

**City of Portland**

**Affordable Housing Development**

**HOME Funds Application**



**July 1, 2018 – June 30, 2019**

**Applications will be accepted until all budgeted funds have been allocated.**

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## **I. GENERAL INFORMATION**

### ***A. Availability of Funding***

The City of Portland has made the development of affordable rental housing a priority use for its federal housing funds, as is identified in the City of Portland's 2016-2020 HUD 5-year Consolidated Plan. To accomplish this priority, the City of Portland will accept applications for the development of affordable rental housing in the City of Portland.

Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply for these funds. The HUD definition of a CHDO organization is attached as Exhibit #1 entitled Definition of a Community Housing Development Organization (CHDO).

The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit while accomplishing specific objectives and providing fair access to all applicants. Applications will be accepted until all budgeted funds are allocated. The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria.

The City of Portland is making available \$325,064 in FY 2018-2019 HUD Home Investment Partnership Program (HOME) funds (which includes \$70,525 from a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and \$587,000 from FY17 and FY18 unexpended funds.

Total Funding Available: \$912,064.

### ***B. General Guidelines***

Rental developments shall provide units to households earning up to 60% of area median income and meet the restrictions of the HUD HOME program. Mixed income projects are eligible and encouraged, however not all units in a mixed income project will be eligible for HOME funding. Projects with mixed unit types including efficiencies, one, two and three bedroom units are eligible. The minimum term of affordability is 90 years, to be secured by a land use restriction covenant in the deed.

This application outlines the selection criteria which all projects applying for these funds must meet, as well as scoring factors which will be used by the City of Portland to evaluate the applications.

## ***C. Federal Requirements***

### **Environmental Review Requirements**

All projects are subject to environmental review, clearance and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted, the applicant cannot take any “choice limiting actions” prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received. A Phase I ESA along with a lead and asbestos testing report will be required before HUD Environmental Review Requirements can be completed.

### **Federal Labor Standards**

As may be applicable, applicants must ensure that they and all contractors and subcontractors meet requirements for federal prevailing wage rates specified under the Davis-Bacon Act. The Act requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over \$2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon Act.

### **Section 3**

All HOME projects must comply with Section 3 of the Housing and Urban Development Act of 1968. Contractors and subcontractors performing work on Section 3-covered projects must provide, to the greatest extent feasible, opportunities for the employment of low- and very low-income residents of the local community and the businesses that substantially employ these persons.

### **Minority and Women Owned Business (MWBE) Participation**

All HOME projects must complete, track and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Woman’s Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor and management agent.

### **Lead-Based Paint**

All residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

### **Access to the Internet**

All HUD funded new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

## **Fair Housing and Equal Opportunity**

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115(; Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

## **Affirmative Marketing**

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the HOME-assisted housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

## **Violence Against Women Act**

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. VAWA provides protections and options for victims of domestic violence, dating violence, sexual assault and stalking.

### ***D. Goals for the Distribution of HOME Funds***

The goal for the distribution of HOME funds is to promote and finance the development of affordable rental housing consistent with the City of Portland's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects with a high standard of quality, design, and livability. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should promote efficient use of land, locations proximate to shopping, work places and community facilities. They should also incorporate high standards of energy efficiency, "green" design and socially sustainable criteria.

## II. SCOPE OF SERVICES

### A. *General Specifications*

All applications submitted for this funding must meet the following selection criteria to be considered further in the review process.

#### **Eligible Projects**

- 1) Projects must create rental housing units which promote economic diversity in the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing rental units that creates accessible or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible.
- 2) All projects must provide rental units to households earning up to 60% of area median income and meet the income and rent restrictions of the HOME Program.
- 3) *Housing First* developments are a priority under this application.
- 4) Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- 5) Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.
- 6) Projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.

### B. *Site Information and Criteria*

- 1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale

agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2018.

- 2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the funding request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility.
- 3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request.

### ***C. Financial Feasibility***

- 1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- 2) Use of HOME Funds: All projects will be reviewed for the proposed use of HOME funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding.

### ***D. Market Demand***

Applicants must provide an analysis and discussion of market demand justifying the need for the proposed project.

### ***E. Applicant Capacity***

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- 1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.
- 2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.
- 3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.
- 4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.

- 5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- 6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

### ***F. Term of Affordability***

All projects must have a minimum affordability period of 90 years, secured by a land use restriction covenant in the deed.

### ***G. Design Compatibility***

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

- 1) **MUST** comply with the City's Green Building Ordinance (Chapter 6, Article VII, Sec. 6-165) (<http://www.portlandmaine.gov/DocumentCenter/Home/View/1070>). **Please note** that the Green Building Ordinance may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual.
- 2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.
- 3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.
- 4) **MUST** meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.
- 5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

### ***H. Timeframe***

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes

must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

### **III. APPLICATION REQUIREMENTS**

Complete responses to this application, should include one (1) original printed version of the application with original signatures **plus** one (1) full electronic version, submitted via email, USB drive or CD. Printed version must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically and in paper form to:

City of Portland: Housing and Community Development Division  
Attention: Mary Davis  
389 Congress Street, Room 312  
Portland, ME 04101  
[mpd@portlandmaine.gov](mailto:mpd@portlandmaine.gov)  
207-874-8711

Applicants who require a conditional commitment of HOME funds as part of other financing applications, such as the Low Income Housing Tax Credit Program, must apply no later than April 30, 2018. The City of Portland will consider applications received after April 30, 2018 if funds are available. Applicants applying after April 30th should contact the City of Portland to confirm the availability of funds prior to submitting an application.

#### **A. Project Summary**

A brief description of the project, no longer than two pages, to include the number and type of units, tenants or owners to be served, special features, the impact on the neighborhood and other ways the application meets the selection criteria and preference guidelines.

Photographs and maps of the site and area are required.

***Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.***

#### **B. All Applications Must Provide The Following:**

- 1) Evidence of site control
- 2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.

- 3) Conceptual architectural and site plans
- 4) A project schedule showing critical path events and their timeframe for completion;
- 5) Map showing location of site
- 6) Corporation/partnership articles and by-laws
- 7) Organization's DUNS Number
- 8) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).
- 9) Most recent quarterly income and expense report (management prepared).
- 10) Documentation demonstrating certification or eligibility to obtain certification as a CHDO (if seeking the CHDO funds)
- 11) A brief development team summary, including:
  - The type of organization/ownership structure and organization chart if developer is not the same legal entity as the ultimate owner of the project
  - The names of Board of Directors, Corporate Officers, or Owners, as appropriate
  - Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
  - Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
  - A list of all projects currently in development with status and projected timeframe
- 12) A sources and uses funding statement
- 13) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee
- 14) Cost estimates for construction, signed by architect or GC
- 15) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment
- 16) Preliminary operating budget identifying rents and expenses for the first year
- 17) Projected prefunded project reserves and annual contributions to reserves
- 18) Debt service coverage ratio over the 15-year operating pro forma timeline

- 19) A 15-year operating pro forma for the project with inflators of 2% on income and 3% on expenses
- 20) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.
- 21) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.
- 22) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.
- 23) An analysis and discussion of market demand justifying the need for the proposed project.
- 24) **For Renovation of Operational Projects (or projects with operational components) the following items are also required:**
  - Relocation plan budget
  - Description of all current debt, operation subsidies, and services provided (as applicable)
  - Current rent roll
  - 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
  - Most recent Quarter internally prepared income and expense statement.

## IV. SELECTION PROCESS

Selection criteria will be used in reviewing and scoring the applications.

### *A. Point System for Evaluating and Scoring Applications (Max 100)*

#### **Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 30 points**

Maximum points will be awarded for those applications that demonstrate sufficient market demand, create housing options which promote economic diversity in the neighborhood in which the development is located, are consistent with the Comprehensive Plan, leverage funds efficiently, and include a policy prohibiting smoking.

#### **Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 25 points**

Maximum points will be awarded for those applications that include a complete set of financial documents to support the financing request, contain a realistic set of sources and uses development budgets and a pro forma operating budget, include sufficient reserves for operations and maintenance, including pre-funded reserves, and long-term financial sustainability of the project is highly likely.

**Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 25 points**

Maximum points will be awarded for those applications that demonstrate the readiness of the project to proceed, a development team with a successful track record in projects of similar size, scale, type and complexity to the proposed project and the capacity to fulfill their responsibilities.

**Impact on surrounding neighborhood, including design compatibility and environmental issues. 20 points**

Maximum points will be awarded for those applications where site selection is appropriate for use, no zoning amendments are required, the design is consistent with neighborhood design characteristics, amenities and unit design are well thought out and appropriate, where no environmental issues have been identified and meet the requirements of the City of Portland's Green Building Ordinance.

***B. Evaluation and Selection Process and Timeframe***

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

- 1) All applications will be reviewed for completeness. Only complete applications will be reviewed under the scoring factors in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.
- 2) Recommendations, along with all applications and scoring information, will be forwarded to the City Council's Housing Committee for review and approval. Their recommendations will be forwarded to the City Council for final review and approval.
- 3) Applicants will be kept informed throughout the review process, specifically in regard to recommendations and funding levels.
- 4) The evaluation and review process should be substantially complete within 30 days of receipt of complete application. Applicants will be notified of their application status as soon as possible.
- 5) Based on City Council approval, successful applicants will receive a letter of funds reservation. A letter of funds reservation is not a commitment letter but an agreement to set aside budgeted funds for up to six months, to allow the project sponsor to proceed with securing other commitments.

## **V. Instructions and Other Information**

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

**Confidentiality:** Applications received by the City of Portland shall become a matter of public record subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA Sections 13119-A and 13119-B.

**Compliance with Federal Law:** The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

All applications must meet the rules and regulations of the HOME Program as noted in 24 CFR Part 92, as amended, and the requirements of the Consolidated and Further Continuing Appropriations Act of 2012 and 2013. Any costs incurred by the City to meet HOME Program regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

## **VI. Equal Employment Opportunities**

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

## **VII. Reservation of Rights**

The City of Portland reserve the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to*

the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application.

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than \$400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

## **VIII. Appendices**

Exhibit #1. HUD definition of a Community Housing Development Organization (CHDO)

# IX. APPLICATION SIGNATURE PAGE

**\*THIS PAGE MUST BE INCLUDED\***

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting a application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

The proposer acknowledges the receipt of Addenda numbered \_\_\_\_\_  
If Applicable

COMPANY NAME: \_\_\_\_\_  
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FEDERAL TAX ID NUMBER: \_\_\_\_\_

DUNS NUMBER: \_\_\_\_\_

NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. This sheet must be signed and returned with the application package.

## **X. EXHIBIT #1 - DEFINITION OF A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (24 CFR §92.2 and §92.300-303)**

1. Is a private nonprofit organization under State or local laws;
2. Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
3. Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:
  - i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
  - ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for profit entity may not appoint the remaining two-thirds of the board members; and
  - iii. The community housing development organization must be free to contract for goods and services from vendors of its own choosing;
  - iv. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization;
4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of "community housing development organization";
5. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;
6. Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or bylaws;
8. Maintains accountability to low-income community residents by:
  - i. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
  - ii. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;
9. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience and will advise and train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and
10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.