

**SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY**

CONFLICT OF INTEREST and STANDARDS OF CONDUCT POLICY

TABLE OF CONTENTS

Chapter	Title	Page
20.1	AUTHORITY AND PURPOSE	1
	Authority	1
	Purpose	1
20.2	CONFLICT OF INTEREST	1
	Generally	1-2
	Guiding Principles	2
	Definitions	2-3
20.3	EXCEPTIONS	3
	Generally	3
	Procedure	3-4
20.4	VIOLATIONS	4
20.5	CODE OF CONDUCT	5-6

**SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY**

Chapter 20 – Conflict of Interest and Standards of Conduct Policy

20.1 Authority and Purpose

20.1.1. Authority. This policy is intended to comply with the Native American Housing and Self-Determination Act (NAHASDA) along with its implementing regulations, specifically 24 CFR 1000.30. In addition, the conflict of interest provisions of 2 CFR Part 200 shall apply.

The Duck Valley Shoshone-Paiute housing authority, hereinafter (“DVHA,”) must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. [2 C.F.R. Part 200, §200.318(c)(1)]

The Shoshone-Paiute Duck Valley Housing Authority, was established by **Ordinance Number 64-SP0-01**, amended by **Ordinance No. 77-SPO-01**, and **Ordinance No. 85-SP0-04**, and **Ordinance Number 2009-SPO-03** under the Shoshone-Paiute Tribe’s Business Council’s authority “to establish subordinate agencies, and to delegate powers to subordinate boards and committees,” pursuant to Article VI, Section 1(m) and (s) of the Shoshone-Paiute Tribe’s Constitution and By-Laws All jurisdiction, powers and authorities hereby granted to said Corporation are derived from the Council, to which the Agency, its officers and its directors are ultimately responsible.

20.1.2. Purpose. The Duck Valley Housing Authority, is a governmental subdivision of the Shoshone-Paiute Tribes, created for the purpose of providing tribal members with safe, sanitary, and decent housing and made the Duck Valley Housing Authority its tribally designated housing entity, hereinafter the (“TDHE”), for the purpose of receiving and administering funds from the United States Department of Housing and Urban Development and empowered with delegated duties and responsibilities for economic development.

The DVHA Board of Commissioners, hereinafter (“Board or BOC,”) wishes to prohibit any conflict of interest in the procurement of supplies, equipment, other property, construction and services and the provision of housing services to families served by the DVHA.

20.2 Conflict of Interest

20.2.1. Generally. The DVHA BOC have an obligation to the Shoshone-Paiute Tribes and the DVHA, to conduct themselves within guidelines that prohibit real, apparent, or potential conflicts of interest. Because the DVHA may receive federal funds, from time to time, it follows the

SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY

appropriate government regulations that prohibit conflicts of interest and as such, board members and DVHA staff are subject to those regulations. The BOC adheres to this standard of conduct that governs the award or administration of any contract supported by Federal or Non-Federal funds that are administered by the DVHA.

When the transaction at issue is of such character and significance to the DVHA that it would in the normal course be brought before the BOC to approve the action DVHA management should conduct a preliminary conflict review and report its findings to the board. Examples of such situation would be where DVHA management or a board member, has a family member that is a director, general partner, agent, or employee of the entity that the DVHA is considering conducting a transaction with or where a family member of DVHA management or a board member, will receive remuneration, monetary or otherwise, from the entity the DVHA is considering entering into a business transaction.

20.2.2. Guiding Principles. Where an interest would reasonably be expected to exert an influence on DVHA management or a board member's judgment the affected individual should act:

- 20.2.2.1. In good faith;
- 20.2.2.2. In a manner he or she reasonably believes to be in the best interests of the DVHA and Tribe; and
- 20.2.2.3 To discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

20.2.3. Definitions.

- 1) "Apparent Conflict of Interest," means one in which a reasonable person would think that the professional's judgment is likely to be compromised. A potential conflict of interest involves a situation that may develop into an actual conflict of interest.
- 2) "Board of Commissioners," means the five (5) person board initially selected by the Business Council and thereafter appointed by the BOC, that oversees and guides, the DVHA.
- 3) "Conflict of Interest," means a real, apparent, or potential conflict of interest that occurs when an employee or board member is in a position to influence a decision that may result in a personal or proprietary gain for those themselves or for an immediate family member as a result of DVHA business dealings. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds thereunder, either for themselves or others with whom they have business or immediate family ties. Interest means any financial or beneficial interest DVHA management or the DVHA BOC member has in a potential transaction, regardless of whether that transaction must be approved by the BOC and regardless of the materiality of the interest.
- 4) "Immediate Family Member," for purposes of this policy and consistent with the BOC By-Laws, means family ties that are defined as a husband, wife, father, step-

SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY

father, mother, step-mother, son, step-son, daughter, step-daughter, brother, step-brother, sister, step-sister, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandfather, grandmother. Commissioners shall disclose their knowledge of the interest of such family member in the transaction at issue.

- 5) "Misconduct," means the willful violation of this policy.
- 6) "Organizational Conflict of Interest" (OCI) is when a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage. (primarily applies to procurement transactions)
- 7) "Required Disclosure" means disclosure by the board member who has a conflicting interest of both: (a) the existence and nature of the conflicting interest; and (b) all facts known to the board member respective to the subject matter of the transaction that an ordinary person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.

20.3. Exceptions

20.3.1. Generally. DVHA management, employees, and board members are expected to observe an obligation of undivided loyalty to the DVHA and the Tribe and to avoid actual or apparent conflicts of interest. No board member shall vote upon, or otherwise participate in, decisions involving a conflicting interest of the board member or his or her family member.

20.3.2. Procedure.

20.3.2.1 DVHA may make exceptions to the conflict of interest provisions set forth in § 1000.30(b) on a case-by-case basis when it determines that such an exception would further the primary objective of DVHA and the effective and efficient implementation of the recipient's program, activity or project.

20.3.2.2 It is the responsibility of the individual in question (creating the conflict) to submit a written disclosure statement describing the "apparent," or "potential," conflict that accompanies the potential contract, bid or position. (Attachment A)

20.3.2.3 The disclosure must be submitted to the Executive Director who shall make a recommendation to the BOC, as to whether or not an exception would violate tribal laws and/or DVHA policies regarding conflict of interest.

20.3.2.4 Where a determination has been made that a conflict exists, the affected BOC member must follow Article III (Section Two - Recusal).

20.3.3. Recusal. In the event there is a business topic to be discussed and a Board member is associated with the business topic and a conflict of interest is real, apparent, or potential, the Board member shall disclose his/her association and recuse him/herself until the discussion ends. The purpose for said action is to prevent any real, apparent, or potential,

**SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY**

or perceived conflict of interest from occurring that would have an adverse effect on the business and reputation of the DVHA. The conflict of interest and subsequent recusal shall be entered into the BOC minutes.

20.3.3.1 No conflicting interest transaction shall be entered into unless, after the Required Disclosure is made to BOC, the transaction receives the affirmative vote of a majority of the board members present at the regular meeting at which the vote takes place.

20.3.3.2 Any conflicting interest transaction in which the Required Disclosure is not made, or in which the transaction does not receive the affirmative vote of a majority of the board members present at the meeting in which the vote takes place, is voidable by the BOC.

20.3.3.3 DVHA management or the affected board member must promptly disclose to the BOC the existence of any interest DVHA management or the board member has in a potential transaction or in an entity that has an ongoing business relationship with the Tribe or the DVHA.

20.4. Violations

20.4.1. If a member knowingly and willfully violates the DVHA Conflict of Interest Policy, such action shall be construed to be "misconduct." The BOC, may recommend to the Business Council the removal of the member from the Board for such misconduct, such recommendation shall be reflected in the BOC minutes, as evidenced by a motion.

20.4.2. In the event the Conflict of Interest is a violation of Federal or Tribal laws or Federal Rules and Regulations, the Board member will be reported to the appropriate authorities. *Duck Valley Housing Authority Ordinance*, No. 2009-SPO-03, § 6(6) p.2, June 17, 2009.

20.5. Code of Conduct

20.5.1. Board Standards

20.5.1.1. *Duty of Diligence.* The responsibility of the Board is to govern the DVHA. The board commits itself and its members to ethical, businesslike, and lawful conduct. This includes proper use of authority and appropriate decorum when acting as Board members. The Board must act with care and perform their duties in good faith and in a manner, they believe to be in the best interest of the DVHA and the Tribe.

In order to be diligent and act with care, the Board must be well informed on the issues that they have control over. The Board cannot guarantee the honesty or

SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY

integrity of the DVHA employees but should adopt reasonable policies and procedures to encourage honesty in the DVHA organization.

20.5.1.2. *Duty of Diligence.* Board members must represent loyalty to the interests of the DVHA and its program participants. This accountability supersedes any conflicting loyalty such as that to advocacy or interest groups and membership on other Boards or staffs. It also supersedes the personal interest of any Board member acting as a participant in DVHA's programs. Board members shouldn't do anything that would cause damage to the DVHA. They must not make profits or unfair gains through personal transactions while acting as a Board member.

20.5.1.3. *Duty of Obedience.* The Board must act within the laws and regulations by which the DVHA is required to follow. Board members may be held personally liable if they overstep their legal boundaries or cause damage to the DVHA.

- a. Members must not use their positions on the Board to obtain employment with the DVHA for themselves, family members, or close associates.
- b. Members will disclose their involvements with other organizations, vendors and/or any other associations that might produce a conflict.
- c. Board members shall not attempt to exercise individual authority over the DVHA except as explicitly set forth in Board policies. The strength and effectiveness of the Board is as a unit, not as a group of individuals, and decisions of the Board shall be binding on all.
- d. Members' interaction with the Executive Director or with staff must recognize and identify the lack of authority vested in individuals except when explicitly Board authorized.
- e. Members' interaction with public, media or other entities must recognize the same limitation and the inability of any Board member to speak for the Board except as stated in Board policy or delegated thereto.
- f. Members must respect the confidentiality appropriate to issues of a sensitive nature and act honestly and openly at all times and keep the confidentiality of privileged and closed session information.
- g. Members shall encourage and safeguard open access to the Board while maintaining appropriate and well-defined DVHA communication and decision-making channels.
- h. Members shall work respectfully with other Board members in a spirit of harmony and cooperation giving members courteous consideration of their opinions.
- i. Members shall devote time to activities that will enhance their ability to function effectively as governing Board members.

20.5.2. Members shall not:

SHOSHONE-PAIUTE TRIBES
DUCK VALLEY HOUSING AUTHORITY

- a. Accept anything of personal value to influence DVHA staff or a Board Member's decision with respect to a transaction; or
- b. Accept any compensation (other than whatever remuneration that management or the board member would ordinarily receive from the Tribe or the DVHA in exchange for their services), loan, gift, or anything of value from the DVHA, the Tribe, or from the employees, agents, representatives or any person doing business with, or attempting to do business with, the DVHA or the Tribe that could reasonably be expected to influence DVHA management's or BOC member's decision with respect to a transaction or business decision of the BOC or the DVHA that would benefit the party providing the compensation, loan, gift, or item of value.
- c. Agree to committing DVHA maintenance staff to working on individual homes without going through the procedural contracting process.