

## **FINALIZED BACKGROUND CHECK POLICY**

**Policy:** Criminal background checks will be done on all applicants for CDTHA housing. Background checks for tenant screening should include a criminal background check with a criminal record search and an eviction report.

**A. Criteria:** The following criteria shall be used as a guide in disqualifying an individual for placement on the CDTHA Waiting List.

1. Anyone who ever was convicted, has been found guilty or entered a plea of guilty or nolo contendere (no contest), regardless of the adjudication for any of the following disqualifying offenses:
  - a. Any crimes against children
  - b. Any felony involving violence
  - c. Any sexual offense
  - d. Any drug related offense
2. In addition, the following offenses will disqualify an applicant if they have been convicted, have been found guilty or entered a plea of guilty or nolo contendere (no contest), regardless of the adjudication for any of the following disqualifying offenses within the past ten (10) years:
  - a. Any felony
  - b. Any crimes of moral turpitude
  - c. More than one offense for driving while impaired
3. In addition, the following offenses will disqualify an Applicant if they have been convicted, have been found guilty or entered a plea of guilty or nolo contendere (no contest), regardless of the adjudication for any of the following disqualifying offenses within the past seven (7) years:
  - a. Any misdemeanor offense that may indicate a lack of integrity and/or character of an Applicant.

**B. Required Information:** The background check will be obtained from the company or source as determined by the Executive Director and will include the following:

1. Social security number and identity verification;
2. Criminal search (10 years) of national, state, county, local and Native American law enforcement entities;
3. Employment verification;
4. Violent Sexual Offender and Predator Registry Search;

5. Office of Inspector General (OIG) List of Excluded Individuals/Entities;
6. General Services Administration (GSA) List of Parties Excluded from Federal Programs; and
7. US Treasury, Office of Foreign Assets Control (OFAC), List of Specially Designated Nationals (SDN).

C. **Assessing Information:** In assessing a record of criminal conviction(s), the decision will be made by assessing the nature and severity of the offense as well as a variety of surrounding facts and circumstances including, but not limited to:

1. the age of the individual at the time of the offense;
2. the number of offenses for which the individual was convicted;
3. the time which has elapsed since the last offense; and
4. whether the circumstances arose out of an employment situation.

D. **Rehabilitation Factors:** Whether the applicant has been sufficiently rehabilitated to warrant public trust, the Executive Director shall consider the following factors in examining whether an applicant has been presumed to be rehabilitated:

1. Completion of probation;
2. Completion of parole supervision;
3. In the case of a felony, not subject to parole supervision, if more than 10 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction; or
4. In the case of a misdemeanor related to finances and moral turpitude and more than 5 years have elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

E. **Factors Outweighing Rehabilitation:** If any one of the following factors exist, this may outweigh the presumption of rehabilitation:

1. Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);
2. Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;

3. Falsification of an application with the CDTHA; and
4. Failure to furnish to the CDTHA additional information or failure to appear for a conference with the CDTHA in relation to the Applicant's application.

F. **Inapplicable Records:** The following criminal history records shall not be considered in connection with an application for CDTHA housing assistance:

1. Juvenile adjudications which have been completely resolved and carried no obligation and/or accountability into adulthood;
2. Records of arrest not followed by a conviction;
3. Convictions overturned by a higher court; and
4. Convictions that have been the subject of a pardon or expungement.

Please note in response to the previous situations listed under Section F, applicants may respond on application as if the event(s) had never occurred.

G. **Notice of Denial:** If a determination is made that the Applicant does not qualify, the Applicant shall be notified in writing of the basis of denial and the right to appeal the decision in accordance with the Grievance Section of this Policy.

H. **HUD/NAHASDA Rules and Regulations:** The CDTHA shall be in full compliance with any and all aspects of NAHASDA rules and regulations including, but not limited to the following:

1. Receipt of criminal conviction information on adult applicants or tenants by Indian tribes and TDHEs.
  - a. The National Crime Information Center, police departments, and other law enforcement agencies shall provide criminal conviction information to Indian tribes and TDHEs upon request. Information regarding juveniles shall only be released to the extent such release is authorized by the law of the applicable state, Indian tribe or locality.
  - b. The term "tenants" includes homebuyers who are purchasing a home pursuant to a lease purchase agreement.
2. The CDTHA shall use the criminal conviction information for applicant screening, lease enforcement and eviction actions. The information may be disclosed only to any person who has a job related need for the information and who is an authorized officer, employee, or representative of the CDTHA or the owner of housing assisted under NAHASDA.

**3. Confidentiality of criminal conviction information.**

- a.** The CDTHA will keep all the criminal conviction record information it receives from the official law enforcement agencies listed in files separate from all other housing records.
- b.** These criminal conviction records will be kept under lock and key and be under the custody and control of the CDTHA's Executive Director and/or his designee for such records.
- c.** These criminal conviction records may only be accessed with the written permission of the CDTHA's Executive Director and/or his designee and are only to be used for the purposes stated in Section 208 of NAHASDA.

The following could be substituted for Items A, 1-3 on page 1 of this document.

- A.** Felony convictions.
- B.** Withheld judgments for felonies.
- C.** Other plea agreements to felony convictions.
- D.** Sexual assault, rape, indecent exposure, lewd and lascivious behavior, or any crime involving non-consensual sexual conduct committed at any time.
- E.** Child abuse, sexual exploitation of children, child abduction, child neglect, contributing to the delinquency or neglect of a child, enticing a child for immoral purposes, exposing a minor to pornography or other harmful materials, incest, or any other crime involving children as victims or participants committed at any time.
- F.** Homicide committed at any time.
- G.** Any charge related to illegal drugs such as (but not limited to) possession of drugs or paraphernalia, or trafficking.
- H.** Abuse, exploitation or neglect of a vulnerable adult (disabled or elderly) committed at any time.
- I.** Assault or Battery.
- J.** Misdemeanor theft committed during the last 5 years or grand theft committed during the previous seven years.