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## INSTRUCTIONS FOR MODEL ETHICAL STANDARDS OF CONDUCT POLICY

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In 1998 a set of draft model policies for Tribally Designated Housing Entities (TDHEs) was prepared to reflect changes caused by the enactment of NAHASDA. This model ***Ethical Standards of Conduct Policy*** comes out of that project. It has been updated and improved since it's original development.

Parties involved in preparing this model policy cannot represent or warrant that this model policy reflects or satisfies all funding or statutory requirements under federal, tribal, or (where appropriate) state laws. Furthermore, this model policy should be customized to reflect individual needs. Additionally, such policies should always be evaluated on a periodic basis after they are adopted. In finalizing this policy TDHEs should consult with their attorney.

(TDHE) occurs throughout this draft policy and there will be a need to fill in this line with the name of the TDHE adopting this policy.

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individual interests of elected or appointed tribal officials. This Policy simply and in a straightforward manner establishes ethical standards so that these rules can be understood and adhered to.

**EXPLANATION OF THIS POLICY FORMAT.** The Policy consists of this **Master Requirements** and possibly one or more **Special Program Requirements**. The **Master Requirements** contained in this Master Policy are intended to apply to all (TDHE) programs that are assisted with federal funds under NAHASDA. Additional **Special Program Requirements** may also be established for various individual (TDHE) programs. The **Master Requirements** together with all of the **Special Program Requirements** constitute the Policy.

### **DEFINITIONS.**

- **“Board”** shall mean the governing body of the (TDHE).
- **“Delinquent on Housing Payments”**: For purposes of this Policy, whenever the amount owing on travel advances or housing and loan payments to the (TDHE) by a Board Member, employee, agent or grantee exceeds \$200.00 or one month’s payment (whichever is greater).
- **“Individual Interest”** includes but is not limited to an interest held by wife, husband, son or daughter.
- **“Immediate Family” or “Family”** means a wife, husband, brother, sister, mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter and any relative or any other party that a person is living with or intends to live with in the same house or household, whether a relative or not.

### **REQUIREMENTS:**

1. **WAIVERS.** The Policy is intended to apply in all cases. However, in rare and unique circumstances a special Waiver of a particular requirement can be considered and approved by the (TDHE’s) Board. In the case of this particular policy this may occur only where a waiver is expressly permitted elsewhere in this Policy. Such a Waiver may be made only if (1) Board Members with personal direct or indirect interests abstain from and are not present for both the Board’s deliberations and decision, (2) full and complete public disclosure of a Waiver request occurs before, during, and after a vote, (3) a two-thirds (2/3) favorable vote of all Board Members appointed is obtained

and (4) the waived Policy provision is not required by federal or tribal law. If the Board is unsure as to which provisions are required by federal or tribal law, they may consult with legal counsel.

2. **TRIBAL ETHICAL REQUIREMENTS:** Where the Tribe has established by law or resolution ethical and conflicts of interest requirements for the tribe, tribal council, tribal officials and/or tribal entities, these standards shall apply. Furthermore, where those standards permit waivers of those standards such a waiver may only be entertained using the waiver procedures in the Policy. Regulation and enforcement of these tribal ethical standards shall be done by the (TDHE) so long as no Tribal law dictates otherwise. These Tribal standards are only minimal standards and the following standards are additional. If a conflict arises between the tribal requirements and the following standards the most stringent or highest standard shall apply.
  
3. **CONFLICTS OF INTEREST:** The duties and responsibilities of Board Members, employees, grantees and agents is to the (TDHE). These interests are not to conflict with personal interests of Board Members or employees nor shall there be the appearance of any conflicts of interest.
  - a. **Current Board Members.** (TDHE) Board Members, including tribal councilmen and officials who serve on the Board or as liaisons, are prohibited from entering into, proposing or having a contract or any financial interest, direct or indirect, in any (TDHE) project or activity. This requirement may be waived in rare and unique cases, but only when the Board Member involuntarily acquires or had acquired prior to the beginning of their tenure on the Board any such interest. The interest must be immediately disclosed and the waiver requirements set forth above shall be followed.
  
  - b. **Former Board Members.** Former Board Members are likewise prohibited from having such a contract or any financial interest, direct or indirect, in any (TDHE) project or activity, for a period of one year after their tenure on the Board. This later requirement may be waived in rare and unique cases, but only after full and public disclosure and assurance that this interest is not obtained because of non-public information obtained because of the prior Board position.

**c. Employees.** (TDHE) employees are prohibited from entering into, proposing or having a contract or any other financial interest, direct or indirect, in any (TDHE) project or activity. Except for subsequent employment arrangements, former employees are prohibited from having a contract or any financial interest, direct or indirect, in any (TDHE) project or activity in which the former employee had a substantial interest, responsibility or involvement with during his or her position with the (TDHE) for a period of \_\_\_\_\_ months after termination of their employment. This later requirement may be waived in rare and unique circumstances but only after full and public disclosure and assurance that this interest is not obtained because of non-public information obtained because of the prior employment.

**d. Award and Administration of Contracts.** No employee, Board Member, officer or agent of \_\_\_(TDHE)\_\_\_ or any grantee shall participate in a decision, selection, award or administration of a contract if in fact or by appearance the Board Member, employee, officer, agent or any member of his or her immediate family, or his or her partner, or an organization which employs or is about to employ such a person, has a financial or other interest in the firm to be selected or awarded. Any and all conflicts of interest shall be promptly, openly and publicly disclosed by both individuals and the \_\_\_(TDHE)\_\_\_.

Not participating in a decision, selection, award or administration of a contract shall mean not discussing the matter in or outside meetings, not being physically present for any discussions and neither voting on or being present for a vote. Furthermore, it means not using a \_\_\_(TDHE)\_\_\_ position to influence a decision in which you have a personal interest.

**e. Program Participants.** Nothing in this Policy shall prohibit a tenant, homebuyer, or program participant, who is a Board Member, employee, officer, agent or grantee from fully participating in \_\_\_(TDHE)\_\_\_ activities and decision making so long as those activities and that decision making is not particular to their unit, application, contract or \_\_\_(TDHE)\_\_\_ activity.

4. **GIFTS:** \_\_\_(TDHE)\_\_\_ or any grantee's officers, employees or agents will not solicit any gift nor accept gratuities, favors or

anything of monetary value from contractors, potential contractors, or parties to agreements.

It is determined that providing meals, entertainment or gifts in an amount in excess of twenty dollars (\$20.00) per gift or meal, or a total per calendar year of meals, entertainment or gifts in excess of one hundred dollars (\$100.00) per individual by an individual company, including all related concerns and individuals, is determined to be of monetary value and is therefore prohibited.

All gifts shall be recorded in writing by the officer, employee or agent and routinely disclosed to the  (TDHE) .

5. **DONATIONS:** the  (TDHE)  may solicit and accept donations to its programs, however, all such solicitations and donations shall be open and public and recorded and must be for the sole benefit of the  (TDHE)  and not its employees, contractors or Board Members. Furthermore, no donations shall be solicited or made while the party donating is seeking or being considered for a contract and no donation shall be considered or accepted if it would influence the award of a contract or give the appearance of such a possible effect.
6. **PARTICIPANT GIFTS OR PAYMENTS:** No employee or Board Member or his or her spouse, who has any authority, control or influence in his official capacity shall accept any gift or money from a tenant, homebuyer, program participant or applicant if it would reasonably appear that such a gift was an attempt to influence that employee or Board Member's actions at the  (TDHE) .
7. **ADDITIONAL PROCUREMENT REQUIREMENTS:** Special additional procurement and contracting practices are contained in the  (TDHE)  Procurement Policy.
8. **CONFIDENTIALITY:**  (TDHE)  employees, agents and grantees may have acquired confidential and privileged information during their tenure with the  (TDHE) . They are prohibited from publicly disclosing that information and from using that information for personal purposes. Former Board Members and employees are prohibited from acquiring a contract or any other financial interest, direct or indirect, in any

(TDHE) project or activity that is affected by that confidential or privileged information. This prohibition shall be for life. This prohibition however may be waived by the \_\_\_(TDHE)\_\_\_ Board but only if the Board in its sole discretion so chooses and does so in writing and on the record and if (1) the information remains no longer privileged or confidential, and (2) the information is provided to other competitors by the \_\_\_(TDHE)\_\_\_ or potential competitors of the former employee or Board Member. The (TDHE) may have other confidentiality requirements that are not contained in this particular policy that apply to Board Members and employees, current and former, that are unrelated to confidentiality and conflicts of interest.

9. **POLITICAL ACTIVITIES PROHIBITED:** Board Members, staff, agents and grantees shall not use \_\_\_(TDHE)\_\_\_ resources, moneys, contracts, personnel or facilities for political purposes. The \_\_\_(TDHE)\_\_\_ shall also restrain others from using (TDHE) resources for political purposes.
10. **RESPONSIBILITIES REGARDING CONTRACTUAL OBLIGATIONS:** Board Members, staff, agents or contractors shall not be “delinquent on housing payments” owed to the \_\_\_(TDHE)\_\_\_ . Such delinquencies, unless immediately resolved after they have arisen, shall result in the termination of the employee or agent and removal of the Board Member. Furthermore, such individuals shall not violate any other contractual obligations that they might have with the \_\_\_(TDHE)\_\_\_ .
11. **FIDUCIARY RESPONSIBILITY:** All Board Members have a fiduciary responsibility to take actions and do what is in the best interest of the \_\_\_(TDHE)\_\_\_ .
12. **DRUGS AND ALCOHOL:** All Board Members, employees and agents shall adhere to all \_\_\_(TDHE)\_\_\_ drug and alcohol rules and requirements including those set forth in the Personnel Policy.
13. **DISCLOSURE:** All Board Members, employees, agents and grantees are required to promptly disclose to the (TDHE) their acts or conduct and all acts or conduct by other (TDHE) Board Members, employees, agents, grantees, contractors, tenants, or program recipients that are illegal or are in violation of this Policy and other \_\_\_(TDHE)\_\_\_ policies. Disclosure can be to



supervisors, the Executive Director, the Board of Directors, individual Directors and the (TDHE) attorneys. There shall be no retaliation or other punitive action taken against anyone who makes a disclosure under this section when the activities disclosed turn out to be a true violation.

14. **BOARD MEMBER INVOLVEMENT:** (TDHE) Board Members' primary responsibilities are to establish goals, policies, and practices for the (TDHE) and to provide an overview direction and monitor for programs and activities. Board Members are to refrain from running the day to day activities of the (TDHE) and from individually interjecting themselves in individual management decisions except where authorized by (TDHE) policies or Board direction.
15. **TRIBAL INVOLVEMENT:** Elected Tribal officials are important partners in carrying out the activities of the (TDHE). The (TDHE) should routinely consult with and update the Tribe and such officials. However, as a tribally designated housing entity established as a separate organization tribal officials cannot direct particular services, assistance, loans or housing be given by the (TDHE) to specific individuals and families nor can tribal officials direct that (TDHE) policies be violated.
16. **APPLICATION TO GRANTEES AND CONTRACTORS:** All the requirements contained in this Policy shall additionally apply to all (TDHE) grantees and contractors. Where feasible these standards shall be included in grants and contracts and where appropriate repeated in the sub-grants and sub-contracts.

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