

# Berkeley County

## HOME Program Application Manual with Underwriting Guidelines



**GRANTS ADMINISTRATION**

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## Introduction

Berkeley County Grants Administration Department administers federal funds received from the US Department of Housing and Urban Development (HUD). The County receives funding under the HOME Investment Partnerships Program (HOME). The County uses the funds to preserve neighborhoods, create and preserve Affordable Housing, and stimulate economic revitalization. As HOME funding is received from HUD, the County will announce the opening of applications for a Revolving Loan Fund which will be made available on an ongoing basis until all funds are committed. Funds will be made available in the form of repayable loans. Applications for funding will be available online.

## Purpose

The purpose of the HOME Revolving Loan Fund Program Manual and Underwriting Guidelines is to identify the County's Affordable Housing policy objectives, describe the activities available to advance the objectives, and describe the manner in which the activities will be evaluated, underwritten, and selected for funding. The guidelines are intended to achieve compliance with federal, state and local regulations and set the standards for all Affordable Housing projects funded by Berkeley County.

## Policy Objectives

To receive federal funding under the above-mentioned programs, HUD requires that the County submit a five-year Consolidated Plan, which describes the County's priorities and objectives for each funding source. Additionally, the County must submit an Annual Action Plan for each year of the Consolidated Plan. The Annual Action Plan identifies the activities that will be funded during each fiscal year and the amount of funding allocated to each activity. The County's 2021-2025 Consolidated Plan establishes the policy objectives for the HOME Program. The plan is available for review on the County's website: [https://berkeleycountysc.gov/dept/finance/grants/grants\\_reports/](https://berkeleycountysc.gov/dept/finance/grants/grants_reports/)

## Disclaimers

Berkeley County reserves the right to fund projects at a lower amount than requested, and the right to deny Applications that are not consistent with the Consolidated Plan goals and policy direction. The County is under no obligation to consider or fund any proposed project that does not demonstrate compliance with national objectives and eligible activities or local program requirements and does not assist in meeting the County's Affordable Housing policy goals and/or objectives.

The County reserves the right to determine project eligibility and select the funding source to be used for any proposed project. Funding decisions will be based on a variety of factors, not just Application scores. Other factors considered are:

1. How the project aligns with the County's priorities.
2. Operational and management capacity of the Applicant.
3. Financial capacity of the Applicant.
4. Ability to meet loan payment obligations; and
5. Leveraging of additional public and private investments.

The *HOME Program Manual and Underwriting Guidelines* is not intended to address every circumstance that may be encountered in the development process, nor is it a verbatim restatement of all regulatory requirements. Omission of any federal or local regulatory requirements does not relieve the County or the Applicant from their respective obligations that may be required by the funding source.

Once a Written Agreement has been executed between the County and Applicant for the purpose of developing Affordable Housing according to these guidelines, in case of any conflict between the program guidelines and the Written Agreement, the terms of the Written Agreement shall prevail.

HOME program guideline changes as a result of federal, state or local regulatory or legal requirements may be implemented immediately by the Grants Administrator. Revision of the program guidelines usually occurs annually; however, additional revisions can be initiated by the Grants Administrator at any time. While stakeholder outreach is the goal of Berkeley County, such revisions may occur without notice and are applicable to all pending and future Applications. Applicants are responsible for complying with any changes.

## Definitions

The following terms are defined for the purpose of this document:

**Accessible:** As defined by Section 504 of the Rehabilitation Act of 1973, accessible dwelling units or facilities are located on an accessible route and can be approached, entered and used by individuals with physical disabilities. For a housing unit to be classified as accessible, the improvements must meet the Uniform Federal Accessibility Standards (UFAS).

**Acquisition of vacant land:** HOME funds may be used for Acquisition of vacant land only if construction will begin on a HOME project within 12 months of the date of purchase. Construction financing must be secured at the time of Application. A current appraisal is required. Land banking is prohibited.

**Adaptable Units:** Certain elements of a dwelling unit or facility can be added to, raised, lowered or altered to accommodate the needs of individuals with disabilities, or to accommodate the needs of persons with different types or degrees of disability.

**Adjusted Income:** Gross household Income limit that has been modified according to the number of persons residing within a dwelling unit.

**Affordable Housing:** In general, housing for which the household is paying no more than 30 percent of its Income for gross housing costs, including utilities.

**AMI:** Area Median Income as defined by HUD and updated annually. Please consult with the Community Development Department for updated Income tables.

**Annual Income:** The gross amount of Income of all adult household members that is anticipated to be received in the upcoming twelve (12) month period.

**Applicant:** Any eligible entity proposing to acquire and rehabilitate, convert, or construct Affordable Housing utilizing HOME program funds. Eligible Applicants include:

- Non-profit Affordable Housing Developers
- For-profit Affordable Housing Developers
- Certified CHDOs
- Public Housing Authorities (though public housing is not eligible)
- Joint Ventures

**Application:** The completed forms, exhibits, attachments, and any additional documentation requested in the HOME Application package. The HOME Application is a two-step application process. The initial application is submitted with preliminary plans and loan commitments. The second application is submitted with final plans and executed financial commitments for underwriting.

**Audit:** Complete and current financial statements that have been Audited by a Certified Public Accountant (CPA) licensed by the State of South Carolina. A current Audit is considered to be one that is no more than twelve (12) months from the date the Audit was performed. Non-Federal entities that expend \$750,000 or more of Federal Funds in a year are required to have a Single Audit conducted to include the Audit specifications and requirements described in 2 CFR Part 200, Subpart F.

**Community Housing Development Organization (CHDO):** A type of Non-profit, community-based service organization that has, as part of its mission, the development of Affordable Housing for low- and moderate-income households. HUD requires the organization to meet certain requirements to be classified as a CHDO.

**CHDO Roles:** CHDO set-aside funds may be used by CHDOs for those HOME activities where the CHDO acts as the Developer, sponsor and/or owner of the housing.

**Owner:** The CHDO is an owner when it holds valid legal title to or has a long-term (99-year minimum) leasehold interest in a rental property. The CHDO may be an owner with one or more individuals, corporations, partnerships or other legal entities.

**Developer:** A CHDO is a Developer when it either owns a property and develops a project or has a contractual obligation to a property owner to develop a project. At Project Completion, the CHDO may maintain ownership and manage the project over the long-term, or it may transfer the project to another entity for long-term ownership and management.

**Sponsor:** A CHDO is a sponsor for HOME-assisted rental development project when the CHDO develops a project that it solely or partially owns and agrees to convey ownership to a second Non-profit organization at a predetermined time. The conveyance may take place prior to, during or upon completion of the development phase. The second Non-profit must be identified at the time of Application for HOME funding.

A CHDO is a sponsor for HOME-assisted homeownership units when the CHDO owns a property, then shifts responsibility for the project to another Non-profit at some specified time in the development process. The second Non-profit in turn transfers title, along with the HOME loan/grant obligations and resale requirements, to a HOME-qualified homebuyer within a specified timeframe.

**CHDO Low-Income Input Process:** Input from the Low-Income community is not met solely by having Low-Income representation on the board. The CHDO must also provide a formal process for low-income program beneficiaries to advise the CHDO on design, location of sites, development and management of Affordable Housing. The process must be described in writing and must be included in the organization's by-laws or a board resolution.

**County:** Berkeley County, SC

**Debt Coverage Ratio (DCR):** The ratio of Net Operating Income (NOI) to total Debt Service (DS) during a given time period ( $DCR = NOI \div DS$ ).

**Debt Service:** Required minimum monthly loan payment of principal and interest.

**Davis-Bacon and Related Acts:** Ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits equal to those that prevail in the locality where the work is performed. This act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs. Davis-Bacon Act labor standards provisions apply to any contract for the construction of 12 or more HOME-assisted units. (Section 286, National Affordable Housing Act of 1990, as amended.) For additional details regarding the Davis Bacon Act and how it applies to HOME funds, please visit the following link on the HUD Exchange website: <https://www.hudexchange.info/programs/home/>

**Development Costs:** The total costs incurred in the development of a project that are considered reasonable and necessary.

**Developer:** Any individual, association, corporation, joint venture, or partnership, which possesses the capacity to successfully produce affordable multifamily and/or single-family housing.

**Elderly Person:** A person sixty-two (62) years of age or older.

**Eligible Costs:** Project costs that can be paid with HOME funds. Costs include, but are not limited to, costs or partial costs of Acquisition, verifiable hard construction costs, reasonable soft costs, architectural and engineering fees, surveys, market studies, legal fees and materials testing.

**HOME-Assisted Unit:** The specific unit(s) in a project that is funded with HOME funds.

**Homeless:** As defined in The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) (24 CFR 578.3). An individual who lacks a fixed, regular, and adequate nighttime residence; as well as an individual who has a primary nighttime residence that is a supervised publicly or privately operated shelter designated to provide temporary living

accommodations, an institution that provides a temporary residence for individuals intended to be institutionalized, or a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

**Chronically Homeless:** A homeless individual with a disability as defined in section 401(9) of the McKinney-Vento Assistance Act (42 U.S.C. 11360(9)), who lives in a place not meant for human habitation, a safe haven, or in an emergency shelter, and has been homeless and living as described for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described; or

An individual who has been residing in an institutional care facility for less, including jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria of this definition before entering that facility: or

A family with an adult head of household (or, if there is no adult in the family, a minor head of household) who meets all of the criteria of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

**Household:** All persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements (24 CFR 570.3).

**HUD:** U.S. Department of Housing and Urban Development

**Identity of Interest Transactions:** Identity of interest refers to situations where the owner, Developer or project sponsor control or own the services to be provided in a project, including, but not limited to the general contractor, subcontractor, property manager or other service provider. A declaration of subcontractors or suppliers for which there is an identity of interest through joint ownership with the owner or Developer must be declared in the Application for funding. Failure to declare an identity of interest situation may deem a project ineligible.

**Income:** All reference to "Income" shall mean the Annual Income as defined in 24 CFR 5.609, referred to as "Part 5 Annual Income". Income cohorts are defined below. Income limits are updated annually by HUD and can be found at [HOME Income Limits - HUD Exchange](#)

**Extremely Low Income:** Households whose Income is less than 30% of the median Income for the Charleston-North Charleston Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

**Low Income:** Households whose Incomes are between 31% and 50% of the median Income for

the Charleston-North Charleston Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

**Moderate Income:** Households whose Incomes are between 51% and 80% of the median Income for the Charleston-North Charleston Metropolitan Statistical Area (MSA), as determined by HUD, with adjustments for smaller or larger families.

**In-fill Development:** Development or redevelopment of land that is/has been vacant, bypassed, and underutilized but is located within areas that already have infrastructure, utilities, and public facilities. The use of infill development, among others, promotes the best use of resources and also will tend to have a positive impact upon the tax and other fiscal policies.

**Letter of Commitment:** An original executed letter, contract, or agreement from each funding source verifying that the Applicant has a commitment of funds for the project. The commitment letter must include: (a) the amount of funds being provided; (b) any conditions for receiving the funds; (c) expiration of the funds or a timeframe in which the funds must be spent; (d) whether the funds are being provided as a loan or grant; and (e) the term and interest rate, if applicable, for the funds. Lines of credit and letters of credit are temporary funding and are not considered permanent commitments. All commitments must be submitted at time of Application.

**Liquid Cash Resources:** The County defines Liquid Cash Resources as cash, cash equivalents, an unrestricted line of credit and investments held in the name of the entities and/or persons, including cash in bank accounts, money market funds, U.S. Treasury bills, and equities traded on the New York Stock Exchange or NASDAQ. Certain cash and investments will not be considered Liquid Cash Resources, including, but not limited to 1) stock held in the Applicant's own company or any closely held entity, 2) investments in retirement accounts, 3) cash or investments pledged as collateral for any liability, and 4) cash in property accounts including reserves.

**Marketing Plan:** A document that provides information on how the Applicant will attract eligible persons from all racial, ethnic, age, and gender groups to the available housing being provided in the particular market area.

**Market Study:** An independent third-party report prepared to review the market conditions in a specified area. It includes a study of the economic forces of supply and demand and their impact on real estate returns, risks, and values.

**Net Operating Income (NOI):** Income stream generated by the operation of the property, independent of external factors such as financing, depreciation, amortization, and income taxes. A property's yearly gross income fewer operating expenses. Gross Income includes both rental Income and other Income such as parking fees, laundry, and vending receipts, etc. Operating expenses are costs incurred during the operation and maintenance of a property. They include repairs and

maintenance, as well as insurance, management fees, utilities, supplies, property taxes, etc. The following are not operating expenses: principal and interest, capital expenditures, depreciation, Income taxes, and amortization of loan points.

**Non-profit Organization:** A not-for-profit, non-sectarian organization, which is designated by the Internal Revenue Service (IRS) under Section 501(c)(3), as a tax-exempt organization.

**Permanent Housing:** Housing in which the program participant must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long and is terminable only for cause.

**Permanent Supportive Housing:** Permanent Housing in which Supportive Services are provided to assist Special Needs Populations to live independently.

**Person with a Disability:** A person with a physical or mental impairment that substantially limits one or more major life activities; or a record of such impairment; or is regarded as having such impairment.

**Program Income:** Gross Income received by the subrecipient directly generated from the use of HOME funds with some exceptions. (24 CFR 570.500 and 24 CFR 92.2)

**Project Completion:** Occurs when all necessary title transfer requirements have been finalized; HOME loan closing documents have been recorded and returned to the County; one hundred percent (100%) of the construction has been completed; a certificate of occupancy (CO) or a certificate of completion has been issued; the final draw down of HOME funds has been disbursed for the project; the Project Completion reports have been submitted to, and approved by, the County; and the project activity has been closed-out in HUD's Integrated Disbursement and Information System (IDIS).

**Rehabilitation:** Essential repairs or improvements to existing structures intended to meet one or more of the following: Uniform Physical Conditions Standards, HUD's Lead-Safe Housing Rule, Section 504 of the Rehabilitation Act, Titles II & III of the Americans with Disabilities Act, the Fair Housing Act, and local codes, ordinances, and zoning requirements.

**Scattered Site Development:** Noncontiguous parcels within the County will be considered one project and cannot be separated into multiple HOME projects regardless of target population. The following requirements must also be met:

- a) All buildings must be under the ownership of one entity.
- b) All buildings must be developed under one plan of financing and considered a single development by all funding sources.
- c) All units must be managed by one management entity.

- d) All sites must be within a 5-mile radius. (i.e., 2 furthest properties cannot be more than 5 miles apart); and
- e) Positive site characteristics will be measured from the parcel with the longest distance; Detrimental site characteristics will be measured from the parcel with the closest distance.

**Section 3:** Section 3 of the Housing and Urban Development Act of 1968 requires that, to the greatest extent feasible, opportunities for training and employment arising from HOME will be provided to low-income persons residing in the program service area. Also, to the greatest extent feasible, contracts for work (all types) to be performed in connection with HOME will be awarded to business concerns that are located in or owned by persons residing in the program service area. For more information on the Section 3 requirements for HOME funded activities, please use the following link to the HUD Exchange website:

<https://www.hudexchange.info/programs/home/section-3/>

**Single Family Housing:** A one to four-family residence, condominium unit, cooperative unit, or manufactured housing. (24 CFR 92.2 & Building HOME 4-1)

**Special Needs Housing:** Supportive housing that is designed to meet the housing and service needs of a target special needs population and provides supportive services for residents.

**Special Needs Populations:** Homeless persons, victims of domestic violence, persons recovering from substance abuse, seniors, veterans, and persons with disabilities.

**Supportive Services:** Services provided to individuals with special needs which enable individuals to achieve a greater level of independence and/or self-sufficiency such as health services, housing counseling, employment counseling and referral and other services as defined at 24 CFR Section 882.802.

**Uniform Physical Condition Standards (UPCS):** The inspection protocol that is used to evaluate the condition of housing.

**Uniform Relocation Assistance and Real Property Acquisition Act 1970 (URA):** The Act provides important protections and assistance for people affected by the Acquisition, Rehabilitation, or demolition of real property for federal or federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

**Displaced Person:** The term "Displaced Person" includes any person (family, individual, business, non-profit organization, or farm), that moves from the real property, or moves his or

her personal property from the real property, permanently, as a direct result of acquisition, rehabilitation or demolition for a federal or federally assisted project.

## Eligibility

### Eligible Activities

Funding will be available for the following project types:

- Acquisition with rehabilitation of existing units for homeownership opportunities
- Rehabilitation of existing units for homeownership opportunities
- New construction of housing for homeownership opportunities

### Eligible Applicants

The following organizations will be eligible for funding:

- Non-profit Affordable Housing Developers
- For-profit Affordable Housing Developers
- Certified CHDOs
- Joint Ventures formed by any of the above eligible Applicant types.

### Eligible Uses of Funds

Funds may be provided for the following uses:

- Construction Financing
- Developer Subsidy

### Ineligible Activities & Uses of Funds

- Acquisition of vacant land (unless additional financing is committed for the construction of affordable housing)
- Demolition (unless new construction is also part of the project)
- Public housing
- Predevelopment Loans
- Payment of delinquent taxes or liens
- Rental Development
- Transitional Housing

## **Eligible Properties**

- Property must be located within Berkeley County.
- Property may be vacant land or a combination of multiple vacant parcels. All vacant land must be purchased with a specific plan for development. Development must begin within 12 months of land Acquisition.
- Property may be a single building or multiple buildings - on a single site or on scattered sites.
- Property may be privately or publicly owned (with the exception of public housing).

## **Ineligible Properties**

- Public Housing
- Projects assisted under Title VI of NAHA (prepayment of mortgages issued by HUD)
- Commercial Properties (except when converted to residential)
- Homeless Shelters
- Transitional Housing
- Mobile Homes
- Properties previously assisted with HOME funds that are still under the HOME affordability period.
- Student Housing

## **Eligible Costs**

- Hard Costs: including acquisition costs and construction costs.
- Soft Costs: architectural and engineering fees, financing costs, credit reports, title insurance, recording costs, transaction taxes, appraisals, environmental reviews and builder or Developer fees. Project-related soft costs may be awarded on a limited basis and will be at the recommendation of staff and based on need determined during the underwriting review.
- Predevelopment Costs: It is outside current policy to deliver award proceeds prior to Acquisition or completion of construction/rehabilitation of the subject property. However, costs incurred prior to settlement of the award may be reimbursed under specific circumstances. If HOME funds are used to pay off a construction loan, bridge financing or guaranteed loan, the payment of principal and interest for such loan is an eligible cost only if:
  - The loan was used for Eligible Costs specified in this section AND
  - The HOME assistance is part of the original financing for the project and the project meets the requirements of the program.

## **Ineligible Costs**

Project components may be deemed non-essential elements by the County and therefore removed

from the total project cost. Such items may include, but are not limited to carpeting for kitchens, bathrooms, or patios; window treatments; dumbwaiters; greenhouses, hot tubs, or whirlpool baths; outdoor fireplaces or hearths; swimming pools or swimming pool decks (except repair of existing); television antennae; tennis courts; or items deemed to be a luxury.

## General Project Requirements

The following are general project requirements for all Applicants seeking funding from County HOME funds for housing related projects.

### Threshold Requirements

- Site(s) must be located within Berkeley County.
- Project must consist of one (1) or more residential units.
- Site(s) must have adequate access to utilities.
- Acquisition and Rehabilitation or Rehabilitation projects must:
  - Meet the UPCS
  - Have amenities that will allow it to compete effectively in the local market area as determined by Berkeley County
  - Complete a third-party Capital Needs Assessment (CNA) for projects with twelve (12) or more units.
- Project must meet HUD environmental review requirements.

### Site Control

Project Applicants must have control of any site that will receive HOME funding for acquisition, rehabilitation and new construction activities. Site control must be documented at the time of Application. To document site control one of the following must be submitted: a deed or other proof of ownership; an executed lease agreement; an executed contract of sale; or an executed option to purchase or lease. Regulations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act apply and must be followed, or applications will not be considered for funding.

### Appraisal

A property appraisal will be required for projects that will receive HOME funding for acquisition or where the value of donated land is being considered as part of the project costs. Additionally, all projects proposing homeownership must include an as-built appraisal for each of the proposed homeownership units. The appraisal(s) must be provided at the time of Application submittal. An appraisal cannot be more than six (6) months old. The appraiser must have a current South Carolina Appraisers License. Berkeley County reserves the right to require an appraisal on completed activities.

### **Reasonable Costs**

The County is responsible for ensuring that the costs are reasonable by examining the sources and uses for each project. Assessment may include comparison to similar projects within the local market, market trend analysis, survey of industry participants, Berkeley County experience and other third-party sources.

### **Work Write-Ups**

For acquisition of existing buildings (not slated for demolition) and rehabilitation, Berkeley County must approve work write-ups (i.e., plans and specifications) to determine compliance with HUD's Uniform Physical Conditions Standards and the Berkeley County Property Rehabilitation Standards. The project cannot be bid, and work cannot begin until approval from Berkeley County is received.

### **Cost Estimate**

For Acquisition of existing buildings (not slated for demolition) and Rehabilitation, Berkeley County must approve written cost estimates to ensure that the costs are reasonable. The project cannot be bid, and work cannot begin until approval from the County is received.

### **Procurement**

Applicants must comply with all applicable federal, state and County procurement requirements when applicable. Executed copies of all contracts shall be forwarded to Berkeley County. Developers are **not** required to follow the procurement requirements of 2 CFR Part 200.

### **Debarment and Suspension**

Developers, contractors or subcontractors working on a HOME funded project cannot be located on any federal, state or local debarment or suspended list. Prior to awarding a contract, the Developer must provide proof from the federal System for Award Management (SAM) website or secure approval from Berkeley County to ensure that the proposed contractor is eligible.

### **Davis Bacon Weekly Payrolls**

If applicable, Davis Bacon payrolls must be submitted weekly on the most current Department of Labor form.

### **Marketing Plan**

In projects containing five or more HOME-assisted housing units, developers must create an Affirmative Marketing Plan to further the County's commitment to non-discrimination and equal opportunity housing. Affirmative marketing consists of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race,

color, national origin, gender, religion, familial status, disability, sexual orientation, gender identity, or marital status. Records should be maintained describing actions taken by the Developer to affirmatively market units.

### **Waiver Requests**

Berkeley County acknowledges that each project may face unique site, design, financing, population, or market constraints for which full compliance may be difficult or impossible. It is intended that such unique constraints are identified during the design process and that the Applicant may request a modification or waiver to specific standards and requirements, which will be reviewed on a case-by-case basis to determine whether specific standards should be modified or waived for reasons and purposes acceptable to the County. Requests for modification or waiver to specific standards must be in writing and document the Applicant's need and unique situation. When such modifications or waivers are granted, additional requirements may be imposed by Berkeley County.

## Underwriting Guidelines

HOME funds can be combined with other subsidy sources. However, the HOME Final Rule requires that all other sources of financing for a project be committed to the project prior to committing HOME funds. Therefore, Berkeley County cannot accept any proposed, or anticipated to be applied for, funding sources as part of the project's financial structure.

HUD establishes limits on the amount of HOME funds that may be invested in affordable housing on a per-unit basis. Before committing funds to a project that combines any other sources of financing (local, state, federal, private, etc.), Berkeley County must evaluate the project to ensure that the County does not invest any more funds than necessary to provide Affordable Housing. This evaluation will include:

- An examination of the sources and uses of funds for the project and a determination that the costs are reasonable; and
- An assessment, at minimum, of the current market demand in the neighborhood in which the project will be located, the experience of the developer, the financial capacity of the developer, and firm written financial commitments for the project.

### Loan-to-Value Limits

For new construction and rehabilitation requests, the loan amount awarded by the County, plus the principal amount of all loans with a senior claim to the subject property shall not exceed 100% of the "as-built" value.

### Subsidy Layering

HUD establishes limits on the amount of HOME funds that may be invested in Affordable Housing on a per-unit basis. Before committing funds to a project that combines any other sources of financing (local, state, federal, private, etc.), Berkeley County must evaluate the project to ensure that the County does not invest any more funds than necessary to provide Affordable Housing. Applicants must demonstrate that they have structured projects to maximize other available financing sources thereby limiting HOME funding to the lowest amount necessary to assure project feasibility.

Additional funding will not be loaned to a project once the project has been completed, as previously defined.

The maximum HOME funding to be awarded to a single project will be based on the amount of funding available not to exceed HOME maximum per-unit subsidy limits. The maximum amount of funding that can be applied to a HOME assisted unit is based upon the Section 234 - Condominium Housing basic mortgage limits, for elevator-type projects, as published each year by HUD. The limits can be

found at <https://www.hudexchange.info/resource/2315/home-per-unit-subsidy/>

### **Inter-Creditor Agreement**

Within thirty (30) days of the execution of an Agreement, the Developer shall secure the execution, by the senior lender on the project, of an Inter-Creditor Agreement or Declaration which at a minimum shall: (1) require the senior lender to notify Berkeley County in the event the senior lender learns of a default under the senior loan for the project and (2) require the senior lender to give Berkeley County written notice of and reasonable opportunity to cure any default by the Developer under the senior loan (provided, however, Berkeley County shall have no obligation to cure any such default). Following execution, the Inter-Creditor Agreement shall be attached to the Revolving Loan Fund Contract.

### **Funding Conditions - Acquisition Phase**

Loans for site Acquisition will not be funded unless all pre-conditions of the construction phase funding have also been achieved. Acquisition loans must be recorded in first lien position unless otherwise approved by Berkeley County.

### **Funding Conditions - Construction Phase**

Prior to or concurrently with construction phase funding, the borrower must provide evidence that all other necessary construction-funding sources have been committed and that binding commitments are in place for all sources of permanent financing.

### **Loan Repayment**

HOME funds are secured through an Applicant's execution of a Promissory Note and the recordation of a Mortgage and Security Agreement. Repayment will not be required during the acquisition, construction phase. Loan repayment will be due upon sale of the home.

### **Assignment**

Loans or loan commitments are not assignable without the prior written approval of Berkeley County. If the assignment is approved, the assignee must assume all loan obligations including, but not limited to, the affordability requirements.

### **Material Changes**

Any material changes to the project during underwriting or construction must be reported in writing to Berkeley County. Failure to do so may constitute an event of default under the terms and conditions of the Revolving Loan Fund Contract.

## **Recourse**

Acquisition, construction, and permanent loans are provided on a non-recourse basis and are secured as noted above.

## **Loan Position: Subordination to Senior Debt**

The County's loan may be subordinated to another lender's mortgage lien if subordination is required as a condition of that lender's loan approval. Terms, conditions and covenants of *all* debt instruments recorded against the subject property must be reviewed and approved by Berkeley County prior to disbursement of an award.

## **Developer Fee**

A Developer fee is compensation to the Developer for the time and risk involved to develop the project. The fee is based on the size of the project, the total development cost and the risk associated with the project. Developer fees include all amounts received by the Applicant whether characterized as project management, overhead or Developer fee. Consultants are commonly utilized to assist the Developer/owner by providing specific expertise in completing the project. The maximum aggregate allowable Developer and consultant fees are calculated as a percentage of total project costs, less land, project reserves, other cost category adjustments, and the Developer/Consultant fee category.

Developer fees will be limited to 15% of total development cost, not including the developer fee.

Developer fees that are not deferred may be distributed as follows, subject to the approval of other project lenders, tax credit equity investor, etc.:

- 25% upon 50% construction/Rehabilitation completion benchmark
- 25% upon construction/Rehabilitation completion (50% aggregate)
- 50% upon stable occupancy (90% occupied) and receipt of all tenant certifications for restricted units. (100% aggregate)

## **Developer Subsidy**

For homeownership activities where total development costs exceed sales price, a developer subsidy may be provided to ensure the feasibility of the project and the development of quality affordable homeownership opportunities. A developer subsidy may be provided, in the form of a grant, to the developer to offset development costs so that the developer can reasonably offer the home at appraised value without incurring losses on the project.

## Market Analysis

A market analysis is an evaluation of the economic conditions of supply, demand, and sale prices for proposed low-income housing development. The analysis must determine the feasibility of the proposed project and assess its impact on housing needs. The County must determine whether the project can be expected to be sold to within the regulatory time frames and at the price estimated by the developer. All data presented should reflect the most current information available and the report must provide source data. All steps leading to the calculated figures must be presented in the report. The County will commission a market demand needs analysis which will satisfy this requirement. A copy of the analysis will be made available to the applicant.

## Developer Capacity

The Developer must have the organizational capacity to implement the project. Developer capacity will be evaluated on information demonstrating experience and skills as provided in the funding Application.

### Threshold Criteria

- Applicants and Applicant’s team members must have met all contract terms related to previous grants, loans or loan commitments.
- Applicants must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to Berkeley County or to any other public agency or private lender.
- Applicant cannot be on any local, state or federal debarment list.
- An Applicant, Developer or contractor who is the subject of an open HUD finding must submit an explanation of the circumstances related to the finding and a timeline for resolution.
- The Applicant cannot be:
  - in breach of any prior donation agreement or County code provisions by which the County donated property to the Applicant for the development of affordable housing.
  - in breach of any of the conditions or requirements of a county grant award or program.
  - delinquent for Berkeley County property taxes on any real properties owned by the Applicant.
  - be delinquent on payment of liens, including code enforcement, nuisance liens, demolition liens, or other county liens or fines, on real property owned by the Applicant and incurred after the Applicant took ownership of the real property.
  - in litigation against the County other than as an agent, attorney, guardian, or personal representative of an estate.

### Experience

Considerations include, but may not be limited to, the following skills of the Developer and development team.

- Recent, similar, successful experience
- Similar project location, size and scope
- Years of experience developing Affordable Housing
- Managing affordable rental projects
- Using multiple funding sources
- Staffing

## **Development Skills**

Considerations include, but may not be limited to, the following skills of a Developer and the development team:

- Project management
- Market analysis
- Site selection and control
- Property management
- Planning and construction
- Design, architecture, engineering
- Legal and accounting
- Federal funding rules
- Other funding source rules

## **Fiscal Soundness**

The Applicant will be asked to provide evidence of financial ability to implement the project. Applicants will be required to provide proof of commitments from other funding sources, current financial statements and proof of sufficient reserves or a line of credit available, if necessary, to complete the project. Berkeley County will assess the financial capacity of the Applicant or Applicant group based on their financial statements. Submitted financial statements must meet the following.

- a. Financial statements must have been compiled, reviewed, or audited by an independent CPA licensed by the State of South Carolina.
- b. Financial statements must include a balance sheet dated within 90 days of the date of application.
- c. An Applicant or Applicant group must have a minimum of unrestricted liquid cash resources of 20% of the sum of all HOME funds requested in HOME application.
- d. The County defines liquid cash resources as cash, cash equivalents, an unrestricted line of credit and investments held in the name of the entities and/or persons, including cash in bank accounts, money market funds, U.S. Treasury bills, and equities traded on the New York Stock Exchange or NASDAQ. Certain cash and investments will not be considered liquid cash resources, including, but not limited to 1) stock held in the Applicant's own company or any closely held entity, 2) investments in retirement accounts, 3) cash or investments pledged as collateral for any liability, and 4) cash in property accounts including reserves. All liquid cash resources must be identified in the submitted financial statement.
- e. If no individual member of an Applicant group meets the minimum financial requirements, then members may combine assets to meet the requirements by including a combined schedule in addition to their individual statements.
- f. The County reserves the right to verify information in the financial statements and all

financial capacity statements made by Applicants, lenders, accountants, and others. If false statements are found to have been made at any point in time, all entities and/or persons associated with the Application will be debarred from all County programs for three (3) years.

## Site Selection and Neighborhood Compatibility

The determination of the site location is a very important part of the project preparation process and should not be overlooked. A well-chosen site location can significantly increase the success of the project. Issues to consider include orientation, access to water and sewer, gas and/or electric utilities, storm-water management, access to public transportation, proximity to employment and proximity to community amenities.

### Proximity to Negative Site Features

Sites with the below mentioned negative characteristics may be ineligible if sufficient mitigation and/or abatement efforts are not included in the project design or such mitigation/abatement efforts are deemed not feasible. The distances are to be measured from all boundaries of the development site. Applicants must indicate on a map, the location of any negative site features. Negative site features include developments located:

- Adjacent to or within 300 feet of junkyards
- Adjacent to or within 3,000 feet of active railroad tracks
- Adjacent to or within 1,000 feet of an interstate highway including frontage and service roads.
- Adjacent to or within 300 feet of heavy industrial uses such as manufacturing plants.
- Adjacent to or within 300 feet of a solid waste or sanitary landfill
- Adjacent to or within 100 feet of high voltage transmission powerlines

Applicants with sites adjacent to one or more negative features are strongly encouraged to contact Berkeley County early in the planning process for assistance with the potential environmental impacts of locating a site within these distances.

## Development Requirements

### Minimum Units

The minimum number of HOME units for any proposed project is one (1) unit.

### Building Codes & Zoning Compliance

All projects must conform, at minimum, to prevailing building codes and standards as well as all zoning requirements of Berkeley County. Proper zoning must be in place at the time of Application.

### Capital Needs Assessment

For the Acquisition of existing multi-family structures with twelve (12) or more units, not slated for demolition, and rehabilitation projects with twelve (12) or more units, a Capital Needs Assessment (CNA) per the Uniform Physical Condition Standards (UPCS) must be completed. The CNA must identify the useful life of major systems to include structural support, roofing, cladding, weatherproofing (windows, doors, siding, gutters), plumbing, electrical, heating, ventilation, and air conditioning. If the remaining useful life is less than the compliance period, a replacement reserve as well as a replacement schedule is required to ensure the items can be adequately maintained and addressed throughout the compliance period. The CNA must be conducted by a qualified third party that is independent of the Developer.

### Sustainability and Energy Efficiency

Designing and locating Affordable Housing with sustainable design and green building in mind will ensure efficient land use, reduce energy costs, and add to the appeal of the property. It is important to the County that housing positively contributes to the environmental health of our residents and neighborhoods by decreasing energy and water usage, reducing operating and maintenance costs and improving the efficiency and longevity of the building system. Construction projects of new and existing buildings must be designed and constructed to be energy and water efficient, reducing tenant costs while improving the structure's sustainability.

- Appliances, mechanical systems, windows, doors, insulation must meet Energy Star standards.
- Toilets, faucets, shower heads must meet the Water Sense low volume standards.

### Development in the Floodplain

Affordable Housing development will not be allowed within any local or federally designated 100-year floodplain. Development within the 500-year floodplain may be permitted. Applicants with a site located in the 500-year floodplain are strongly encouraged to contact Berkeley County early in the planning process for assistance with the potential environmental impacts of the site location and

required procedures for approval.

## Federal Requirements

Applicants must comply with all state and federal regulations related to the construction, rehabilitation, or provision of housing. These regulations include, but are not limited to:

- Home Investment Partnerships Program – HOME
- Title III of the Americans with Disabilities Act (ADA) of 1990
- Section 504 of the Rehabilitation Act of 1973
- Architectural Barriers Act of 1968 – ABA.
- Fair Housing Act
- Davis-Bacon and Related Acts
- Copeland Anti-Kickback Act of 1934
- Conflict of Interest Requirements
- Identity of Interest Transactions
- The National Environmental Policy Act (NEPA) \*
- The Lead-Based Paint Poisoning Prevention Act and Lead Safe Housing Rule
- Uniform Administrative Requirements (UAR) 2 CFR 200
- Section 3 - Economic Opportunities for Low and Very Low-Income Persons
- Build America Buy America Act (BABA)
- Uniform Relocation Assistance and Real Property Acquisition Policies Act – URA\*\*

\*Compliance with the National Environmental Policy Act requires the limitation of certain activities from the time of initial contact with Berkeley County to the completion of the environmental review process. Specifically, no activity shall be undertaken prior to completion of the environmental review that would have an adverse environmental impact or limit the choice of reasonable alternatives. Choice limiting activities include real property acquisition, repair, rehabilitation, construction, demolition, and site clearance.

\*\*Compliance with the URA begins at the time of initial contact with Berkeley County. All projects involving Acquisition, Rehabilitation, or demolition are subject to the URA and Section 104(d). In order to avoid ineligibility for funding, Applicants are encouraged to schedule a pre-application conference with Berkeley County staff to discuss the project and the compliance requirements that may apply.

## Application Submission and Evaluation Process

The project underwriting procedure follows these steps:

- Application Submission (two-step process)
- Application Evaluation
- Meeting(s) with applicant and staff
- Environmental Review
- Additional documentation needed for underwriting requested.
- Contract negotiation and final underwriting
- Written Agreement/Commitment
- Disbursement
- Reporting

### **Application Submission and Requirements**

Applicants must submit the application via the Berkeley County website.  
<https://berkeleycountysc.gov/dept/finance/grants/home-program/>

Applications must be submitted according to the instructions. Applications that do not follow the submission requirements will not be considered.

**Attachments to be included in application:**

- Organization's Total Annual Budget
- IRS letter Articles of Incorporation
- SC Secretary of State Business/Incorporation information with up-to-date information as found at the following website including registered agent and address.  
<https://businessfilings.sc.gov/businessfiling>)
- Bylaws
- List of Board Members
- Organizational Chart
- Name & Resumes for the following:
  - Organization CEO
  - Fiscal officers
  - Any personnel who will be carrying out the proposed project
- Affirmative Action Plan
- Policies and Procedures relating to Personnel Management including Table of Contents, if available, and pages covering hiring, termination, discrimination, harassment, and grievance procedures for the organization. DO NOT include the entire Employee Handbook
- Policies and Procedures relating to Financial Management for the organization's most current audit.
- Form 990, if applicable

The lead Applicant's name and contact information must be visible on the front cover of the application package.

Please refer to the Application checklist to ensure that a proposal is complete and please follow the submission requirements. Note that any commitments entered into by the Applicant prior to an award of funds do not constitute a rationale for an award. Applicants are therefore advised to ensure any and all agreements dependent on an award of County funding contain adequate escape mechanisms to minimize adverse consequences in the event funding is not available or the proposal is not awarded funds.

### **Application Evaluation**

- 1. Initial review.** Berkeley County staff ensures that the application is complete and the basic mandatory evaluation criteria are met. The mandatory criteria are designed to meet local, state and federal compliance requirements and Berkeley County objectives. Incomplete applications will be returned to applicants identifying the deficiencies. The application will not be eligible for further consideration until a complete application is submitted.
- 2. Staff analysis.** Berkeley County staff reviews the initial applications that meet mandatory evaluation criteria and prepares a staff analysis. Staff will meet with the applicant to ask clarifying questions and gather additional details concerning the project. Staff may conduct a tour of the subject site or property, obtain additional information from outside sources and/or consult with other departments within the County.
- 3. Final Decision:** Applicants may then be considered for contract negotiations and final underwriting. **Applicants submit an updated application with final development plans and executed financial commitments for underwriting.** Applications are approved or denied by the application review team, a panel of Berkeley County staff knowledgeable in the development process. Final approval is subject to environmental clearance.

### **Relocation**

The federal requirements for relocation of households or businesses are extensive and extremely complex. Berkeley County discourages permanent relocation of households or businesses.

## Award Notification & Post Award Instructions

Berkeley County will notify the Applicant of a decision to enter into contract negotiations and final underwriting. Unless provided in writing by Berkeley County, no person or organization shall construe any discussions or written information provided by Berkeley County staff to constitute an acceptable application or an obligation or commitment for funding.

### **Environmental Review**

All projects must undergo environmental review. The National Environmental Policy Act requires the limitation of certain activities from the time of initial contact with Berkeley County to the completion of the environmental review process. Specifically, no activity shall be undertaken prior to completion of the environmental review that would have an adverse environmental impact or limit the choice of reasonable alternatives. Choice limiting activities include real property Acquisition, repair, Rehabilitation, construction, demolition, and siteclearance.

Environmental review can begin with the submission of the development plan. It generally will not begin sooner. The review can take 90-120 days to complete. Berkeley County reserves the right to require, at Applicant's expense, a Phase I Environmental Site Assessment for new developments on vacant land and projects involving five (5) or more units.

### **Written Agreement/Commitment**

Once Applicants have been notified of funding approval, Berkeley County will complete the environmental review and provide notice of any required mitigation measures as a condition of the funding commitment. Applicants will be provided a copy of the draft agreement documents for review and comment.

A County funding agreement includes the following documents:

- Contract
- Promissory Note
- Mortgage and Security Agreement
- Inter-creditor Agreement

Developers that are required to comply with the Davis Bacon prevailing wage regulations as a condition of the commitment, must schedule a pre-construction conference to ensure the development team and contractor understand the prevailing wage monitoring and include the appropriate provisions in the construction contracts.

## **Loan Closing**

In preparation for loan closing, Berkeley County staff will perform the following:

1. Verification of closing conditions: review the Revolving Loan Fund Contract, Promissory Note, Mortgage and Security Agreement to ensure that the borrower has complied with all pre-conditions of funding and provided necessary documentation.
2. Circulate for signatures: Berkeley County will provide all documents required for the commitment of funds to the project, collect signatures from the borrower, and forward the documents to the appropriate County Official for final signatures.
3. Funding: prior to execution of the Funding Agreement, the Applicant must provide Berkeley County with the following:
  - Certified copies of executed loan documents from all funding sources
  - Proof of current property tax payments
  - Proof of insurance meeting County insurance requirements
  - Title insurance meeting County standards

## **Disbursement**

Prior to the draw of any funds, County-required legal documents must be executed, and the Applicant must demonstrate that all funding conditions have been satisfied. HOME funds will be released draw schedule as will be outlined in the Revolving Loan Fund Contract. The timing and method of disbursements will be determined through project underwriting and outlined in the Contract.

## **Reporting**

HOME-assisted projects require long-term commitments by the owner/Developer. Reporting will be required during the contract period. These requirements will be outlined in detail in the Written agreement. Should the Applicant fail to produce the required reporting in a timely manner or as prescribed, Berkeley County may consider this a default of the contract and any associated loan documents.

## Homeowner Eligibility Requirements

### Income Limits

Homebuyers must have a household income at or below 80% of the Area Median Income (AMI), adjusted for family size, as defined annually by the U.S. Department of Housing and Urban Development (HUD), in accordance with 24 CFR 92.254(a)(3). These income limits are updated annually and must be verified before purchase.

The most current HUD Area Median Income Limits can be found here: <https://www.hudexchange.info/programs/home/home-income-limits/> . Please contact Berkeley County for questions concerning income calculations.

### Income Determination Method

An Applicant must determine Income eligibility of each household using 24 CFR Part 5, commonly referred to as the “Section 8” method or “Part 5” method. A Part 5 Income Worksheet, and HUD’s *Technical Guide to Determining Income for the HOME Program* may be found on the HUD Exchange website: <https://www.hudexchange.info>

### Purchase Assistance Limits

When HOME funds are provided to developers as construction financing, they are generally expected to be repaid. However, if an eligible homebuyer requires financial assistance to purchase the HOME unit, a portion of these funds may be retained in the property to serve as a direct subsidy to the homebuyer. The maximum amount is determined by the buyer’s Area Median Income (AMI) level:

- 0-30% AMI: up to \$50,000
- 31%-60% AMI: up to \$40,000
- 61%-80% AMI: up to \$30,000

This assistance is structured as a deferred, forgivable mortgage, subject to a proportional forgiveness schedule over the required affordability period.

The amount of assistance provided will be based on the buyer’s financial need. The total amount of assistance must not result in an undue enrichment of the buyer, meaning the assistance should close the affordability gap and not exceed what is needed for the buyer to qualify for the mortgage.

### Homebuyer Underwriting Standards

#### Down Payment Requirements

Buyers are typically expected to contribute a minimum down payment of 3% of the home’s purchase price. This contribution may be reduced if the buyer qualifies for additional assistance.

### Debt-to-Income Ratios (DTI)

- **Front-End Ratio (Housing Costs to Income):** The buyer's housing expenses, including mortgage principal, interest, taxes, and insurance (PITI), should generally not exceed 30% of their gross monthly income.
- **Back-End Ratio (Total Debt to Income):** The buyer's total monthly debt obligations, including housing costs, should not exceed 41% of their gross monthly income. Exceptions may be made for buyers with compensating factors, such as strong credit history or additional assets.

### Creditworthiness and Credit Scores

Buyers should generally have a minimum credit score of 620 to qualify for the program. Buyers with scores below this threshold may still qualify if they demonstrate the ability to repay the loan and meet other eligibility requirements, though they may be required to complete additional homebuyer education.

### Loan-to-Value Ratio (LTV)

The loan amount, including first mortgage and any down payment assistance, should generally not exceed 97% of the appraised value of the home. This ensures that the buyer has adequate equity in the property and that the loan amount is reasonable relative to the property's value.

### Homebuyer Education and Counseling

All homebuyers receiving down payment assistance must complete a HUD-approved homebuyer education program prior to closing. This education will cover financial management, mortgage responsibilities, and homeownership maintenance.

### Sales Price Limitations

The sales price of homes developed under this program must not exceed the HUD-published maximum sales price for HOME-assisted housing units. These limits are based on local housing market data and reflect HUD's affordability thresholds.

The homeownership value limits can be found here: <https://www.hudexchange.info/resource/2312/home-maximum-purchase-price-after-rehab-value/>

### Long Term Affordability Requirements

Low-income homeowner restrictions are required for all HOME-assisted units for a period known as the "affordability period." The affordability period is enforced using a legally binding deed restriction recorded with the Berkeley County Register of Deeds, that assures that a specified number of units meet certain affordability restrictions for the specified period of affordability. The affordability period will remain in effect per the agreement, term of the loan or compliance period, whichever is greater.

### **Affordability Requirements for HOME funded Homeownership Activities**

The County will utilize resale restrictions to enforce the affordability requirements for homeownership activities where direct financial assistance is not provided to the homebuyer.

The resale requirements will ensure that, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability that the housing will be made available for subsequent purchase only to a buyer whose family qualifies as a low-income family and will use the property as the family's principal residence.

The resale requirement will be enforced through a deed restriction that will be in force throughout the term of the affordability period. The deed restriction will be recorded in compliance with South Carolina recordation laws.

The County employs Recapture Provisions when direct subsidy is provided to a homebuyer. Berkeley County will use the recapture method to recover HOME funds from projects where a homebuyer subsidy was provided that fail to meet the minimum affordability requirements. This allows an income-restricted unit to be sold and the homeowner bearing the responsibility of repayment of the HOME funds that supported the homebuyer's original purchase. The proceeds from the repayment of the HOME subsidy will go to support an additional project.

## CHDO Certification Process

### CHDO Definitions and Overview

A Participating Jurisdiction (PJ) is any state, local government or County that has been designated by HUD to administer a HOME Program.

At a minimum, each PJ must commit 15% of its HOME allocation to certain eligible activities to be undertaken by CHDOs. The CHDO set-aside provides equity for community-based organizations to undertake projects, build their capacity to serve a broad range of Affordable Housing needs, and provide guaranteed resources for affordable housing development.

Please note that qualification is only one step in the overall funding process. PJs separately determine an agency's eligibility for the various benefits of being a CHDO. Just because an agency is qualified does not entitle it to any CHDO funding.

An agency must maintain and be able to certify its CHDO status for the entire life of a project. PJs will continue to require agencies to update CHDO documentation and certification when there are open CHDO projects, including rental projects within the required compliance period.

In addition, keep in mind that "success" as a CHDO Developer is not determined by whether it has qualified as a CHDO, but whether it has the capability to undertake and manage housing development projects. The CHDO Capacity Self-Assessment Tool in Part III of the CHDO Survivor Kit (<https://files.hudexchange.info/resources/documents/CHDOSurvivorKit.pdf>) combines the CHDO qualification standards (those items in the list where the "deficiency" column is grayed out) with some of the capacity measures used to determine a CHDO's success as a Developer. Qualification is just the first step toward becoming a CHDO.

The CHDO Certification process is governed by Housing and Urban Development regulations as stated in Title 24 of the Code of Federal Regulations part 92 Chapter 3; however, additional requirements for certification are at the discretion of the PJ.

## **CHDO Qualifying Criteria**

A CHDO must meet certain requirements pertaining to its:

- Legal status
- Organizational Purpose & Structure
- Organizational Capacity
- Staff Experience

### **Legal Status**

Organized under state/local law: CHDOs must be organized under state and local law.

### **Organizational Purpose & Structure**

Purpose of organization: Provision of decent housing that is affordable to low- and moderate-income persons must be among the purposes of the organization. This commitment must be evidenced in the CHDO's:

- charter.
- articles of incorporation.
- bylaws; or
- a resolution of the CHDO's board of directors.

No individual benefit: No part of the CHDO's earnings (profits) may benefit any members, founders, contributors or individuals.

Clearly defined service area: A CHDO must have a clearly defined geographic service area.

Nonprofit status: CHDOs must have received a tax-exempt ruling from the IRS under Section 501(c)(3) of the Internal Revenue Code of 1986 in order to be designated by the PJ as a CHDO.

A CHDO is intended to respond to the community's needs. The structure of the board of directors of a CHDO is viewed as the main indicator of community control over the CHDO.

CHDO Board of Directors: The CHDO board must be composed as follows:

- At least one-third must be representatives of the Low-Income community.
- No more than one-third may be representatives of the public sector (including any Employees of the PJ). This limitation is intended to ensure that separation exists between PJs and CHDOs, and that CHDOs are indeed community-based and community-controlled organizations.
- The balance of the board is unrestricted.

Low-Income input: Input from the low-income community is not met solely by having low-income

representation on the board. A CHDO must also provide a formal process for Low- Income beneficiaries to advise the CHDO on project needs. The process must be in writing and must be included in the organization's by-laws or adopted by board resolution.

### **Organizational Capacity**

A CHDO must demonstrate that it has, at a minimum, one year of experience serving the community where it intends to develop HOME-assisted housing. In addition, the PJ requires proof of the production (acquisition/rehab/resale or rental, acquisition/new construction of rental housing or single-family housing for homeownership) of at least two units of housing in the last five (5) years. Proof provided must be in the form of executed HUD's and/or Certificates of Completion/Occupancy.

Newly created organizations, one year or less than one year 501(c)(3) status, wishing to become CHDOs can meet this requirement if the parent (or sponsoring) organization is a non-profit and has provided services to the community for at least one year.

### **Staff Experience**

To qualify as a CHDO, a non-profit must have paid staff whose experience qualifies them to undertake CHDO set-aside activities. Capacity cannot be demonstrated by use of a consultant, except in the first year that a CHDO becomes certified. CHDOs must demonstrate the capacity of its key staff to carry out the HOME assisted activities it is planning. This means that CHDOs must have experienced key staff members who have successfully completed projects similar to those proposed by the CHDO.

## CHDO Eligibility Questionnaire

### **Applicant Information**

Organization: \_\_\_\_\_

Federal Tax I.D. Number: \_\_\_\_\_

Organization CEO or Executive Director: \_\_\_\_\_

Contact Person/Title: \_\_\_\_\_

Emails: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Website: \_\_\_\_\_

1. Is the organization chartered as a private, Non-profit corporation under state or any local laws?

Yes  No

2. Does the organization have among its purposes, as described in its articles of incorporation, charter, resolutions, or by-laws, activities related to the provision of decent safe and sanitary housing affordable to low- and moderate-income persons or households?

Yes  No

3. Does any part of the organization's net earnings (profits) personally benefit any member, founder, contributor, or individual?

Yes  No

4. Is the organization tax-exempt under 501(c)(3) of the Internal Revenue code of 1986? (Organizations that have applied for but not yet received their 501(c)(3) ruling do not meet this requirement.) Please provide evidence that the organization has approval for an exemption.

Yes  No

5. When did the organization receive its tax-exempt status?

Date: \_\_\_\_\_

6. Is at least two-thirds of the organization's governing board comprised of individuals who are acting in a private capacity (i.e., he/she is not legally bound to act on behalf of a public body and is not being paid by a public body while performing functions in connection with the Non-profit organization)?

Yes  No

7. Does a public body have the authority to appoint more than one-third of the members of the organization's board?

Yes  No

8. Is more than one-third of the organization's board comprised of public officials?

Yes  No

9. Is the organization either controlled by, or under the direction of, individuals or entities, seeking to derive profit or gain from the organization?

Yes  No

If the answer above is "Yes", then:

Is the entity's primary purpose the development or management of housing, real estate management, construction or development?

Yes  No

Does this entity appoint more than one-third of the organization's board?

Yes  No

Do those board members appointed by this entity appoint any of the remaining board members?

Yes  No

Is the organization free to contract with any vendor for goods and services?

Yes  No

10. Does the organization's financial management system conform to 24 CFR 84.21 "Standards for Financial Management Systems"?

Yes  No

11. Are the organization's activities limited to a geographically defined target area?

Yes  No

12. Is at least one-third of the organization's board comprised of Low-Income residents from the target/service area, or community or elected representatives of Low-Income neighborhood organizations?

Yes  No

13. Does the organization provide a formal process for Low-Income program beneficiaries to advise the organization in its decisions regarding the design, site, development, and management of Affordable Housing?

Yes  No

14. Does the organization have the demonstrated capacity (i.e., an experienced staff person(s) who has successfully completed similar projects, or a consultant with successful experience and a plan to train appropriate staff members of the organization) to carry out HOME assisted activities?

Yes  No

15. Has the organization or its parent served the target area/community that would receive HOME assistance for at least two years?

Yes  No

16. Is the organization primarily a religious organization, for example a church?

Yes  No

17. Has your organization been certified as a CHDO by another Participating Jurisdiction?

Yes  No

If yes, which PJ provided certification? What year was the organization certified?

PJ: \_\_\_\_\_

Date Certified: \_\_\_\_\_

If no, and the Applicant is located in a Participating Jurisdiction, explain in a separate attachment why the Applicant has not sought local certification. Also describe any situation when certification was denied.

## CHDO Application Supporting Documents Checklist

Provide the following information. Separate each item in the Application with a tab and identify the tab in a table of contents.

- Completed CHDO Eligibility Questionnaire
- CHDO Copy of the organization's Charter (if applicable).
- Copy of the organization's Articles of Incorporation.
- Copy of the organization's by-laws.
- Copy of the organization's incorporation papers as filed with the South Carolina Secretary of State.
- Copy of the organization's 501(c)(3) ruling as provided by the IRS.
- Copy of the latest Federal 990 tax return.
- Organization's most recent financial statements that have been compiled, reviewed or Audited by an independent CPA licensed by the State of South Carolina.
- Describe, in detail, the formal process that allows Low-Income residents and program beneficiaries to advise the organization on decisions concerning the community revitalization occurring and management of Affordable Housing.
- Map and narrative description of the proposed service area inclusive of north, south, east, and west boundaries.
- Describe the need(s) the organization will serve in the targeted service area as a CHDO. Provide data, maps (area must coincide with the target area described within your corporate documents) and other information as necessary.
- Provide a list of all parcels in which your agency has site control. All parcels must be free of any County Liens and not cited by Municipal Code Compliance Division for blight. All ad valorem taxes must be current.
- Provide a list of current board members, showing each board member's name, address and occupation. Please identify which board members are low or moderate-income residents (based upon the Area Median Income for the Metropolitan Area) or representatives of Low-Income neighborhood organizations.
- Copy of the organization's written financial policy showing that the organization's financial management system conforms to the financial accountability standards of 24 CFR 84.21.
- Resumes and separate statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with HOME funds. The statements of experience should highlight staff experience in the following areas:
  - Conducting or facilitating market analysis and assessments
  - Identifying and negotiating for appropriate sites
  - Selecting and working with design professionals, consultants, government officials, and building professionals
  - Community outreach, organization, and engagement
  - Complying with local, State, and federal regulations governing zoning, planning, or

- building standards
  - Creating project pro forma and operating budgets
  - Setting rents or sales prices
  - Working with lenders and other funding providers
  - Managing a construction project
  - Marketing a project
- Statement describing the nature of community engagement, regular and open dialogue regarding the needs of the community, and participation and/or creation of resident associations for sustainability.
- Statement describing the nature of the housing project(s) the organization plans to develop. This statement should include a description of the predevelopment activities undertaken, sources of financing, and any other information that will describe the organization's progress in pursuing the project.
- Proof of SAM Registration