Tennessee Housing Development Agency (THDA)

NON-DISCRIMINATION IN THE ADMINISTRATION OF PROGRAMS, SERVICES AND ACTIVITIES

Purpose: To ensure no qualified individual will be excluded from participation in, or the benefits of, the programs or activities administered by THDA solely on the basis of race, color, religion, creed, national origin, sex, familial status, age, disability and any other class protected under state or federal law.

Effective Date: July 1, 2019

Application: This policy applies to all programs, services or activities administered by THDA.

Policy Statement: THDA is committed to providing equal access to its programs, services, and activities and complies with all applicable Federal and state civil rights laws and enabling regulations. THDA does not discriminate on the basis of race, color, national origin, familial status, age, sex, disability or any other protected class in admission to its programs, services, or activities; in access to them; in the provision of benefits, or in any aspect of operations.

Responsibility: Each THDA employee is responsible for exhibiting and promoting professional and respectful conduct in the work place. Each THDA employee will be held accountable for personal conduct that is determined to be in violation of this policy.

Every THDA employee shall report suspected discriminatory conduct in the provision of services or program activities by either a THDA employee or sub-recipient/grantee to the Civil Rights Compliance Advisor, the Office of Legal Counsel, the Division of Internal Audit or a member of leadership. The Civil Rights Compliance Advisor tracks and coordinates discrimination complaints. The Division of Internal Audit conducts internal investigations into allegations of discrimination under this policy. In some cases, a complaint of discrimination may be investigated by the Tennessee Human Rights Commission (THRC). In those cases, the Civil Rights Compliance Advisor will coordinate internal actions with the THRC, THDA Internal Audit Division and the Office of Legal Counsel.

The Executive Director oversees any actions related to THDA employee conduct under this policy except those related to either himself/herself or to the Director of Internal Audit. If a complaint is lodged against the Executive Director or the Director of Internal Audit, then the THDA Board's Audit and Budget Committee is responsible for follow-up.

Employee Non-Discrimination Training: All THDA employees complete annual non-discrimination training. Annual training may focus on a specific non-discrimination topic of particular relevance to THDA's programs and activities or may be a short, general refresher on the overall requirements of non-discrimination laws. New THDA employees complete a comprehensive non-discrimination training module within the first six months of employment.

Discrimination Complaint Policy: Any applicant to, or beneficiary of, a THDA funded program who alleges discrimination based upon race, color, religion, creed, national origin, sex, familial status, age, disability or any other protected class has the right to file a complaint no later than 180 days after the alleged discrimination. The complaint procedures may be found in THDA's *Grievance Procedures for Complaints of Discrimination by Applicants or Beneficiaries* of THDA's Programs. Applicants to and beneficiaries of THDA programs are notified of their right to file a discrimination complaint. The procedures to file a complaint and a Discrimination Complaint form are made publicly available on the Fair Housing page of the THDA website.

Non-Discrimination Related to Persons with Disabilities & Reasonable Accommodation: Federal and state non-discrimination laws provide housing protections for individuals with disabilities. In accordance with these laws, THDA will not exclude any qualified individual with a disability, solely on the basis of the disability, from participation in or the benefits of the federally funded programs or activities administered by THDA.

Definition of Disability (with respect to an individual): A physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. The term major life activity may include, seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working (not an exhaustive list).

Under Section 504 of the Rehabilitation Act of 1973, organizations with 15 or more employees must designate a Section 504 Coordinator and notify program participants and employees of non-discrimination policies, including information on how to request a Reasonable Accommodation of rules, policies, practices or services and grievance procedures. THDA's Section 504 Coordinator is an Assistant Legal Counsel appointed by THDA's Executive Director. THDA's non-discrimination and grievance procedures and contact information are posted to the Fair Housing page on the THDA website.

Reasonable Accommodation: Title II (Subtitle A) of the Americans with Disabilities Act, Section 504 and the Fair Housing Act provide individuals with disabilities the right to request a reasonable accommodation in the rules, policies, practices, or services of a housing provider (or state/local government). A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. THDA will provide reasonable accommodation to all applicants to and participants of programs administered by the agency. THDA's Section 504 Coordinator oversees reasonable accommodation requests for the agency.

Guidance from the Department of Housing and Urban Development (HUD) and the Department of Justice states that if a person's disability is obvious or otherwise known to the provider, and the need for the requested accommodation is also readily apparent or known, then additional information about the requester's disability or the disability-related need for the accommodation is not necessary. If the requestor's disability is known or readily apparent to THDA but the need for the accommodation is not readily apparent or known, THDA will request only information that is necessary to evaluate the disability-related need for the accommodation. During the

process of evaluating a request for reasonable accommodation, THDA will not make an inquiry to determine whether an individual has a disability; or an inquiry as to the nature or severity of an individual's disability. Rather, THDA may request documentation to confirm any disability-related need(s) for a requested reasonable accommodation(s). THDA will not require the individual to disclose the specific disability (ies); or the nature or extent of the individual's disability (ies).

THDA will generally, upon request, provide appropriate aids and services leading to effective communication for qualified individuals with disabilities so that they may participate equally in THDA's programs, services and activities. This includes qualified sign language interpreters (including video remote interpreting) and written information in other formats (large print, audio, accessible electronic formats, and other formats).

Limited English Proficiency & National Origin Protections: Title VI of the Civil Rights Act of 1964, the Fair Housing Act (national origin protections) and Executive Order 13166 require recipients (and sub-recipients) of Federal financial assistance to take reasonable steps to ensure meaningful access to programs and services by Limited English Proficient (LEP) persons. LEP Persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.

As per guidance from federal funding agencies such as the Department of Justice (DOJ), the Department of Housing and Urban Development (HUD) and the Department of Health and Human Services (DHHS), THDA has completed a four factor analysis and a Language Access Implementation Plan that outlines how LEP persons are notified of language services and when and how language services are provided to LEP persons. The four factor analysis and THDA's Language Assistance Implementation Plan are available for public review on the THDA website. The analysis and Plan are periodically reviewed and updated as needed.

Title VI Coordinator, Plan & Compliance *(State of Tennessee Public Acts, 2009 Public Chapter No. 437):*
Recipients (and sub-recipients) of Federal funding must appoint a Title VI Coordinator who is responsible for managing and monitoring Title VI complaints, Title VI compliance, and providing the annually required Title VI Implementation Plan to the Tennessee Human Rights Commission (THRC) each year. The Civil Rights Compliance Advisor serves as the agency's Title VI Coordinator and oversees non-discrimination training activities, complaints, sub-recipient self survey reporting and the Title VI Plan activities and submission.

THDA completes a Title VI Implementation Plan annually that details Federal programs and related expenditures, including beneficiary demographics, and non-discrimination activities, training, compliance, complaints and assurances. The Plan is submitted to THRC on or before September 30 each year. Once approved by the THRC, THDA's Title VI Implementation Plan is posted to the THDA website.

Consolidated Plan (HUD Block Grant Programs), Public Housing Authority (PHA) and Fair Housing Activities (*24 CFR Part 91, Subpart D*): The Consolidated Plan Block Grant Programs consist of five HUD funded programs: HOME Investment Partnership (HOME),

Emergency Solutions Grant (ESG), the National Housing Trust Fund, Community Development Block Grant Program (CDBG) and Housing Opportunities for Persons with Aids (HOPWA). THDA is the state administrator for the HOME, ESG and the NHTF Programs. Department of Economic and Community Development (ECD) oversees the CDBG program, and the Department of Health administers HOPWA. THDA serves as the lead state agency for Consolidated Planning working in cooperation with ECD and Health.

The Plan serves as a guide in helping the state meet affordable housing, community development, economic development, public service, and fair housing needs over the next five years. The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. The Consolidated Plan and Annual Action Plan, along with the Consolidated Annual Performance and Evaluation Report (CAPER), which reports on accomplishments and progress toward Consolidated Plan goals, and the Citizen Participation Plan, are posted for public review on THDA's website.

As part of the Consolidated Plan, THDA must certify that the agency will affirmatively further fair housing (24 CFR Part 91.325 (a)(1)), which means conducting an Analysis of Impediments to Fair Housing Choice (AI), taking appropriate actions to overcome the effects of any impediments identified through that analysis, and keeping records of these actions. THDA completes an Analysis of Impediments (AI) to Fair Housing Choice every five (5) years in cooperation with the other state Consolidated Plan agencies. The AI is a review of impediments to fair housing choice in the public and private sector. THDA annually reviews the Action Plan and updates activities undertaken to overcome impediments to Fair Housing Choice. The Analysis of Impediments and Action Plan are posted to THDA's website.

THDA also completes a PHA Plan to describe its Housing Choice Voucher Program policies, programs, operations, and strategies for meeting local housing needs and goals. There are two parts to the PHA Plan: the Annual Plan and the 5-Year Plan. The goals and local housing needs identified in the PHA Plan must be consistent with the Consolidated Plan. The PHA Plans are posted to the THDA website on the Rental Assistance page for public review.

THDA Contracts (Sub-recipients & Vendors) and Non-Discrimination Assurance Language: Every THDA contract includes non-discrimination assurance language that establishes an affirmative obligation to not discriminate against any individual on the basis of that individual's membership in a protected class listed in this policy. Activities funded through Federal financial assistance from the Department of Housing and Urban Development include the HUD non-discrimination assurance language.

Sub-Recipients of THDA Federal Funds & Non-Discrimination: Sub-recipients of THDA's federal funding must comply with all federal and state non-discrimination laws in the same manner as THDA (the primary recipient). THDA provides online non-discrimination training resources for sub-recipient and partner agencies. THDA will review compliance with Fair Housing, Title VI, Section 504 and other applicable non-discrimination regulations during monitoring activities for sub-recipients of THDA's federal funds.

Federal Non-Discrimination References:

1. *Title VI of the Civil Rights Act of 1964 (42 U.S. Code § 2000d)* prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance.

2. *Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act", (42 U.S. Code §§ 3601-19)* as amended in 1988, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, on the basis of race, color, national origin, religion, sex, familial status or disability. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces. The Act further requires that new multifamily housing with four or more units be designed and built to allow access for persons with disabilities. The Fair Housing Act applies to all housing activities and dwellings, except as exempted (*42 U.S. Code 3603 § 803 §§ b & c; 42 USC 3607 § 807 §§ a & b*).

   Enabling regulations: Department of Housing and Urban Development (HUD), 24 CFR §100 and 24 CFR §§ 5.150 – 5.168 (obligation to affirmatively further fair housing)

3. *Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794)* states that no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that receives Federal financial assistance. Programs and activities must be readily accessible to and usable by persons with disabilities.

   Enabling regulations:
   - HUD 24 CFR. § 8- Non-discrimination based on Handicap in Federally Assisted Programs and Activities of HUD
   - Department of Health and Human Services (HHS) 45 CFR § 84- Non-discrimination based on Handicap in Programs or Activities Receiving Federal Financial Assistance
   - Department of Energy (DOE) 10 CFR. § 1040- Non-discrimination in Federally Assisted Programs or Activities
   - Department of Treasury 31 CFR § 40- Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance From the Department of the Treasury

4. *Title II of the Americans with Disabilities Act of 1990 (42 U.S. Code §§ 12131 – 12165)* (Subtitle A) protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. Title II requires public entities to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless the entity can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided, including communicating effectively with people who have hearing, vision, or speech disabilities. HUD enforces Title II with respect to housing-related programs and

activities of public entities, including public housing, housing assistance and housing referrals.

Enabling Regulations:

- DOJ 28 CFR § 35 - Nondiscrimination on the Basis of Disability in State and Local Government Services
- HUD 24 CFR § 570.614 - Architectural Barriers Act and the Americans with Disabilities Act

5. The *Architectural Barriers Act (ABA) (42 U.S.C. 4151-4157)* requires that buildings and facilities that are designed, constructed, or altered with Federal funds, or leased by a Federal agency, comply with Federal standards for physical accessibility.

   Enabling Regulations: 24 CFR § 570.614 - Architectural Barriers Act and the Americans with Disabilities Act

6. *Age Discrimination Act of 1975 (42 U.S. Code §6101-6107)*, as amended, provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

   Enabling Regulations:

   - HUD 24 C.F.R. § 146 - Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance
   - HHS 45 CFR § 91 - Nondiscrimination on the Basis of Age in programs or Activities Receiving Federal Financial Assistance from HHS
   - DOE 10 C.F.R. § 1040- Non-discrimination in Federally Assisted Programs or Activities
   - Treasury 31 CFR § 23- Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance from the Department of Treasury

7. *Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S. Code § 5309)* prohibits discrimination on the basis of race, color, national origin, sex, and religion in any program or activity funded in whole or in part under Title I of the Community Development Act of 1974, which includes Community Development Block Grants.

8. *Low-Income Home Energy Assistance Act of 1981 (42 U.S. Code § 8625)* prohibits discrimination on the basis of race, color, national origin, sex, age and disability in programs, services, and activities funded under the Act.

9. *Equal Credit Opportunity Act (15 U.S. Code 1691)* prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, because an applicant receives income from a public assistance program, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act.

10. *Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, (65 Fed. Reg. 50121)*, issued on August 11, 2000, requires each federal agency to take steps to ensure that eligible persons with limited English proficiency are provided meaningful access to all federally-assisted and federally-conducted programs and activities.

    Enabling Regulations:
    - Department of Justice (June 18, 2002), 67 FR 41455- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons
    - Department of Energy (DOE) (August 16, 2004), 69 CFR 157, Prohibition Against National Origin Discrimination affecting Persons With Limited English Proficiency (LEP); Policy Guidance.
    - HUD (January 22, 2007), 72 FR 2732- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons
    - DHHS (August 30, 2000), 65 FR 52762- Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

11. *Executive Orders 11625, 12432, 12138 AND OMB Circular A-102, Attachment O, Paragraph 9(a)* provide that grantees of Federal financial assistance shall take affirmative steps to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Paragraph 9(b) requires that the grantee take similar appropriate affirmative action in support of women's business enterprises.

12. *Violence against Women Act (42 U.S.C. § 14043e–11)* provides housing protections for victims of domestic violence, dating violence, sexual assault, and stalking in many of HUD's housing programs. VAWA also requires the establishment of emergency transfer plans for facilitating the emergency relocation of certain tenants who are victims of domestic violence, dating violence, sexual assault, or stalking.

    Enabling Regulations:
    - HUD 24 C.F.R. §§ 5.2001 – 5.2011- Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

State Non-Discrimination References: *Tennessee Human Rights & Disability Act (§ Tennessee Code Annotated, Title 4, Chapter 21)* prohibits discrimination related to employment, housing, and public accommodations on the basis of race, creed, color, religion, national origin, sex, age or disability. The THRA is modeled on the Fair Housing Act. The THRA applies to all housing activities and dwellings, except as exempted (TCA-4-21-602).

The Tennessee Human Rights Commission (THRC) is charged with the responsibility of verifying that all state governmental entities that are recipients of Federal financial assistance comply with its requirements.

Conflict with Federal and State Law: Should this policy conflict with any state or federal law, this policy shall be superseded to the extent necessary to comply with the law.

THDA Division or Other Policies: Other THDA policies or manuals which reference non-discrimination:

- THDA's Housing Choice Voucher Administrative Plan includes section 0770-01-05-.30 on Fair Housing Compliance, Disability Accommodation, and the Violence against Women Act, https://s3.amazonaws.com/thda.org/Documents/Renters/HCV-Admin-Plan-Chapter-0770-01-05-effective-01.03.2019.pdf
- THDA's Emergency Solutions Grant Program Policies and Procedures Manual, Section 6.2, Affirmative Outreach, Section 6.6, Section 504 of the Rehabilitation Act of 1973, https://s3.amazonaws.com/thda.org/Documents/Business-Partners/Grant-Administrators/ESG-Program/ESG-Policies-and-Procedures.pdf
- HOME Program Manual, Chapter 1, Affirmative Marketing and Chapter 6, Fair Housing and Equal Opportunity, https://s3.amazonaws.com/thda.org/Documents/Business-Partners/Grant-Administrators/HOME-Program/2017-HOME-Manual.pdf
- THDA's Low-Income Home Energy Assistance Program (LIHEAP) Operational Manual for Regular and Crisis Assistance, Chapter 6, 6.2 Title VI – Civil Rights Training, https://s3.amazonaws.com/thda.org/Documents/Business-Partners/Grant-Administrators/LIHEAP/LIHEAP-18-Manual-with-forms-and-FAQ.pdf
- THDA's Weatherization Assistance Program (WAP) Manual, 13.2.1 Title VI –Civil Rights Training, https://s3.amazonaws.com/thda.org/Documents/Business-Partners/Grant-Administrators/Weatherization/TN-WAP-Manual_2018-Final.pdf
- THDA's Qualified Allocation Plan for the Low Income Housing Tax Credit Program, Part XIII: Compliance Monitoring, https://s3.amazonaws.com/thda.org/Documents/Business-Partners/Multi-Family-Developers/LIHTC-Program/2018-QAP-AND-EXHIBITS-10.19.2017.pdf
- THDA ADA policy for employment, http://homestead/Policies/ADA%20Policy.pdf

THDA Employee Consequences: Any employee who fails to comply with this policy or who encourages such conduct by others may be subject to corrective action in accordance with THDA's Discipline Policy up to and including termination of employment.

Contractor/Sub-Recipient Consequences: Any sub-recipient/grantee who fails to comply with a contractual obligation not to discriminate shall face loss of funding or other consequences as determined by the contract with THDA.

Policy Changes: This policy is subject to modification, amendment or revocation by the Executive Director at any time and for any reason.

Approved by:

Ralph Perrey, Executive Director

7/24/19
Date