2013 HOME PROGRAM FINAL RULE

CHDO REQUIREMENTS
CHDO Staff Capacity

CHDOs must have paid staff with demonstrated capacity appropriate to CHDO’s role:

• Can be full-time or part-time
• Cannot meet capacity requirement based on use of volunteers, donated staff, shared staff or board members
• Use of consultants to demonstrate capacity ONLY during the 1st year of operation as a CHDO
Staff must have experience/capacity relevant to project and role as owner, developer, or sponsor

- **CHDO as Owner**: Staff must have capacity to act as owner. Can hire contractor to assist in oversight of development process

- **CHDO as Developer or Sponsor**: Staff must have development experience on projects of similar scope or complexity
For-profit and governmental entities as parent organizations:

• Pre-2013 rule states that the parent cannot appoint more than 1/3 of board members; Parent-appointed board members may not appoint other 2/3 of board

• New rule adds prohibition against officers or employees of parent organization serving as officers or employees of the CHDO (except for the permitted 1/3 of CHDO board members)
For Governmental or Public Parent Organizations:

• Includes PJs, public housing agencies, HFAs, redevelopment authorities, Indian Tribes

• Officers or employees of the governmental entity may not serve as officers or employees of a CHDO (except for the permitted 1/3 of CHDO board members)
CHDO Reservations

• PJs must commit funds to a CHDO for a specific project within 24 months
  – After October 22, 2013 - Non-project-specific reservations no longer counted toward commitment or CHDO reservation requirements
  – PJ/CHDO must execute legally binding written agreement that meets commitment definition

• HUD will implement for CHDO deadlines on or after January 1, 2015
CHDO Certification

Each time it commits funds to a specific CHDO project, PJ must certify that the nonprofit:

• Meets CHDO definition (including the staff capacity requirement)

• Has capacity to fulfill specific role (owner or developer/sponsor) it will assume for the project
Own, Develop or Sponsor

- Own, Develop, Sponsor roles codified in rule for first time at §92.300(a)(2) - (6)
- Roles have been clarified and/or redefined; changes will increase number of organizations that can access CHDO set-aside funds
- A CHDO must demonstrate capacity in relation to its “role”
CHDO as Owner

- CHDO acts as owner of rental housing that it does not develop
- CHDO is owner in fee simple or has long-term ground lease during development and affordability period
- CHDO acquires standard housing, or hires project manager or contracts with developer to perform rehab or construction
CHDO as Developer

• CHDO owns (in fee simple absolute or holds long-term ground lease) and develops housing
• CHDO arranges financing and is in sole charge of construction or rehab
• For Rental projects: CHDO owns during development and throughout period of affordability, and performs all development activities
CHDO as Developer (cont)

• For Homebuyer projects: CHDO owns, rehabs or constructs, then sells property

• Written agreement with CHDO must include:
  – Actual sales price or method for determining it
  – Disposition of proceeds of sale (return to PJ or permit CHDO to retain), and use of proceeds if CHDO will retain
CHDO as Sponsor

CHDOs can sponsor rental housing in 2 ways:

1) CHDO develops rental housing on behalf of another non-profit or CHDO and transfers title after completion
   • Conveyed at pre-determined time to pre-identified nonprofit/CHDO
2) Rental housing is “sponsored” by a CHDO if owned or developed by a:

- For-profit or nonprofit that is wholly-owned subsidiary of the CHDO;
- Limited partnership (LP) of which the CHDO or its subsidiary is the sole general partner; or
- Limited liability company (LLC) of which the CHDO or its subsidiary is the sole managing member.

- Written agreement must be signed by PJ and entity that will own the project.
CHDO as Sponsor
(cont)

- If partnership agreement permits removal of CHDO as sole managing member or partner, removal must only be permitted for cause.
- Partnership agreement must specify that CHDO must be replaced with another CHDO.
CHDO Expenditure Deadline

• CHDO set-aside funds must be expended within 5 years of the HOME grant being obligated
• HUD will examine CHDO expenditures separately from non-CHDO HOME funds
• HUD will implement this requirement for expenditure deadlines on or after January 1, 2015
## Tracking the Commitment/Expenditure Deadlines

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https://www.onecpd.info/home/
Next Steps

- Educate and inform CHDOs & potential CHDOs
- Evaluate CHDOs to identify which organizations meet new requirements
- Revise CHDO qualification standards and processes to ensure:
  - Organization meets definition of CHDO, including staff capacity
  - CHDO has capacity to fulfill its specific role as owner, develop, or sponsor of the housing
Wrap Up

Questions? Discussion?

Implementation Plans, Assignments, Schedules

1. __________________________________________________________________?
2. __________________________________________________________________?
3. __________________________________________________________________?
4. __________________________________________________________________?
5. __________________________________________________________________?
6. __________________________________________________________________?