
  - CPD-97-09: CHDO proceeds
- Other HOME Notices: www.hud.gov/offices/cpd/affordablehousing/lawsandregs/notices/
- HOMEfires Vol 2 No 1 (3/99): Eligible activities chart
- Training Manual: Building HOME, Chapter 8
- Income Calculator: www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm
- Web sites:
  - HUD HOME Program: www.hud.gov/homeprogram/
  - Community Connections Clearinghouse: 1-800-998-9999 or www.comcon.org

The CHDO Set-Aside **92.300(a)**

- 15% of PJ's annual allocation must be reserved for CHDO projects
- Funds must be committed to CHDO development projects:
  - Requires acquisition, construction or rehabilitation component to be a "development" project
  - CHDOs must have "effective project control" (CHDO must own, develop or sponsor the project)
- Funds must be reserved specific CHDOs and committed to CHDO projects within 24 months.
- CHDO allocation tracked on cumulative basis (see Commitment Notice CPD-01-13 or successor)

Eligible CHDO Activities **92.300(a), CPD-97-11**

- Rental housing:
  - Acquisition and/or rehabilitation of rental housing
  - New construction of rental housing
- Homebuyer housing:
  - Acquisition and/or rehabilitation of properties for sale to homebuyer
  - New construction of homebuyer properties
  - Direct financial assistance (i.e. downpayment and closing costs) to purchasers of HOME-assisted homebuyer housing owned, sponsored or developed by a CHDO with HOME funds

Operating Expenses (Optional)	**92.208, CPD-96-09**
Amount	♦ Up to 5% of PJ's annual allocation ♦ No use of the funds is mandated
Eligible Uses	♦ Uses must be used for "reasonable and necessary costs for the operation" of the CHDO, consistent with 92.208 ♦ Eligible costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials and supplies.
Requirements	♦ Written agreement required (can be part of a CHDO project commitment) ♦ If CHDO does not have a current commitment, agreement must specify CHDO is expected to receive CHDO funds within 24 months of receiving operating expenses. (92.300(e)) ♦ A CHDO may not receive HOME funding for any fiscal year that exceeds 50 percent of the CHDO's total operating expenses in that fiscal year, or $50,000, whichever is greater [§ 92.300 (f)]. ♦ CHDO operating expenses are not subject to HOME match requirements.
Pre-Development Loans (Optional)	**92.300(c), 92.301**
Amount	♦ Limited to 10% of total amount reserved for CHDOs from annual allocation; no project-specific limit
TA/Site Control Loans (92.301(a))	♦ Eligible uses: feasibility studies, consultants, legal fees, preliminary applications, preliminary architectural/engineering, options/site control, title clearance ♦ Does **not** require environmental clearance
Seed Money Loans (92.301(b))	♦ Uses: pre-construction costs, such as loan commitments, plan & specifications, zoning, engineering, legal, etc. ♦ Requires environmental clearance of project ♦ Requires site control, development team, preliminary commitment of HOME
Repayment provisions	♦ Repaid from or rolled into construction/permanent financing ♦ Forgivable if project impediments beyond the control of the CHDO
CHDO Proceeds (Optional)	**92.300(a)(2), CPD-97-09**
♦ At PJ option, CHDO can retain proceeds from project, but: • First reuse of proceeds must be for low-income housing or HOME activities • Recaptured funds from HOME homebuyer notes/mortgages are subject to HOME rules (see recapture 92.503(d)) • If proceeds not permitted to be retained by CHDO, PJ must treat as program income	

CHDO Capacity Self-Assessment Tool

This tool combines the regulatory requirements of CHDO qualification with additional questions to help CHDOs determine if they have the capacity to be successful as a developer. It has been provided as a tool to HOME PJs in the CHDO Toolbox.

For each of six topics, the CHDO regulatory thresholds are provided. If the organization does not meet these thresholds, then it may not be certified as a CHDO regardless of its overall capabilities. For this reason, the deficiency column is blacked out.

However, if the regulatory thresholds are met, then the organization's success as a CHDO developer may be influenced by the additional questions that indicate capacity to successfully manage housing development activities. If deficiencies are noted, the organization should work on these areas or request TA from the PJ before seeking project funds.

	Topic/Question	Adequate	Deficiency
1	**Organizational Status & Mission**		
	***Regulatory Thresholds*:**		
	The nonprofit is organized under State or local laws, as evidenced by: _____ A Charter, OR _____ Articles of Incorporation.		
	It has a tax exemption ruling from the Internal Revenue Service as evidenced by: _____ A 501(c)(3) or (4) Certificate from the IRS or _____ A group exemption letter under Section 905 from the IRS that includes the CHDO.		
	It has among its purposes the provision of low- and moderate-income housing, as evidenced by: _____ Charter, _____ Articles of Incorporation, _____ By-laws, OR _____ Resolutions.		
	***Additional Questions*:**		
	Certificate of Good Standing: Can it deliver a certificate of good standing or other documents from the State?		
	Service Area: Does it have a documented service area consistent with its CHDO activities?		
	Strategic plan: Has it produced a strategic plan that specifies an action plan for housing development?		

	Topic/Question	Adequate	Deficiency
	Organizational structure: Does the organization have a development subsidiary or other structural method of ensuring that it can undertake development without diverting time and resources from other activities?		
	Shared commitment: Do board and staff exhibit shared commitment to its housing development mission?		
	Capital advance set-aside: Has the organization set aside funds for meeting the equity and/or capital advance needs of development?		
	Other organization issues:		
2	**Board Composition**		
	Regulatory Thresholds:		
	At least 1/3 of board membership is for residents of low-income neighborhoods, other low-income community residents, or elected representatives of low-income neighborhood organizations, as evidenced by: _____ By-Laws, _____ Charter, OR _____ Articles of Incorporation		
	No more than one-third of the governing board members may be public officials (including any employees of the PJ) or appointed by public officials, and government-appointed board members may not, in turn, appoint any of the remaining the board members, as evidenced by: _____ By-laws, _____ Charter, OR _____ Articles of Incorporation.		
	If the CHDO is sponsored/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 the remaining two-thirds of the board members, as evidenced by the CHDO's: _____ By-laws, _____ Charter, OR _____ Articles of Incorporation.		
	Additional Questions:		
	Board stability: Has there been stability/continuity of board members over the last several years?		
	Development oversight: Does the board have a committee structure or other means of overseeing planning and development?		

	Topic/Question	Adequate	Deficiency
	Board skills: Do board members have professional skills directly relevant to housing development (e.g., real estate, legal, architecture, finance, management)?		
	Decision-making: Has the board demonstrated the ability to make timely decisions?		
	Board-staff relations: Is there a good relationship between board and staff? Do they have shared goals?		
	Other board issues:		
3	**Sponsorship/Independence**		
	Regulatory Thresholds:		
	The CHDO is not controlled, nor receives directions from individuals, or entities seeking profit from the organization, as evidenced by: _____ The organization's By-laws, OR _____ A Memorandum of Understanding (MOU).		
	If sponsored or created by a for-profit entity, the for-profit entity's primary purpose does not include the development or management of housing, as evidenced: _____ In the for-profit organization's By-laws		
	If sponsored or created by a for-profit entity, the CHDO is free to contract for goods and services from vendor(s) of its own choosing, as evidenced by: _____ By-laws, _____ Charter, OR _____ Articles of Incorporation		
	If sponsored by a religious organization, the CHDO is a separate secular entity from the religious organization, with membership available to all persons, regardless of religion or membership criteria, as evidenced by: _____ By-laws, _____ Charter, OR _____ Articles of Incorporation		
	***Additional Questions*:**		
	Identity of Interest: Are there any identity of interest issues between the organization and the contractors, consultants, and professionals it uses for its CHDO projects that might constitute a conflict of interest?		
	Other independence issues:		

	Topic/Question	Adequate	Deficiency
4	**Relationship/Service to the Community**		
	Regulatory Thresholds:		
	The organization has a history of serving the community within which housing to be assisted with HOME funds is to be located, as evidenced by: _____ Documentation of at least one year of experience in serving the community, OR _____ For new organizations, documentation that its parent organization has at least one year of experience in serving the community.		
	It provides a formal process for low-income, program beneficiaries to advise the organization in decisions regarding design, siting, development, & management of affordable housing projects, as evidenced by: _____ The organization's By-laws, _____ Resolutions, OR _____ A written statement of operating procedures approved by the governing body.		
	Additional Questions:		
	<u>Needs</u>: Are current plans well grounded in an understanding of current housing conditions, housing needs, and need for supportive services? Has it done any analyses of the local housing market and the housing needs of low-income households?		
	<u>Community relations</u>: How strong are the current reputation of the corporation and the relationship with the community?		
	<u>NIMBY</u>: To what extent does NIMBY opposition exist to low income housing in the service area? To what extent do channels exist for the CHDO to negotiate with the community and potential opponents?		
	<u>Local government relations</u>: How strong is the CHDO's relationship with the local government? How strongly does local government support its housing activities?		
	Other community issues:		
5	**Financial Management & Capacity**		
	Regulatory Threshold:		
	The organization conforms to the financial accountability standards of 24 CFR 84.21, "Standards for Financial Management Systems", as evidenced by: _____ A notarized statement by the president or CFO; _____ A certification from a CPA, OR _____ A HUD approved audit summary.		
	Additional Financial Management Questions:		

	Topic/Question	Adequate	Deficiency
	Audit: Does the CHDO have an annual audit? Is the most recent audit current?		
	Audit findings: Were there management or compliance findings in the last two years? Are finding resolved?		
	Budgeting: Does the organization undertake annual budgeting of its operations and all activities or programs? Does it track and report budget v. actual income and expenses?		
	Reporting: Is financial reporting regular, current and sufficient for the board to forecast and monitor the financial status of the corporation?		
	Cash flow management: Does it know its current cash position and maintain controls over expenditures? How regularly does it experience cash flow problems?		
	Internal controls: Does it have adequate internal controls to ensure separation of duties & safeguarding of corporate assets? Is there sufficient oversight of all financial activities?		
	Procurement/conflict of interest: Does the organization have a conflict of interest policy governing employees and development activities, particularly in procurement of contract services and the award of housing units for occupancy?		
	Insurance: Does it maintain adequate insurance -- liability, fidelity bond, workers comp, property hazard, & project?		
	Financial stability: Does the current balance sheet and budget indicate sufficient funds to supports essential operations? To what extent does the organization have a diversified and stable funding base for operations? What portion of revenues is predictable year-to-year? Does the CHDO have an established fundraising program for both capital & operational needs?		
	Portfolio financial condition: If it has a portfolio of properties, are the properties in stable physical and financial condition or are they a drain on corporate resources? Does it collect adequate management fees from the properties?		
	Liquidity: Does the organization have liquid assets available to cover current expenses? Does it have funds available for pre-development expenses or equity investments required for development?		
	Other financial issues:		
6	**Development Capacity**		
	Regulatory Threshold:		

	Topic/Question	Adequate	Deficiency
	It has a demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by: _____ Experience of key staff who have completed similar projects to HOME-funded activities, OR _____ Contract(s) with consultants who have relevant housing experience, to train key staff		
	***Additional Capacity Questions*:**		
	<u>Structure</u>: Can the current corporation structure support housing development activities, or is there a need for a subsidiary or other organizational structure for future development? Are there operations or activities that need to be organizationally separate from housing development activities and portfolios?		
	<u>Portfolio</u>: Does the organization's portfolio of projects/properties evidence competent management and oversight? Do the properties appear to have adequate funding?		
	<u>Previous Performance</u>: Has it done the CHDO activities previously? Did it perform competently (on schedule and within budget)?		
	<u>Management capacity</u>: Does the current management have the ability to manage additional development activities? Does the organization have the capabilities to analyze alternative housing projects?		
	<u>Procedures</u>: Are the corporate lines of authority for development activities clear? Are policies & procedures in place governing development activities?		
	<u>Project management</u>: Does the organization have procedures for monitoring the progress of a project? Does it have the capacity to monitor project-level cash flow and schedule?		
	<u>Personnel</u>: Does it have staff that are assigned responsibilities for housing development? Are personnel policies and job descriptions clear?		
	<u>Staff skills</u>: How strong are staff in the following areas: ▪ Market analysis ▪ Legal/financial aspects of housing development ▪ Management of real estate development ▪ Oversight of design & construction management ▪ Marketing, intake ▪ Property management (if applicable)		
	<u>Training</u>: Are staff encouraged to obtain training and develop new skills? What is their potential for learning skills that they currently do not have?		
	<u>Membership involvement</u>: Is the organization's membership active and in support of the housing activities?		

	Topic/Question	Adequate	Deficiency
	Use of consultants/partners: To what extent does the CHDO have access to and make use of qualified development consultants and partners? How well do consultants and partners interact with staff? Are the consultants/partners focused on training CHDO staff and building capacity?		
	Access to funding: Does the organization have funds available for equity or capital advances in housing development projects? Does the organization have the ability to raise funds for the capital requirements of a project? How strong are relationships with funders of housing? With lenders?		
	Opportunity costs: If the organization pursues housing development, what other activities are likely to suffer or not be able to be pursued due to the effort required for development activities?		
	Other capacity issues:		
7	**Conclusions**	**Yes**	**No**
	Has the organization met all CHDO regulatory thresholds? If not, these must be corrected prior to CHDO certification.		
	Have capacity deficiencies been identified that may need to be addressed prior to the award of CHDO funds or as a condition of the commitment? If not, proceed to a request for CHDO certification and funding.		
	Can any identified capacity deficiencies be addressed by TA from the PJ or from a qualified CDTA CHDO intermediary? If so, request TA.		

Negotiating Joint Ventures Tool

As you prepare for negotiation of the joint venture with your partner, consider the following advice:

Negotiating Tip 1: Prepare by analyzing the differences and the shared interests. How are we different? What can we each bring to table? What are our shared interests?

Negotiating Tip 2: Identify/disclose the "non-negotiables." What are deal-killers for you? For example, do you absolutely need to serve certain income levels? Do you need to control the occupancy of the units? Do you require community participation? Are there certain financial issues (risks and rewards) that are essential for you to agree to participate? On the other hand, what are deal-killers for your partner?

Negotiating Tip 3: Seek the win-win, or the 3rd alternative. You can't have a successful partnership with an unhappy partner, but you can't be unrealistic in your expectations either. Both sides have to give to get. Can we achieve a partnership deal that achieves both of our needs?

Negotiating Tip 4: Balance risk and rewards for all partners. As discussed earlier, a successful partnership has to be a balanced partnership. What is the balance between control and the risks/liabilities assumed by each partner? What is the balance between responsibilities and the fees and other rewards allocated to each partner?

Negotiating Tip 5: Put the business deal in writing. Trust your partner, but document the agreement! Document the business deal in a joint venture memorandum of understanding before turning it over to the lawyers for them to turn it into the legal deal. Don't sign till you understand!

A joint venture agreement is a combination of the "business deal" as well as the legal provisions and protections that each partner needs to enter into the joint venture relationship.

The business deal has to come first. A joint venture is constructed around a mutual agreement on the following points of the business deal:

1. **Scope of project** – A clear delineation of the project scope, including:
   - Number/mix of affordable units (& other uses)
   - Targeted households
   - Term of project
   - Low income affordability/use restrictions
   - Changes to scope:
   - Non-negotiable v. desirable

- What changes of scope can be made & how changes will be decided?

9. **Ownership entity and interest –** The type of ownership entity, the split of ownership interest between the partners, and how this will be determined. Also, how change or sale of ownership interest occurs: how partners acquire interest from other partners, rights of 1st refusal by other partners, and succession in event of death/demise of partner.
10. **Decision-making –** How the partners will make decisions (voting, consensus, etc.) Voting rights are usually based on ownership interest, but some key decisions that must be made jointly or by consensus, such as incurring debt or financial obligations and significant changes in project scope. Also, what decisions individual partners can make in fulfilling developer obligations.
11. **Equity contributions and capital advances –** How and under what terms there will be calls to the partners for equity contributions or capital advances, and how the failure of a partner to make required contributions in a timely manner will be handled. How and when capital advances will be repaid How return on equity will be paid
12. **Division of responsibilities –** How the responsibilities of the developer will be split among the partners: management of the joint venture, acquisition, financing, design, local approvals, construction, marketing and occupancy. What rights to complete exist if a partner fails to fulfill its responsibilities.
13. **Split of developer fees –** How the developer fees will be split among the partners, presumably in proportion to the developer responsibilities; often this is established by a schedule of values for each responsibility.
14. **Guarantees –** Which partners are responsible for guarantees to lenders and limited partners, and the compensation associated with those guarantees.
15. **Dispute resolution –** How the parties will resolve situations when there is disagreement (mediation, arbitration, etc.)
16. **Termination –** How the partnership can be terminated, either before the project is completed or after all work has been completed. If a “handoff” from one partner to another is contemplated on completion, how that will occur.
17. **Buyout –** If applicable, the terms for one partner buying out the interests of another, either planned or as a result of an unresolved dispute. Elements of the nonprofit’s strategy to buy out the other partner(s) may include:
    - Right of first refusal
    - Favorable formula for buyout “price”
    - Management fees, incentive payments & distributions
    - Maximized residual interest of nonprofit
    - Public financing structured to minimize residual value to partners but assumable by nonprofit
    - Grants/subsidies converted to nonprofit loans to projects (& accruing interest)
    - Ground leases/land trusts to control land value
    - Escrow portion of developer fees dedicated to buyout (sinking fund)

In some cases, a project involves a handoff of a completed project rather than a buyout. For example, a for-profit partner wants out after developing the project, or a service nonprofit takes over ownership and management of a special needs project after it is completed. In such cases, the joint venture agreement needs to specify:

- Standards for completion and acceptance of the project
- Warranty by the developer (including possible fee retention or guarantee)
- The process for the handoff, including lender/funder approvals

After you have negotiated the business deal as outlined above, create a joint venture memorandum between the partners to document the business deal. Then it can be turned over to the lawyers to create the full joint venture agreement with the appropriate set of legal protections. Some of the legal protections that your attorney will add to the joint venture agreement include the following:

- Joint approval in writing of major decisions
- Regular partner meetings
- The right to examine the books and records of the joint venture
- Receipt of monthly/annual reports from the managing partner
- Disclosure requirements
- Dual signatures on checks & documents
- Bonding
- Prohibition against self-dealing
- Arbitration/mediation

Together, the terms of the business deal and the legal protections constitute the full legal agreement of the joint venture. Make sure that your agreement contains both.

Project Selection Tool

	Organizational Impacts/Considerations	
1.		Does the proposed project directly support the mission of the organization?
2.		How strong is the internal support of board, members, and staff for the project? Is there internal dissent? What is the potential impact of the dissent?
3.		Does the organization have the capacity to undertake another development project? Do we have the required staff and skills? Or can we create a partnership or venture to obtain the required capacity?
4.		Does the project use or build on organizational strengths (identified in the assessment)?
5.		Is it compatible with current organizational activities and our existing portfolio? Does it enhance other operations? Will there be economies of scale in the operation/management of the portfolio?
6.		What are the opportunity costs of the project: Other projects/activities that may not be able to occur due to diversion of management attention and corporate resources to this project? Diversion of capital from operational or portfolio needs?
	Project Feasibility & Risks	
7.		Do we have evidence of a sufficient demand (not need) for this housing at affordable prices?
8.		Is there a financial plan or analysis demonstrating feasibility and long-term viability?

9.		How strong is the external support or opposition of the community, constituents, and the public sector? Will this affect the approvals of the project? Will it affect the project schedule?
10.		What are the other key completion risk factors?
11.		What are the total financial (capital advances & equity) requirements the project from CHDO funds: pre-development capital costs and advances ______________ project equity requirements ______________ organizational overhead costs during implementation ______________ initial operating deficits & capitalized reserves ______________ TOTAL EQUITY/CAPITAL ADVANCE REQUIREMENTS ______________
12.		Are the fees that can be earned reasonable and sufficient to cover the effort involved?
13.		To what extent could the risks/costs/impacts of any of the above be reduced by: a change in the type of project or clients served? A reduction in scale? A change in financing? A change in implementation schedule?
	Long-Term Considerations	
14.		What contingent liabilities exist for the corporation if the project fails either before or after completion? Should the project be organizationally separate from other ventures?
15.		What other benefits result from the project: economic opportunities for customers? Physical improvement and other community benefits? Organizational benefits? Replicability?
16.		Overall, does the project provide reasonable benefits to our organization and our customers relative to the associated risks?

CHDO Project Compliance Review Checklist

Project Name: ____

Section #	Requirement	Complies	N/A	Concern	Comments
General Project Requirements					
92.205(a)	Eligible activity				
92.214	Prohibited activities/costs				
92.206	Cost eligible, reasonable, necessary				
92.206(a)	Hard costs				
92.206(c)	Acquisition				
92.206(d)	Soft costs				
92.206(f)	Relocation				
92.2	Construction w/in 12 mos.				
92.205(d)	Assisted units; cost allocation				
92.205(b)	Form of investment				
92.250(a)	Max per-unit subsidy limits				
92.250(b)	Subsidy layering				
92.251	Property standards				
92.251(a)(3)	Accessibility standards				
92.220	Match sources identified				
Environmental Review					
92.352	Environmental review				
58.36	Subject to NEPA				
58.35(a)	Categorically excluded; subject to 58.5				
58.35(b)	Categorically excluded; not subject to 58.5				
Rental Project					
92.216(a)	90% @ 60%				
92.252(a)	rent limits				

Section #	Requirement	Complies	N/A	Concern	Comments
92.252(b)	units and rent limits				
92.252(e)	minimum affordability period				
92.252(h)	income verification				
92.252(j)	fixed or floating				
92.253	lease, notice, selection policy				
Homebuyer Project					
92.254(a)(2)	value limit				
92.254(a)(3)	< 80% AMI; principal residence				
92.254(a)(4)	affordability period				
92.254(a)(5)	resale/recapture				
92.601(a)(1)	first time buyer				
CHDO Project					
92.300(a)	eligible CHDO development activity				
92.300(a)	project control				
92.301	pre-development loan				
92.303	Tenant Participation Plan (rental projects)				
Other Federal Requirements					
92.257	religious organization non-discrimination				
92.351(a)	affirmative marketing				
92.353	relocation				
92.354(a)	Davis-Bacon				
92.355	lead-based paint				
92.356	conflict of interest				

CHDO Project Risk Analysis

	Risk Category – Risk Factor	Acceptable Risk	Mitigatable Risk	Potential Deal killer
1	**Market Risk** **Overall Rating:**			
	Market trends -- General market trends (vacancy levels, prices) support the development of the additional units at the proposed pricing			
	Neighborhood market – Immediate project area market conditions are positive and support development of the units at the proposed pricing			
	Community conditions – The immediate physical/social conditions support the development of housing			
	Target population pool – A sufficient pool of target households exists in the primary geographic market area to support the project; or sufficient primary data (waiting lists or client lists) is presented to support timely occupancy of the development upon completion			
	Affordability – The prices are affordable to a reasonable range of incomes (the range = minimum income required to afford: maximum eligibility income)			
	Needs – The project design (unit types, sizes, amenities, services) reflects the apparent needs & desires of the target population			
	Competition – The project price, location condition and amenities is reasonably attractive in comparison to other housing choices available to low-income area HHs			
	If Homebuyer: Loan Availability – An adequate number of loan sources are available to provide competitive rates for buyers			
	Other market risk factors:			
2	**Borrower Risk** **Overall Rating:**			
	Compatibility – The project is compatible with the mission and strategic focus of the CHDO			
	Board capacity – The board (if a nonprofit) is stable and has the skills and experience to oversee development			
	Staff development capacity – The CHDO staff & development team have the required skills to undertake & complete the project			
	CHDO past performance – The CHDO has performed adequately on previous projects			
	CHDO backlog/current projects – The current workload will not affect the ability of the CHDO to complete this project			

	Risk Category – Risk Factor	**Acceptable Risk**	**Mitigatable Risk**	**Potential Deal killer**
	CHDO liquidity – The CHDO has sufficient liquid assets to meet a short-term emergency needs of the project			
	Equity/pre-dev funds availability – The CHDO has the cash needed for its equity contributions, pre-development costs, & organizational overhead to support the project during planning & implementation (rule of thumb: 5 – 10% of TDC)			
	Liquidity/financial ability to absorb overruns/delays – The CHDO has sufficient financial strength to absorb reasonable project delays and cost overruns			
	Opportunity costs – The CHDO will not be prevented from accomplishing its other activities as a result of undertaking this development project			
	Contingent/portfolio liabilities – The financial obligations of the organization with respect to its portfolio or other programs present no significant risks to the proposed project.			
	Rental only: Ongoing management capacity – the applicant (or its identified management agent) has the capacity to manage the ongoing real estate, and to provide services as proposed			
	Homebuyer only: Homebuyer mortgagability – The project provides cost-effective mortgage terms to buyers that maximizes their borrowing potential and minimizes the gap			
	Other Borrower risk factors:			
3	Project Risk Overall Rating:			

	Risk Category – Risk Factor	Acceptable Risk	Mitigatable Risk	Potential Deal killer
	Development budget cost reasonableness ▪ Acquisition cost – The acquisition cost is supported by appraisal or by evidence of market value, and is reasonable given site remediation and prep costs ▪ Hard cost – Construction/rehab costs meet the following: o The design incorporates "green principles" for energy-efficiency o The scope will ensure property standards compliance & economic useful life for at least the compliance period; o Costs are reasonably related to scope; o Costs are final or based on detailed specifications to be considered reliable; and o there is a reasonable contingency provision for construction costs ▪ Soft costs – All non-construction line items are reasonable and supported, and reflect all expected project-related costs ▪ Developer/consultant fees – Total fees (including other fees collected by the developer) are reasonable compared to market and costs of doing this project ▪ ***Homebuyer only:*** Marketing/sales costs – Marketing and sales costs are reasonable and sufficient ▪ ***Rental Only***: Reserves – The project has adequate provisions for operating & replacement reserves: o Capitalization of initial operating deficit is sufficient to reflect a reasonable rent-up period; and o Reserves are capitalized or reasonable annual contributions are in the operating budget			

	Risk Category – Risk Factor	Acceptable Risk	Mitigatable Risk	Potential Deal killer
	Rental only: Operating budget cost reasonableness ▪ Rental Revenue – Rents comply with HOME limits and are reasonable compared to market rents; an adequate vacancy/collection loss allowance ▪ Operating Expenses – Total operating expenses (per unit per annum or month – PUPA or PUM) are reasonable for this type of project; all line items reasonable ▪ Management Expenses – Sufficient allowance for management costs for this type of project ▪ Reserve contributions – Reasonable contributions to operating and replacement reserves (taking into account capitalized contributions to reserves) ▪ Net Operating Income – NOI and net available for debt service are reasonably calculated to maximum borrowing potential; debt service coverage factor is reasonable or reflects lender requirements ▪ Cash flow – Cash flow projections are reasonable and not excessive for equity invested (if any) ▪ Services – Adequate provision for services to reflect the target population's needs; service revenue sources identified sufficient to cover service expenses (separate from real estate operations)			
	Readiness to proceed – Project plans are sufficiently advanced to ensure timely expenditure of HOME funds upon award: ▪ Site control – CHDO owns or controls the site ▪ Status of approvals – Community approvals are in place or strong support is in evidence ▪ Commitment of funds ▪ Project designs are complete			

	Risk Category – Risk Factor	Acceptable Risk	Mitigatable Risk	Potential Deal killer
	Completion risk – Risk factors that might jeopardize completion of the project on time and within budgeted resources: ▪ Site acquisition – The risk of not being able to complete acquisition of the site or require environmental remediation ▪ Likelihood of approvals – The risk of obtaining approvals to develop the site ▪ Adequacy of funds – The risk of losing or not being able to finalize all critical funding commitments ▪ Firmness of budget – The risk that budget estimates are insufficient to cover construction scope or unfunded cost overruns ▪ Realistic schedule – The risk of failing significantly behind on the implementation schedule ▪ ***Homebuyer only:*** The marketing/ outreach plans are sufficient to deliver an adequate number of buyers by the time units are available			
	Viability risk – The risk that the project, upon completion, will not be able to be maintained as affordable housing for at least the compliance period: ▪ ***Rental housing only*** – o Long-term operating projections (based on reasonable year-to-year rent and expense increases) provide adequate reserve contributions and positive cash flow; o Management & maintenance plans are sufficient to protect physical property long-term ▪ ***Homebuyer housing only*** – o The project offers adequate homebuyer pre/post counseling ▪ Permanent financing is based on reasonable & affordable ratios			
4	**Overall Risk Rating:**			
	Recommended Project changes and conditions for CHDO commitment based on underwriting risk analysis: ▪ ▪ ▪ ▪ ▪			

Expanded CHDO Conflict of Interest Policy

No employee, agent, consultant, elected official, or appointed official of
(the "CHDO") 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:

- Any interest in any contract, subcontract or agreement with respect to a HOME-assisted project or program administered by the CHDO, or the proceeds there under; or
- Any unit benefits or financial assistance associated with HOME projects or programs administered by the CHDO, 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; and/or
  - Receipt of HOME owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of the CHDO who occupies a HOME-assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the state or local HOME Participating Jurisdiction shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

Exceptions to these provisions must be requested in writing to the Participating Jurisdiction prior to the implementation of any HOME-assisted activity, and include evidence 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.

CHDO Homebuyer Project Proceeds Instructions & Worksheet

Instructions for CHDO Homebuyer Project

HOME Funds Reconciliation & CHDO Proceeds Worksheet

The purpose of this worksheet is to assist the CHDO and PJ for tracing the ultimate distribution of HOME funds in a CHDO homebuyer project. It is intended to be used at a closing to reconcile the HOME investments and determine what HOME funds were written off as Development Subsidy, provided as buyer assistance, repaid from the closing, or retained by the CHDO as CHDO proceeds.

Step 1. Determine Total HOME Investment

The first step is to determine the total HOME investment, which is a combination of any HOME funds provided to the CHDO to be used in the development phase of the project for acquisition, construction/rehab and soft costs.

Step 2. Determine Development Subsidy

The second step is to determine if the project had costs in excess of sales prices, and therefore is eligible to write off part or all of the HOME development funds as "Development Subsidy" that does not have to be mortgage to the buyer(s).

Please note that Development Subsidy write-off is eligible only using the recapture method, and not the resale method.

Step 3. Calculate Total HOME Buyer Subsidies

HOME buyers can be assisted in several ways. They can receive:

- Rollover purchase subsidies from CHDO development funds (in essence, this is the portion of the HOME development funds that are not written off as Development Subsidy, which can be in the form of downpayment assistance or purchase assistance, and must be mortgaged to the home buyer
- Closing Cost Assistance – which does not have to be mortgage as it falls outside of the sales price/fair market value of the property; and/or
- New buyer assistance funds that are made available to the buyer at closing and were not originally invested as development funds in the CHDO project

These must be totaled to determine the Total Buyer Subsidies.

Step 4. Determine HOME Funds To Be Repaid

When CHDO funds are invested in the development phase of the project (e.g., as a construction loan), some of these funds may be repaid from net sales proceeds. They may also be retained by the CHDO as CHDO proceeds – at the PJ's option. This step is designed to calculate what funds are available for repayment, or to be retained by the CHDO as proceeds. Any such repayments are considered program income to the PJ.

If repayment is mandated, then it is appropriate to allow the CHDO to draw any remaining developer fee due from the unit, after paying closing costs (realtor, legal and recording costs, etc.) and other construction loans. Then any net proceeds are available for repayment, if required by the PJ.

Step 5. Reconcile HOME Funds & CHDO Proceeds

The final step in the process is to take the four previous calculations to reconcile the ultimate allocation of all HOME funds invested in that unit. Take the total HOME investment in the unit, and subtract funds allocated as Development Subsidies, Buyer Subsidies, and any Repayments from Sales Proceeds. The net result is any CHDO funds that are to be retained by the CHDO as CHDO proceeds.

Again, CHDO proceeds are the option of the PJ. Essentially, the PJ's choice is to permit them to be retained or to be repaid as program income to the PJ. If CHDO proceeds are permitted, they must be reinvested as required by 92.300(a)(2) – either to be used for HOME-eligible or other housing activities to benefit low-income families. PJs are responsible for monitoring the reuse of CHDO proceeds.

CHDO Homebuyer Project Funds Reconciliation & Proceeds Worksheet

CHDO/Project: ____
Property: ____
Purchaser: ____
Date of Closing: ______________________________________

Step	**Project**	**Per HOME-Assisted Unit**
Step 1. Determine Total HOME Investment		
HOME Development Financing		
+ HOME Buyer Assistance (Not part of Dev Cost)		
	-------------------	-----------------------
Total HOME Investment	$ -	$ -
Step 2. Determine Development Subsidy		
Total Development Costs		
- Sales Price/Fair Market Value		
	-------------------	-----------------------
Excess Costs = Development Subsidy	$ -	$ -
Step 3. Calculate Total HOME Buyer Subsidies		
HOME Development Funds mortgaged to Buyer		
+ Buyer Closing Cost Assistance		
+ New HOME Buyer Purchase Assistance		
	-------------------	-----------------------
Total Buyer Subsidies	$ -	$ -
Step 4. Determine HOME Funds To Be Repaid		
Sales Proceeds		
- Sales Costs		
- Construction/Other Debt Payoff		
- Allowed Developer Fees/Costs		
	-------------------	-----------------------
Net Proceeds Available to Repay HOME	$ -	$ -
Step 5. Reconcile HOME Funds & CHDO Proceeds		
Total HOME Investment		
- Development Subsidy - not mortgaged to buyer		
- HOME Buyer Subsidies		
- HOME Dev Funds to be Repaid from Closing*		
	-------------------	-----------------------
HOME Funds Retained as CHDO Proceeds	$ -	$ -

* program income

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