



July 29, 2024

Acting Secretary Todman  
U.S. Department of Housing and Urban Development  
451 7th Street, S.W.  
Washington, DC 20410

RE: Notice of Proposed Rulemaking, Changes to the HOME Investment Partnership Program  
<https://www.regulations.gov/document/HUD-2024-0045-0001>

Dear Acting Secretary Todman,

This letter offers comments from the People & Places Collaborative on the proposed changes to the HOME Investment Partnership Program as [outlined in the Federal Register](#). The People & Places Collaborative represents community development organizations across the nation. We are committed to creating conditions where residents can shape the destiny of their neighborhoods, securing their long-term stability, health, and prosperity. We thank the U.S. Department of Housing and Urban Development (HUD) for making a sincere and ambitious effort to update the HOME Program's regulations.

Emerging populations and communities across the country are encountering operational and capacity challenges related to the implementation of community development projects. The recommendations in this letter, and many of the changes proposed by HUD in this rulemaking process, will help address some of those challenges.

The [People & Places Collaborative](#) represents community development organizations across the nation. We are committed to creating conditions where residents can shape the destiny of their neighborhoods, securing their long-term stability, health, and prosperity.

The Collaborative is a collaboration partnership with the [Community Opportunity Alliance](#) (formerly NACEDA), the [National Coalition for Asian Pacific American Community Development](#) (CAPACD), and the [National Association for Latino Community Asset Builders](#) (NALCAB).

The Collaborative is comprised of and works closely with organizations seeking certification as a Community Housing Development Organization (CHDOs) to ensure they have the resources and support necessary to thrive. We appreciate HUD's continued efforts to improve and enhance the effectiveness of this crucial program. After reviewing the proposed rule changes, we would like to offer the following feedback and suggestions:

## I. Changes to Developer Owner Sponsor Roles

We support HUD's proposed approach to the roles CHDOs play in the development of HOME projects. The 2013 rule significantly limited CHDOs' participation in the HOME Program. The way in which the 2013 rule defined the roles of CHDOs was particularly problematic. The new proposed rule addresses this issue effectively. Specifically, we have the following comments:

- 1) We strongly support allowing CHDOs that *own* rental development projects to demonstrate capacity by either hiring or contracting project management capacity.
- 2) We strongly support allowing a CHDO (or its subsidiary) *sponsoring* a project to be the managing general partner, rather than the sole general partner of a limited partnership.
- 3) We ask for clarification from HUD as it relates to the CHDOs that are the *DEVELOPER* of a HOME funded rental project. In the rule, HUD states that its goal is "to make it substantially easier for many community-based nonprofit organizations to access the CHDO set-aside as developers" by permitting CHDOs to share responsibilities with others. We would suggest two clarifications to this approach.
  - a) Define "share responsibilities" as partnering, contracting or procuring services from other entities. We think the term "share responsibilities" is somewhat vague.
  - b) In addition to the proposed responsibilities, include "project management" in the list of responsibilities that may be shared/contracted, provided the CHDO remains in charge of these responsibilities.

## II. Staff and Capacity Requirements

We are complimentary of the flexibility HUD is offering to CHDOs to demonstrate capacity with volunteers that have a formal relationship with the organization, such as a board member. We have additional comments:

- 1) There is some language in the proposed rule that could benefit from clarification. HUD states in the Federal Register that:
  - a) *The proposed rule would, however, permit participating jurisdictions to consider the capacity and experience of volunteers who are board members or officers of the organization in determining whether an organization meets the CHDO capacity requirements, provided that the volunteer is not compensated by or their services are not donated by another organization.*
    - i) We are generally supportive of the proposed change. However, we believe that a volunteer detailed to a CHDO by an entity (such as a salaried staff member of a for-profit developer) should be considered when determining if an organization meets the "demonstrated capacity" requirement. This consideration is crucial, so long as the volunteer is a

CHDO board member or officer with housing development experience, and the pro-bono service extends throughout the entire duration of a HOME-assisted project's development process. A board member or officer of an organization is inherently a volunteer donating their time and expertise. We suggest that the final rule clarify this distinction. We recommend that the final rule remove the limitation on donated services.

- 2) We are supportive of the proposed rule's approach to allow CHDOs to demonstrate experience and capacity through past experience with other federal housing programs, such as LIHTC, or local and State affordable housing funds. We would recommend explicitly including experience with New Markets Tax Credits to also count toward demonstrated experience, as well as experience with the Federal Home Loan Bank's Affordable Housing Program. It's likely HUD's intention, with its existing proposed language, that these two programs would already count toward the CHDO's experience requirement. But since these two programs either do not have the reputation of being a housing program (NMTC) or may not be considered 'federal' (AHP), we think explicitly listing them would minimize any chance for misunderstanding.
- 3) We are also supportive of the proposed rule's approach, but wish HUD to more clearly affirm that CHDOs are allowed to demonstrate experience and capacity through the use of paid consultants and non-employee compensation.

### **III. Board Requirements**

We are generally supportive of the proposed changes to CHDO board requirements. We offer the below comments:

- 1) We are supportive of the proposal to change the  $\frac{1}{3}$  board limit for public officials to only apply to officials and employees of the participating jurisdiction designating the CHDO. We compliment HUD for offering this narrow and targeted change that creates more flexibility for CHDOs while also preserving the community spirit embedded in the CHDO set aside.
- 2) We are supportive of allowing an individual designated by an organization that serves the housing-related needs of low-income residents to qualify as a low-income representation on a CHDO board. We would also recommend some clarifications in this part of the rule.
  - a) We recommend clarifying the difference between "authorized" and "designated" representatives of other nonprofits on CHDO boards. The proposed rule implies a difference between those two actions and the difference isn't clear.
  - b) Further, the rule would benefit from defining or offering examples of *how* another nonprofit might "designate" or "authorize" someone for this purpose.

- i) For example, another nonprofit could designate representation on a CHDO board through a simple written agreement or MOU between the organizations. Or perhaps an individual from another nonprofit could be an authorized representative on the CHDO board if the two organizations have a history of working together.
- 3) We also recommend that the rule make clear whether the listed types of organizations/entities that can represent low income people on a CHDO board is exhaustive or illustrative.
- 4) We also suggest adding officials from faith-based institutions to the list of examples of institutions that can play that role on a CHDO board. The relationship between faith-based institutions and housing development organizations is historically significant, especially in rural areas. Including officials from faith-based institutions could help promote HUD's goal of supporting more CHDOs in rural areas by leveraging the established networks and trust that these institutions have within communities. We think HUD's existing definition of a faith-based institution, included below, should suffice for this purpose.
  - a) *Faith-based organizations are of three types: (1) congregations; (2) national networks, which include national denominations, their social service arms (for example, Catholic Charities, Lutheran Social Services), and networks of related organizations (such as YMCA and YWCA); and (3) freestanding religious organizations, which are incorporated separately from congregations and national networks.*
- 5) We recommend flexibility for residents to retain their roles on CHDO boards, even if their income rises and/or the community gentrifies. Under the current rule, CHDOs have reported difficulties quickly replacing board members when an individual board member's income rises or when the community they live in gentrifies, making them no longer eligible because they don't live in a low income community. We would support a grace period or similar for board members that experience such a situation.

If a representative joins the board as a resident of a low-income community, they should be allowed to serve at least for a period of time, perhaps three years. The changing designation of the neighborhood or census tract, nor a recent increase in income, does not take away the board member's lived experience and continued understanding of community needs, which make them a valuable representative of the interests of low-income people and places.

#### **IV. Operating Grants and Capacity Building**

We appreciate HUD's effort to correct the drafting error from the 2013 HOME Final Rule that created barriers to using CHDO operating expense and capacity building funding. We think HUD's approach is sound and, if prioritized widely by PJs, will go a long way toward helping more CHDOs participate in the HOME Program, particularly in rural areas and those with

emerging populations that have fewer resources and less capacity than other more established regions and communities. We offer the following recommendations:

- 1) Clarify under what circumstances HUD or the participating jurisdiction would want to claw back capacity building funds. The rule proposes that a “participating jurisdiction may provide operating or capacity building funds to an organization to which it expects to commit CHDO set-aside funds for a project within 24 months.” What happens if set aside funds are not committed within 24 months? We would recommend that the CHDO be allowed to retain the capacity building funds so long as they are making a good faith effort at implementing a HOME-funded project. We ask HUD to keep in mind that well-intended real estate projects do fall apart and face unanticipated hurdles related to acquisition, financing, and site preparation, among countless other potential challenges, particularly in the communities typically served by CHDOs. Clawing back funds from an organization that is making a good faith effort further challenges the housing development capacity of economically challenged communities.
  - a) Examples of a good faith effort could be that the CHDO: acquired land, hired development-related staff, made relevant changes to its board, secured some financing for the project, or has MOUs in place with partner institutions.
- 2) We recommend extending - from 24 months to 36 months - the expectation that organizations receiving capacity building funds secure project-related set aside funds. A 36 month timeline aligns with the needs of low-income communities, recognizing the unique challenges and longer real estate-related timelines often faced in these areas. The nature of CHDO capacity building, which can involve hiring, building internal systems, allowing for board seats to open, navigating bureaucracy related to public subsidy, and negotiating MOUs, among other tasks, justifies a longer timeframe. Further, a 36 month timeline would align CHDO TA with other federal programs, such as the CDFI Fund, which requires that organizations receiving TA awards become certified as a CDFI within three years of receiving their TA award.

## **V. Statewide CHDOs for Rural Areas**

The Collaborative thanks HUD for taking on the challenges of CHDO resources in rural areas. Demographics are changing in rural areas. It will be important for the HOME Program to remain nimble to the evolving cultures and make up of rural areas. They are becoming more racially diverse with more people of color, immigrants, and other emerging populations. For these reasons, the Collaborative sees the need for both driving more CHDO dollars to rural communities AND building the capacity and providing opportunities for smaller rural-serving CHDOs.

*For rural areas, the requirement regarding maintaining accountability has long defined “community” to be “a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire state).” The proposed rule would delete “but not the entire state.”*

The Collaborative's understanding of HUD's proposal for rural-serving CHDOs to have two primary components.

- 1) HUD is proposing to allow CHDOs serving rural areas to satisfy the 1/3 board requirement for low-income representation with board members coming from anywhere in the state, provided the board members meet the other criteria for low-income representation, including being an authorized representative of a related nonprofit.

The Collaborative is supportive of this approach. We think it has the potential to help rural-serving CHDOs, particularly smaller organizations, increase their development capacity and expertise, particularly when considered in combination with the "volunteer capacity" changes HUD proposes elsewhere in the proposed rule.

- 2) HUD is proposing to allow organizations with statewide service-areas to be eligible for CHDO set aside dollars for projects in rural areas.

*... the definition of "community" for rural areas would also apply to paragraph (10) of the CHDO definition, effectively permitting an organization that wishes to operate as a CHDO in a rural area to meet the requirement that it have at least a one-year history serving the community with a service history anywhere in the State.*

The Collaborative is tentatively supportive of the proposal for "statewide" CHDOs as proposed by HUD, though we have suggestions. This part of the proposal is not without drawbacks. On the one hand, more CHDOs serving rural areas is desperately needed, particularly after the 2013 rule which eroded CHDO capacity in rural areas. This 2024 proposal by HUD would likely drive additional CHDO resources to rural areas. However, the proposal does give a competitive advantage to larger CHDOs over existing CHDOs that exclusively serve rural areas, particularly smaller, rural-serving CHDOs. The proposal would effectively force smaller rural-serving CHDOs to compete with larger statewide CHDOs. The Collaborative sees the need for both driving more CHDO dollars to rural communities AND building the capacity and providing opportunities for smaller rural-serving CHDOs.

Perhaps there is a way to retain the notion of statewide CHDOs in HUD's proposal, while also providing competitive balance to smaller rural-serving CHDOs. The Collaborative understands HUD's proposal to mean that a statewide CHDO would be required to have at least a one-year history of serving the community anywhere in the state.

- a) Perhaps HUD could allow CHDOs with statewide service areas to be CHDO eligible, but only award project dollars to CHDOs (located anywhere in the state) with at least *three years of service to the community in which the project is located*, as opposed to one year of service to the community anywhere in the state. This could have the long term benefit of attracting statewide organizations (potential CHDOs) and their resources to the interests of rural communities, while offering a competitive balance to smaller rural-serving organizations that may already be operating in those communities.

## VI. Additional Comments

- 1) **Duration of CHDO certification.** Remove the current requirement that ties CHDO certification to a HOME-funded project. Instead, make certification independent of project-based funding. Allow certification to be valid for three years. Participating jurisdictions (PJs) could certify a CHDO for three years and then use a simpler "desktop certification" process to confirm the organization is still eligible whenever funding is considered. This streamlined process would ensure the CHDO is still eligible while reducing the burden for the CHDO and the PJ.
- 2) **Project transfers involving CHDOs.** The proposed rule removes the requirement that rental housing development undertaken by a "developer" CHDO continue to be owned by the CHDO throughout the HOME affordability period. The proposed change will enable CHDO project preservation transfers to another CHDO to sustain the HOME affordability requirements. We are supportive of how HUD has proposed to implement necessary transfers of CHDO-related projects.
- 3) **Underperforming PJs.** We have noticed since 2020 an increase in the number and frequency of PJs that return or ask for waivers of CHDO set aside funds. We do hope these proposed changes by HUD will encourage more usage of set aside funds for their intended purpose. However, we would like to see HUD be more rigid with how and when it allows PJs to release CHDO set aside funds from restriction. As others have proposed, we suggest that for PJs who do not deliver the full 15% of their CHDO set-aside, that HUD require said PJs to prove completion of a set of activities before HUD approves a re-obligation of CHDO funds.
- 4) **CHDO Data.** Changes to the HOME rule in 2013 had a significant negative impact on the number and type of organizations that have been eligible and willing to become CHDOs. The exact impact is hard to pinpoint. And while we are mostly supportive of the proposed rule's treatment of CHDOs, we also assume HUD would want to know what impact these changes will have over the long term.

We recommend improving data accessibility related to CHDOs that allows HUD to craft informed responses to the outcomes of regulations.

- a) Recommendation: HUD should create, maintain, and make publicly available on its website the organizations certified as CHDOs. The list should not impose an additional burden on PJs, but should instead be based on the information that HUD already receives.
- b) Recommendation: In alignment with HOME's statutory purpose of expanding CHDO capacity, HUD should commission a study every 3-5 years on the universe of nonprofit organizations that could potentially become CHDOs. The research could evaluate trends in CHDO certification, CHDO financial health, production, organizational needs, among other topics. The study could be performed through resources made available to PD&R. It should be led by a

national organization with credibility among CHDOs and the broader field of community-based development organizations.

Thank you for considering our comments. We believe these proposed changes, with the suggested clarifications and enhancements, will significantly improve the effectiveness of the HOME Investment Partnership Program and expand the capacity of CHDOs to serve our communities.

**Sincerely,**

Community Opportunity Alliance

National CAPACD

NALCAB