

## Legal Status

The legal status of an organization is the first characteristic examined to determine if it is eligible to become a certified CHDO. There are five legal status requirements that an organization must meet to be certified as a CHDO by a PJ. These are:

1. **Organized Under State/Local Law.** Organizations must show evidence to the PJ, either in their charter or articles of incorporation, that they are organized under state or local law.
2. **Purpose of Organization.** Among its purposes, the organization must have the provision of decent housing that is affordable to low and moderate income people. This must be evidenced by a statement in the organization's charter, articles of incorporation, by-laws, or resolutions.
3. **No Individual Benefit.** No part of a CHDO's net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization's charter or articles of incorporation.
4. **Clearly Defined Service Area.** The organization must have a clearly defined geographic service area which can be described and documented for the PJ.

CHDOs may serve individual neighborhoods or large areas. However, while the organization may include an entire community in their service area (such as a city, town, village, county, or multi county area), they **may not** include the entire state.

5. **Nonprofit Status.** The organization must have a tax exemption ruling from the Internal Revenue Service (IRS) under Section 501(c) of the Internal Revenue Code of 1986. The ruling must be evidenced by a 501(c) certificate from the IRS.

### Non Profit Status

To be certified by a PJ, a CHDO must have a tax-exempt ruling from the IRS under Section 501(c) of the Internal Revenue Code of 1986. There are many incorporation options under Section 501(c), depending on the type and purpose of the organization seeking the tax-exempt designation.

The 501(c) designations permissible for CHDOs under the HOME regulations are:

- ▶ **501(c)(3)** status - a charitable, nonprofit corporation
- ▶ **501(c)(4)** status - a community or civic organization
- ▶ **Section 905** status - subordinate organization of a 501(c) organization

### Receiving 501(c)(3) or 501(c)(4) Designation

While receiving a 501(c)(4) designation is easier and less time consuming than

the 501(c)(3), applicants should be aware that most corporate and philanthropic giving is **limited to 501(c)(3) organizations**. Therefore, seeking a 501(c)(4) designation may ultimately limit the CHDO's capacity to raise non-government funds.

IRS standards for granting a 501(c)(3) designation for housing development organizations are narrowly applied, lengthening the time it can take to receive a 501(c)(3) designation.

501(c) designation may take nine to 24 months, though the time frame varies by IRS region.

- ▶ Usually, the IRS will usually grant new applicants a **conditional designation** of 501(c) status, valid for a specified period of time (usually three years).
- ▶ During this period of time, the organization may operate legally as a 501(c) organization, with all benefits pursuant to that designation, while the IRS monitors its operations.
- ▶ Assuming the organization operates in compliance with applicable regulations during this period, the IRS will grant them **final** 501(c) designation.

The HOME requirement for a 501(c) designation can be fulfilled by documenting either a **conditional** or a **final designation** from the IRS. However, submission of documentation that an application for 501(c) status is pending at the IRS is not sufficient to fulfill this requirement.