



**ZUNI HOUSING AUTHORITY
ELIGIBILITY AND ADMISSION POLICY**

Adopted by Resolution No. ZHA- 20-02 on January 9, 2020

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I. STATEMENT OF PURPOSE

A. Purpose. The purpose of this Eligibility and Admission Policy (Policy) is to establish standards for initial eligibility and admissions to programs offering Assisted Activities that are operated by the Zuni Housing Authority (ZHA). This Policy shall be reviewed periodically to assure compliance with guidelines established by the U.S. Department of Housing and Urban Development (HUD).

B. Official Policy. This Policy supercedes and rescinds all previous eligibility and/or admissions policies and practice statements and is the official Eligibility and Admission Policy of ZHA.

II. APPLICABILITY

This Policy shall apply to determination of eligibility and admissions to programs offering Assisted Activities that are operated by ZHA and funded through HUD's Native American Housing Assistance and Self-Determination Act, other HUD programs, and all other federal, state, or tribal agencies (collectively, "Assisted Activities"). It shall be applicable to all Participants in ZHA Assisted Activities.

III. DEFINITIONS OF KEY TERMS

For purposes of this Policy and determining general eligibility, the following terms have the following meanings:

A. "Adjusted Income" means "Annual Income" minus the allowable deductions determined in accordance with this Policy.

B. "Annual Income" means that income, before deductions, from all sources of income received by the Head of Household (even if he or she is temporarily absent) and by each additional member of the Family residing in the household who is at least eighteen (18) years of age, which income is anticipated to be received during the twelve (12) months following the effective date of the initial determination or reexamination of income.

1. "Annual Income" includes, but is not limited to the following:

(a) The full amount, before any payroll deductions, of wages and salaries, overtime pay,

commissions, fees, tips, bonuses, and other compensation for personal services;

(b) Net income from operation of a business or profession, as such net income is further defined in the applicable Internal Revenue Service (IRS) regulations, as they may be amended from time to time;

(c) Interest, dividends, and other net income of any kind from real or personal property, as such are further defined in the applicable IRS regulations, as they may be amended from time to time;

(d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment, as limited by the applicable regulations, as they may be amended from time to time;

(e) Payments in lieu of earnings, such as Tribal General Assistance Payments (GA), unemployment and disability compensation, workmen's compensation, and severance pay as limited by the applicable regulations, as they may be amended from time to time;

(f) Welfare assistance payments, such as Temporary Assistance for Needy Families (TANF), as such payments are further defined in the applicable regulations, as they may be amended from time to time;

(g) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the housing unit; provided however, that consideration of alimony and child support payments shall be limited to payments actually received in the preceding year;

(h) All regular pay, special pay, and allowances of a member of the Armed Forces, to the extent that such are not excepted below;

(i) *Per Capita* payments derived from judgment funds awarded by the Indian Claims Commission or the United States Court of Claims, but only to the extent that such payments, in the aggregate, exceed \$2000 per person per year;

(j) *Per Capita* payments derived from oil and gas or other trust revenues actually received by tribal members, but only to the extent that such payments, in the aggregate, exceed \$2000 per person per year; and

(k) *Per Capita* payments derived from gaming revenues and paid out pursuant to an approved

Revenue Allocation Plan, if any.

2. “Annual Income” does not include the following:

(a) Income from employment of children (including foster children) under the age of eighteen (18) years;

(b) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the Participant Family, who are unable to live alone);

(c) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker’s compensation), capital gains, and settlement for personal or property losses;

(d) Amounts received by the Family that are specifically for, or in reimbursement of, the cost of medical expenses for any Family member;

(e) Income of a live-in aide;

(f) The full amount of student financial assistance paid directly to the student or to the educational institution;

(g) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;

(h) Amounts received under training programs funded by HUD;

(i) Amounts received by a Person with Disabilities, which amounts are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan for Achieving Self-Support;

(j) Amounts received by a Participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

(k) Amounts received under a resident service stipend, not to exceed \$200 per month, received by an Indian housing resident for performing a service for ZHA, on a part-time basis, that enhances the quality of life in the

development; *provided* that such services may include, but are not limited to fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination; *provided further* that no resident may receive more than one such stipend during the same period of time;

(l) Incremental earnings and benefits resulting to any Family member from the participation in qualifying state or local employment training programs (including training programs not affiliated with local government) and training of a Family member as resident management staff; *provided* that such amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the Family member participates in the employment training;

(m) Temporary, nonrecurring, or sporadic income (including gifts);

(n) Earnings in excess of \$480 for each full-time student eighteen (18) years or older (excluding the Head of Household and Spouse);

(o) Adoption assistance payments in excess of \$480 per adopted child;

(p) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts;

(q) Amounts received by the Family in the form of refunds or rebates under state or local law for property taxes on the housing unit;

(r) Amounts paid by a state agency to a Family with a developmental disabled Family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled Family member at home;

(s) The first \$2000 of the aggregate annual amount paid to a tribal member as *Per Capita* payments paid from a tribe's oil and gas or other trust revenue; *provided* however, such *Per Capita* payments may be considered income when determining capacity to pay monthly payments or rent (25 U.S.C. § 1408);

(t) The first \$2000 of the aggregate annual amount paid to a tribal member as *Per Capita* payments paid from judgment funds awarded by the Indian Claims Commission or the United States Court of Claims; *provided* however, such *Per Capita* payments may be considered income when determining capacity to pay monthly

payments or rent (25 U.S.C. § 1407);

(u) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, section 6);

(v) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 25 U.S.C. 1728);

(w) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

(x) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95–433);

(y) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

(z) A lump sum or a periodic payment received by an individual Indian pursuant to the *Cobell* case, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one (1) year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291).

(aa) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a));

(bb) *Per Capita* payments placed in trust for juveniles or incapacitated adults,, provided however, such *Per Capita* payments may be considered income when determining capacity to pay monthly payments or rent;

(cc) Any amounts received by the Family as compensation for a military-service related disability under 38 U.S.C. Chapter 11, or as dependency and indemnity compensation for military-service related death under 38 U.S.C. Chapter 13; provided however, such amounts may be considered income when determining capacity to pay monthly payments or rent; or

(dd) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs; *provided* that a notice is published from time to time in the Federal Register and distributed to recipients identifying the benefits that qualify for this

exclusion; *provided further* that updates will be published and distributed when necessary.

3. If it is not feasible to anticipate a level of income over a twelve (12) month period, the income anticipated for a shorter period may be annualized subject to a redetermination at the end of the shorter period.

C. “Assisted Activities” mean activities funded through HUD’s Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), other HUD programs, or any other federal, state, or tribal agency, including occupancy of ZHA owned or managed housing units, rental assistance, rehabilitation and modernization, homebuyer’s down payment assistance, occupancy and homebuyer based counseling programs, and energy auditing, among others.

D. “Crime of Violence” means child abuse, sexual abuse, sexual assault, domestic violence, and any other crime that involves the use, attempted use, or threatened use of physical force against the person or property of another.

E. “Elderly Person” means a person who is at least sixty-two (62) years of age.

F. “Essential Family” means a Family ZHA deems essential to the well being of Indian Families in accordance with section 201(b)(3) of NAHASDA.¹

G. “Family” means (1) a group of two or more persons (including members temporarily absent) who have a stable Family relationship and whose income and resources are available for use in meeting the living expenses of the group; (2) a single Elderly, Displaced, or Disabled Person; (3) a single person; or (4) a person or group defined by ZHA or the Tribe as a Family. Lodgers are not considered part of a Family.

H. “Head of Household” means the Family member who is held responsible and accountable for the Family.

I. “Immediate Family” means husband, wife, father, mother, brother, sister, son, daughter, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, and grandparents, those persons with whom the subject person maintains a significant traditional relationship of equivalent status recognized by the Tribe, and any relative or any other individual that the subject person is living with or intends to live with in the same house or household, whether a blood relative or not; provided, however, the inclusion of a minor child, not the child of the Head of Household or other adult occupant, is subject to provision of documentation that

¹Section 201(b)(3) provides that “a recipient may provide housing . . . for a family [whether Indian or non-Indian] on an Indian reservation . . . if the recipient determines that the presence of the family on the Indian reservation . . . is essential to the well-being of Indian families and the need for housing for the family cannot reasonable be met without such assistance.”

the child is under the guidance or supervision of an adult occupant. Any dispute arising over the definition of “Immediate Family” shall ultimately be decided by the Tribe.

J. “Indian Area” means the area within which ZHA is authorized to provide assistance for affordable housing.

K. “Indian” means any person who is a member of a federally recognized tribe or a State Recognized Tribe.

L. “Live-In Aide” means a person who resides with one or more Elderly Persons, or Near-elderly Persons, or Persons with Disabilities, and who: (1) is determined to be essential to the care and well-being of the persons; (2) is not obligated for the support of the persons; and (3) would not be living in the housing unit except to provide the necessary supportive services.

M. “Low-Income Family” means a Family whose Annual Income does not exceed eighty percent (80%) of Median Income.

N. “Median Income” means, with respect to an Indian Area, the greater of (A) the median income for the Indian Area, as periodically established and published by HUD, or (B) the median income for the United States.

O. “Near-Elderly Person” means a person who is at least fifty-five (55) years of age and less than sixty-two (62) years of age.

P. “Occupancy Document” means the document giving rise to a Participant’s right of occupancy or use of a housing unit. An Occupancy Document may be a Tenant’s Occupancy Document or a Homebuyer’s Occupancy Document.

Q. “Participant” means a Family that has been found eligible for and admitted to participation in an ZHA Assisted Activities Program.

R. “Spouse” means the husband or wife of the Head of Household.

S. “State Recognized Tribe” is any tribe, band, nation, pueblo, village, or community that has been recognized as an Indian tribe by any State; and for which an Indian Housing Authority has, before the effective date of NAHASDA, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian Families and has received funding pursuant to such contract within the five (5) year period ending upon such effective date.

T. “Tribe” means the Zuni Tribe of the Zuni Reservation.

U. “Very Low-Income Family” means a Family whose Annual Income does not exceed fifty percent (50%) of

Median Income.

V. “Very, Very Low-Income Family” means a Family whose Annual Income does not exceed thirty percent (30%) of Median Income.

IV. NON-DISCRIMINATION POLICY

ZHA is subject to:

A. **The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. §§ 1301-03) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5307).** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d-200d-4), which prohibits discrimination in federally assisted programs, and Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. §§ 3601 et seq.), do not apply to ZHA, and ZHA’s restriction in favor of Indian Families is not a violation of any provision of either Title VI or Title VIII. ZHA does not discriminate against those otherwise eligible for admission merely because their incomes are derived in whole or in part from public assistance.

B. **The Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and the regulations promulgated thereunder in 24 C.F.R. Part 146, as may be amended from time to time.** The Act prohibits ZHA from discriminating on the basis of age

C. **Discrimination Against Persons with Disabilities.** ZHA is prohibited from discriminating against a person with disabilities (Person with Disabilities), as defined and described in the regulations promulgated under NAHASDA at 24 C.F.R. § 1000.10, solely on the basis of his or her handicap, under any ZHA program. For any program that receives federal financial assistance from HUD, ZHA shall use the following additional communication procedures, compliance reports, and information procedures, as required by Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794).

1. **Communication Procedures.** ZHA shall take appropriate steps to ensure effective communication with applicants, Participants, beneficiaries, and members of the public. ZHA shall furnish appropriate auxiliary aids where necessary to afford a Person with Disabilities an equal opportunity to participate in, and enjoy the benefits of, ZHA programs. In determining what auxiliary aids are necessary, ZHA shall give primary consideration to the request of the Person with Disabilities. ZHA is not required to provide individually prescribed devices or devices of a personal nature. Where ZHA communicates with applicants by telephone, telecommunication devices for deaf persons or equally effective communication systems shall be used. ZHA also shall use procedures to ensure that interested persons, including persons

with impaired vision or hearing, can obtain information concerning the existence and location of Accessible services, activities, and facilities. ZHA is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or in undue financial and administrative burdens. In such an instance, ZHA shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, Persons with Disabilities receive the benefits and services of its programs.

2. Compliance Reports. ZHA shall keep such records and submit to the responsible civil rights official or his or her designee timely, complete, accurate compliance reports at such times, and in such form and containing such information, as the responsible civil rights official or his or her designee may determine to be necessary to enable him or her to ascertain whether ZHA is complying with the Section 504 requirements. ZHA shall have available data showing the extent to which Persons with Disabilities are beneficiaries of federally-assisted programs administered by ZHA.

3. Information to Applicants and Interested Persons. ZHA shall make available to applicants and other interested persons such information regarding the applicability of Section 504 to particular ZHA programs as ZHA determines necessary in order to inform such persons of the protections against discrimination assured by Section 504.

D. Mixed Financing. Some federal programs may prohibit discrimination based on race. If funding from such restrictive federal programs is combined with NAHASDA funds, ZHA shall maintain an accounting of the percentages obtained from each source. Any project with mixed funding shall follow the following preference guidelines:

1. For the percentage of the project equivalent to the percentage of NAHASDA funds, ZHA shall use first the Indian Preference provisions and then the General Preference provisions set forth in this Policy.

2. For the percentage of the project equivalent to the percentage of the restrictive federal funds, ZHA shall use the General Preference provisions set forth in this Policy.

E. Violence Against Women Act of 1994 (42 U.S.C. §§ 13701-14040). ZHA prohibits the denial, termination, or eviction of an applicant or tenant who is a survivor of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant qualifies for admissions, participation, or occupancy and the project in which the applicant participates is funded, whether in full or in part, by the Low-Income Housing Tax Credit, HOME Investments Partnership,

or Housing Trust Fund program.²

V. ELIGIBILITY

A. Generally. Low-Income, Very Low-Income, and Very, Very Low-Income Indian Families on a reservation or within an Indian Area are eligible for participation in an Assisted Activity.

B. Non-Low-Income and Non-Indian Families. In addition to the general eligibility requirements provided in this ZHA Eligibility and Admissions Policy, for the purpose of occupancy, the following eligibility requirements apply:

1. Non-Low-Income Indian Families and Non-Indian Families.

(a) Non-Low-Income Indian Families. A non-Low-Income Indian Family may participate in an Assisted Activity in accordance with applicable regulations. A non-Low-Income Indian Family may be permitted to occupy an ZHA owned or operated housing unit if:

(1) at the time of the Indian Family's initial occupancy of the housing unit, the Indian Family was low-income; or

(2) the non-Low-Income Indian Family's housing needs cannot be reasonably met without ZHA's assistance, and ZHA deems the non-Low-Income Indian Family to be an Essential Family whose presence on the Zuni Reservation is essential to the well-being of Indian Families.

(b) Non-Indian Families. A Non-Indian Family may be permitted to occupy an ZHA owned or operated housing unit if:

(1) the Non-Indian Family's occupancy predated the adoption of NAHASDA; or

(2) the Non-Indian Family's housing needs cannot be reasonably met without ZHA's assistance, and ZHA deems the Non-Indian Family to be an Essential Family whose presence on the Zuni Reservation is essential to the well-being of Indian Families.

2. Law Enforcement. ZHA may provide housing for a law enforcement officer if the officer

(a) is employed on a full-time basis by the Federal Government or a State, county, or other unit

² The housing provisions contained in the Violence Against Women Act (VAWA) apply to Low Income Housing Tax Credit properties (LIHTC), HOME Investments Partnership , or Housing Trust Fund program.

of local government, or lawfully recognized tribal government; and

(b) in implementing such full-time employment, is sworn to uphold, and make arrests for, violations of Federal, State, county, or Tribal law; and

(c) ZHA determines that the presence of the law enforcement officer may deter crime; provided however, such housing can be provided through a memorandum of understanding with the appropriate law enforcement agency.

VI. CONFLICTS OF INTEREST

A. **Prohibited Activities.** No person who participates in ZHA's eligibility and admissions decision-making process or who has inside information with regard to Assisted Activities, including but not limited to housing staff, housing or Tribal board members, members of Immediate Families, and business associates, may obtain a personal or financial interest or benefit from such Assisted Activities.

B. **Exceptions; Public Disclosure.** This provision does not apply when a person, who might otherwise be included, is Low-Income, Very Low-Income, or Very, Very, Low-Income and is selected for assistance in accordance with this Policy; provided that there is no conflict under applicable Tribal law. ZHA must make a public disclosure of the nature of the assistance to be provided and the specific basis for the selection of the person. For HUD funding, ZHA also must provide a copy of the disclosure to the Regional Office of Native American Programs prior to providing assistance to the person. For any conflicts involving other Assisted Activities, ZHA must maintain records on the disclosure.

C. **Waivers.** For HUD funding, ZHA may request from HUD a waiver of the requirements of this section on a case-by-case basis, if it determines that such an exception would further the primary objectives of NAHASDA and the effective implementation of ZHA's program. Prior to requesting such waiver, ZHA must make a public disclosure of any such conflict and determine that no conflict exists under applicable Tribal law.

D. **Record Keeping Requirements.** ZHA shall maintain records of all exceptions made or waivers requested under this section for a period of three (3) years after the exception is made.

VII. APPLICATION PROCESS

A. **Receipt of Applications and Determination of Eligibility.** ZHA obtains and verifies information from

applicant Families for the purpose of:

1. Determining which Assisted Activity the Family is interested in;
2. Determining whether the Family meets the conditions of eligibility for admission;
3. Determining the type of assistance required;
4. Determining accessibility needs, if any;
5. Applying the applicant selection criteria;
6. Determining the monthly payment to be charged, if any; and
7. Ensuring the health, safety, and welfare of all potentially affected Participants.

B. Procedure Governing Receipt of Applications.

1. The application for admission constitutes the basic record of each Family applying for admission.

Each applicant is required to identify the Assisted Activity desired, supply the requested information, and attest to the accuracy of the supplied information. The application, together with all other materials relating to the Family's eligibility, is to be maintained in an active file for each applicant classified as eligible.

2. As a part of the application record of each Family determined to be eligible, a designated ZHA staff member shall complete and sign the eligibility certification on the application form.

3. If, at any time during the application interview, it appears that the applicant is definitely not eligible, the applicant is to be so informed and the application classified as ineligible. In such instances, sufficient information is to be entered on the application form to establish ineligibility.

C. Verification of Application Data. ZHA must verify that the Family is income eligible based on anticipated Annual Income. The Family is required to provide documentation to verify this determination. ZHA is required to maintain the documentation on which the determination of eligibility is based. ZHA may require that a Family periodically verify its income in order to determine housing payments or continued occupancy consistent with ZHA policies.

1. To assure that the information upon which determinations of eligibility, preference status, monthly payment, and size of housing unit required are to be based are full, true, and complete, the information submitted by each applicant is to be verified.

2. As a condition of participation in or admission to any ZHA Assisted Activities program, the Head of Household and such other Family members as are designated by ZHA shall be required to execute an ZHA-approved release and consent form authorizing any depository or private source of income, or any federal, state, or local agency, to furnish or release to ZHA and to the funding source such information as ZHA or the funding source determines to be necessary. ZHA also shall require the Family to submit such additional information as is necessary to determine or audit a Family's eligibility to receive housing assistance; to determine the Family's adjusted income, tenant rent, or other required monthly payment; to verify related information; or to monitor compliance with equal opportunity requirements. The use or disclosure of information obtained from a Family or from another source pursuant to this release and consent shall be limited to purposes directly connected with determining the Family's initial or continued eligibility or with an application for assistance.

3. ZHA shall maintain complete and accurate verification records consisting of, but not limited to, the following:

(a) Letters or other statements from employers and other pertinent sources giving authoritative information concerning all amounts of income;

(b) Copies of any and all documents that substantiate the applicant's statements, or a brief summary of the pertinent contents of such documents, signed and dated by the ZHA staff member who reviewed them;

(c) Certified financial statements or summary data from books of account from self-employed persons and persons whose earnings are irregular, setting forth gross receipts, itemized expenses, and net income;

(d) Memoranda of verification data obtained by personal interview, telephone, or other means, indicating clearly the source, date reviewed, and the name of the ZHA staff member obtaining the information.

4. Verification records are to be reviewed and evaluated for completeness, accuracy, and conclusiveness. If the information received is not completely adequate in all respects, follow-ups or new efforts to obtain such information are to be made and carried through to conclusion. If during the verification process it becomes evident that, for one or more reasons, an applicant is ineligible, the investigation is to be discontinued and the applicant notified in writing of his or her ineligibility and the reasons therefor.

5. All admissions are subject to the disclosure and verification requirements for Social Security numbers.

6. ZHA may conduct credit checks of any applicant and co-applicant's to determine whether the applicant or co-applicant's has a history of non- or late-payment of housing-related costs. Such histories shall not be used solely to disqualify an applicant from participation in Assisted Activities, but may be considered. ZHA may assess the applicant a fee for conducting the credit check.

7. Criminal Background Check.

(a) For the purposes of occupancy and down payment assistance, ZHA may conduct a criminal background check of any applicant or any member of an applicant's Family to determine whether such applicant or any such member of his or her Family has been arrested or convicted of a crime.

(b) ZHA shall consider the following factors in evaluating arrests and convictions identified by the criminal background check whose evaluation may impact ZHA's determination about the applicant's eligibility to participate in any Assisted Activity:

(1) Whether any arrests or convictions bear a relationship to the safety and security of other residents and ZHA staff;

(2) Level of violence, if any, regarding any arrests or convictions;

(3) Number of arrests and convictions;

(4) Length of time since each arrest and/or conviction; and

(5) Any rehabilitation efforts undertaken for any arrest or conviction since the time of such arrest or conviction.

(c) The following convictions of the applicant or any member of an applicant's Family shall affect the applicant's eligibility for occupancy or down payment related activities:

(1) Conviction of any crime requiring listing on a Public Sex Offender Registry site, whether tribal, state, or federal, shall result in a finding of ineligibility of the applicant to participate in any occupancy or down payment related activities; provided, however, in the sole discretion of the Board, an individual listed on a Public Sex

Offender Registry may be determined to be eligible when:

(a) the housing unit to which the individual would be assigned is not in a cluster site or subdivision and is not within five-hundred (500) feet of a residence where a child or children reside and public notice of such occupancy is provided to all residences within a one-mile radius of the individual's assigned housing unit; and

(b) the specific circumstances of the offense for which the individual is listed would suggest that the potential of the individual re-offending is limited.

(2) Conviction of any Crime of Violence shall result in a finding of ineligibility of the applicant to participate in any occupancy or down payment related activity for a period of five (5) years after conviction of the offense.

(3) Conviction of any alcohol or drug related offense shall result in a finding of ineligibility of the applicant to participate in any occupancy or down payment related activity for a period of three (3) years after conviction of the offense or until the applicant provides evidence of successful completion of an alcohol or a drug treatment program approved by ZHA, whichever is earlier.

(d) The applicant shall be given an opportunity by ZHA to address and present mitigating circumstances regarding any arrests or convictions identified by the criminal background check prior to ZHA making a determination about the applicant's eligibility to participate in any Assisted Activity.

(e) All such records of applicant criminal background checks shall be confidential and shall be maintained in a secure place.

(f) ZHA may assess the applicant a fee for conducting the criminal background check.

8. ZHA shall determine and record for each applicant Family the Family's income level as a percentage of both local and national Median Income.

9. Eligibility determinations are valid for twelve (12) months and are limited to only the Assisted Activity identified by the applicant within the application. Applicants are responsible to update their applications prior to the annual anniversary date of their initial Application. Applicants must contact ZHA and provide an update on the pending applications prior to that time or the application will be void and the applicant's name will be removed from the waiting

list. Applicants must also complete a new application to request additional or different Assisted Activities.

D. Waiting Lists.

1. **Eligibility Determination.** Upon receipt of an application for participation in an Assisted Activities program, ZHA shall immediately place the name of the applicant on a list of pending applications with the date of receipt of application clearly indicated. ZHA shall, to the greatest extent feasible, process the applications in the order received. Upon a determination of eligibility, written notice of eligibility shall be delivered to the applicant and the applicant's name shall be removed from the list of pending applications and placed at the bottom of the appropriate occupancy waiting list.

2. **Assisted Activities Programs.** ZHA shall maintain waiting lists for each Assisted Activity offered, which waiting lists shall comply with the requirements and language set forth in ZHA's Indian Housing Plan (IHP) or other mandated plan, of Families that have applied for Assisted Activities and that have been determined to meet the eligibility and admission requirements.

3. **Additional Lists.** In its sole discretion, ZHA may establish additional waiting lists as may be necessary for specific Assisted Activities.

4. **Establishment of Waiting Lists.** The names of applicants determined to be eligible shall be placed on the appropriate waiting list(s) according to the date of eligibility determination. The waiting list shall include the date of original application, date of eligibility determination, and the date of any subsequent redetermination of eligibility. Services shall be provided to applicants according to placement on the waiting list; provided, however, preferences in selection contained in this Policy and policies established for specific Assisted Activities Programs and approved by the ZHA Board of Commissioners (Board) shall be applied to placement on the list.

E. Notification to Selected Families.

1. The Notice of Selection shall be in writing and shall include the following information:

(a) A statement that the Family has been selected for participation in the selected Assisted Activity.

(b) A statement that the issuance of the Notice of Selection does not constitute or give rise to any contractual obligation on the part of ZHA.

(c) A statement that the Family's eligibility shall be subject to verification at the time of the receipt of services or execution of an Occupancy Document.

(d) Other information as may be required pursuant to the policy governing operation of the specific Assisted Activity.

2. When ZHA determines that an applicant does not meet the eligibility and admission requirements, ZHA shall so notify the applicant in writing. The notice shall state the basis for the determination and shall state that the Family is entitled to an informal hearing by ZHA if a request for such hearing is made within a reasonable time as specified in the notice. If ZHA determines that an applicant meets the admission requirements but is not to be selected for a certain Assisted Activity, ZHA shall so notify the applicant in writing. The notice shall also state that the applicant will remain on the waiting list for consideration in the event of an opening in the specified Assisted Activities program.

3. Any Notice by the Executive Director or ZHA to the applicant required by law or this Policy shall be deemed to have been given when deposited in the United States mail, postage prepaid, addressed to the applicant at the housing unit at issue and to such other address as may have been provided to ZHA by the applicant.

VIII. PREFERENCE IN SELECTION

A. **Tribal Preference.** Preference in eligibility for Assisted Activities will be provided first to members of the Tribe, followed by other Indians, in accordance with the eligibility criteria of this Policy.

B. **Other Preferences.** ZHA may, by appropriate policy, establish additional preferences for admission to specific Assisted Activities programs.

C. **Application of Preference.**

1. Applicants possessing more than one preference criteria may receive a higher rating for placement on the waiting list.

2. If two or more eligible applicants for the same Assisted Activity have an identical priority status, the applicant filing the earlier application will be offered the first opening in the Assisted Activity program. If the applicant rejects the offer other than for a justifiable reason, the applicant's name will be moved to the bottom of the eligible applicant list. If an applicant presents to ZHA's satisfaction clear evidence that acceptance of the offer will result in undue

hardship or handicap, the applicant shall retain his place on the eligible applicant list.

3. Application of preference allowed under this section may result in a change of the applicant Family's position on ZHA's waiting list.

IX. CONFIDENTIALITY OF PARTICIPANT FILES

A. **ZHA Confidential Information.** ZHA Confidential Information includes but is not limited to information obtained in connection with processing applications and obtaining investigative reports, recertifications, collections, and information relating to the operations, functions, and activities (both internal and external) of ZHA, all of which is proprietary and confidential.

1. ZHA Confidential Information shall not be disclosed to anyone under any circumstances, except to the extent necessary to fulfill an employees' duties and job requirements.

2. No ZHA Confidential Information shall be removed from ZHA premises by any employee except with the prior written permission of ZHA.

3. No ZHA Confidential Information shall be disseminated, disclosed, or discussed with any person not officially connected with ZHA and entitled to such information.

4. No copies or abstracts will be made or retained by an employee regarding any such information, except in the ordinary course of an employee's duties and responsibilities and solely for official ZHA purposes only.

B. **Violence Against Women Act Confidentiality.** All information provided to ZHA concerning any incidents of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any database.

1. **Access to records.** Employees shall not have access to the details of incidents of domestic violence, dating violence, sexual assault, or stalking for the purpose of granting or denying VAWA protections to an applicant or tenant.

2. **Unauthorized disclosure.** Employees may not disclose information to any other individual or entity except to the extent that such disclosure is:

(a) Consented to by the applicant or tenant in writing for a specific purpose and time frame;

(b) Required for use in a hearing or an eviction proceeding regarding termination of participation in an Assisted Activity; or

(c) Otherwise required by applicable law.

C. **Authorized Disclosure.** Notwithstanding the other provisions of this Section, an employee may disclose ZHA Confidential Information if required to make such disclosure in response to a valid legal process; *provided* that he or she shall make no such disclosure without giving ZHA immediate written notice of such process and the opportunity to intervene and object to the disclosure of ZHA Confidential Information.

X. RECERTIFICATION

A. **Recertification of Eligibility Criteria.** Annually or as otherwise specified by the applicable policy for an Assisted Activity, the Participant shall update all information maintained on file at ZHA by submitting on a form approved by ZHA and providing all requested information. Failure to recertify eligibility as required under the appropriate policy may result in a determination of ineligibility and a loss of services.

B. **Evaluation of Recertification Information.** ZHA shall evaluate continued eligibility and participation in the Assisted Activity pursuant to the requirements contained in this Policy and any additional requirements that may be contained in the policy governing the operation of the Assisted Activity in which the Participant participates.

C. **Change in Annual Income Not Cause for Termination.** Once a Family is determined to be eligible and commences participation in an Assisted Activity, such participation may not be terminated solely because of an increase in Annual Income.

D. **Criminal Background Check.**

1. For the purposes of continued occupancy or participation in a down payment assistance program, contemporaneously with any eligibility recertification, ZHA may conduct a criminal background check of any Participant or any member of a Participant's Family to determine whether such Participant or any such member of his or her Family has been arrested or convicted of a crime.

2. ZHA shall consider the following factors in evaluating arrests and convictions identified by the criminal background check whose evaluation may impact ZHA's determination about the Participant's eligibility to

participate in any Assisted Activity:

- (a)** Whether any arrests or convictions bear a relationship to the safety and security of other residents and ZHA staff;
- (b)** Level of violence, if any, regarding any arrests or convictions;
- (c)** Number of arrests and convictions;
- (d)** Length of time since each arrest and/or conviction; and
- (e)** Any rehabilitation efforts undertaken for any arrest or conviction since the time of such arrest of conviction.

3. The following convictions of the Participant or any member of a Participant's Family shall affect the Participant's eligibility for continued occupancy:

(a) Conviction of any crime requiring listing on a Public Sex Offender Registry site, whether tribal, state, or federal, shall result in a finding of that the individual is no longer eligible for continued occupancy of a ZHA-assisted housing unit; provided, however, in the sole discretion of the Board, an individual listed on a Public Sex Offender Registry may be determined to remain eligible when:

(a) the housing unit to which the individual lives is not in a cluster site or subdivision and is not within five-hundred (500) feet of a residence where a child or children reside and public notice of such occupancy is provided to all residences within a one-mile radius of the individual's assigned housing unit; and

(b) the specific circumstances of the offense for which the individual is listed would suggest that the potential of the individual re-offending is limited.

(b) Conviction of any Crime of Violence shall result in a finding that the Individual is not eligible for continued occupancy for a period of five (5) years after conviction of the offense.

(c) Conviction of any alcohol or drug related offense shall result in a finding that the Individual is not eligible for continued occupancy for a period of three (3) years after conviction of the offense or until the applicant provides evidence of successful completion of a drug treatment program approved by ZHA, which ever is earlier.

4. The Participant shall be given an opportunity by ZHA to address and present mitigating

circumstances regarding any arrests or convictions identified by the criminal background check prior to ZHA making a determination about the Participant's eligibility to participate in any Assisted Activity.

5. All such records of applicant criminal background checks shall be confidential and shall be maintained in a secure place.

6. ZHA may assess the applicant a fee for conducting the criminal background check.

E. **Termination for Ineligibility.** Families who are determined ineligible for continued participation in an Assisted Activity will be notified in writing.

F. **Special Reexamination.** If, at the time of admission or regular recertification of a Participant clearly of Low Income, it is not possible to determine Annual Income with any reasonable degree of accuracy, a temporary determination of income is to be made and a special reexamination scheduled within ninety (90) calendar days, depending upon the estimated time required for the Family circumstances to stabilize. The Participant is to be notified of the date of the special reexamination.

G. **Changes Occurring Between Reexaminations.** A determination of eligibility shall not be rescinded between periodic reexaminations except:

1. Participants are required to report the loss of a Family member through death or other continuing circumstances, and to report the addition of a Family member by birth or other circumstance.

2. Any Participant who reports a change in Family circumstances shall be given an interim income redetermination.

3. Failure to report the occurrence of such losses or changes may result in a determination of ineligibility.

XI. AMENDMENTS

Amendments to this Policy may be made by resolution of the Board at a duly called meeting of the Board at which a quorum is present and documented in the official minutes. A copy of the proposed amendments shall be provided to all Board members in advance of the meeting.