

Salish & Kootenai Housing Authority

**Eligibility & Admissions Policy
for
LIHTC & RD 515 Properties**

The Salish & Kootenai Housing Authority, hereinafter referred to as the “Housing Authority”, has adopted a series of administrative and management Policies. These Policies are formally adopted by the Housing Authority and until revised or changed by formal action of the Board, the staff is required to follow them. Some of the provisions of these Policies, but not all, reflect requirements of federal or tribal law. The Housing Authority may in certain unique circumstances formally waive some Policy requirement on an individual basis, but in order to do so the Waiver Procedure identified later in this Policy must be followed. The Housing Authority may have also elected by formal resolution to establish alternative policies for programs that are operated without Native American Housing and Self-Determination Act (NAHASDA) Assistance.

REGULATORY REQUIREMENTS

1. The Federal IRS Code 42 governs this program. (this established the program)
 2. Montana Board of Housing Restrictive Covenants for the development (this sets the income/rent limits from when we applied.)
 3. Fairness and Non-Discrimination
 - a. Eligibility for programs and admission to units operated by the Housing Authority shall be fair at all times and in all respects. Board members, staff and any sub grantee of the Housing Authority shall be fair and impartial in selecting people to participate in programs of the Housing Authority. They are prohibited from making determinations based in whole or part on family ties, political views, or personal bias. Selections that have been made by the Housing Authority Staff may be reviewed by the Board for compliance with this policy and other Housing Authority requirements.
 4. Pursuant to the NAHASDA law and regulations, the Housing Authority will comply with the following non-discrimination requirements, as applicable.
 - a. Age Discrimination Act of 1975 (42 USC 6101-6107) and HUD Implementing regulations in 24 CFR part 146.
 - b. Section 504 of the Rehabilitation Act of 1973 (29 USC 794) and HUD Implementing regulations in 24 CF part 8
 - c. The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 USC 1301-1303)
 - d. Americans with Disabilities Act
 5. All current rules and regulations regarding Fair Housing, Americans with Disabilities Act and Montana Tenant Landlord laws are all applicable to these programs.
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I. APPLICATION

Any family that wishes to apply for services shall meet with the Intake and Eligibility Staff in order to ensure program suitability. During such meeting, applicant will be informed that placement on the waiting list does not necessarily mean that applicant is qualified for a particular program as that is determined during the final qualification review. The Household will submit a completed initial application provided by the Housing Authority which includes the date of application, name and contact information for the applicant, the name of the site in which the applicant seeks to reside. Families may apply with one application for multiple programs. All applicants will be added to the waiting list(s) as of the date their application is complete.

Applications from previous tenants will be accepted as new applicants as of the date their application is received. Previous tenants who owe money to the Housing Authority or had

their services terminated for any reason must see Section VI (Reapplying for Services) of this policy. Any changes to approved applications resulting in change in head of household will be brought before a committee of not less than three managers and they will review and recommend action to be taken.

The Housing Authority reserves the right to reject applications for housing in cases where it has determined that admission of the applicant would be damaging to the health, safety or welfare of other tenants, or the financial stability or physical environment of the project.

All household members over the age of 18 years and/or emancipated minors are required to sign all applicable forms. If an application is received by an emancipated minor court documentation is required.

All applicants will be informed on the acceptance or rejection of their initial application upon review.

All information that is contained in the application will be checked by the use of third party verifications.

II. INCOME LIMITS

In-Turtle Lake it is required that no more than 40% of the units would be rented to households at or below 60% AMI (local). All remaining units are to be rented to household at or below 50% AMI (local).

Elmo Elderly Living Center requires that 100% of the units must be rented to households that meet the Elderly, Near Elderly and/or Persons with Disabilities definitions. A minimum of 8 units are required to be rented to LIHTC eligible households at all times. The remaining two units may be rented to household that are NON-LIHTC qualified households. ALL LIHTC units must be rented to household at or below 50% AMI (Local). **Next Available Unit Rule applies.**

For the purpose of the Felsman North & East Duplexes only 40% of the units can be rented to households at or below 60% AMI. UNDER RD 515 100% of the units would be rented to households at or below 50% AMI (very low income) first, then low income household then moderate income household. To qualify a household you will use the very low income limits for Lake County, Montana. Since there are two income limits that must be followed, **USE OF THE STRICTER OF THE TWO LIMITS IS REQUIRED.**

LIHTC INCOME LIMIT

- A. Local AMI is to be used at all times in considering household income eligibility.
- B. Is based on the **ANTICIPATED** annual household gross income
- C. Income should always be projected and annualized; even if income period is less than 12 months. (example is unemployment or school teachers)

RD 515 INCOME LIMITS

- A. Local very low AMI is to be used at all times when considering household income eligibility.
- B. Income limits are based on the ANTICIPATED annual household's ADJUSTED income.
- C. Like LIHTC income should always be projected and annualized.

III. ELIGIBILITY REQUIREMENTS

- 1. To be eligible an applicant(s) family must meet the following requirements:
 - A. The Head of Household must be eighteen years of age or be emancipated through the courts.
 - B. Demonstrate that they are willing and able to meet the obligations of participating in the program.
 - C. The Housing Authority will evaluate each application and deny admission to any applicant whose habits and practices may be expected to have a detrimental effect on other residents. In order to determine whether the admission of an applicant would have such an effect, the Housing Authority will take into consideration the following factors:
 - i. Applicants past performance in meeting financial responsibilities, especially rent obligations.
 - ii. Any record of disturbances, destruction of property, or living/housekeeping habits at past residences which may be damaging to the health, safety, or welfare of other tenants.
 - iii. Any history of criminal activity involving crime or criminal drug-related activity, crimes of physical violence to person or property and other criminal acts, which would be damaging to the health, safety or welfare of others.

In the event of the receipt of unfavorable information about the applicant, a committee of not less than three managers will review and recommend action to be taken. Consideration will be given to the time, nature and seriousness of the applicant's behavior and to factors, which might show a reasonable change of favorable future behavior for social or financial stability. Criteria may be required and conditions applied to encourage and assist the applicant family to change adverse behavior as a condition of tenancy.

- 2. Preference
 - The Housing Authority has the right to set a Tribal Preference regarding tenancy
 - A. Enrolled member of the Confederated Salish & Kootenai Tribe
 - B. Enrolled Indians from other federally recognized tribes
 - C. Non-Indian Head of household with minors enrolled in the Confederated Salish & Kootenai Tribes
 - D. All others

3. LIHTC REQUIREMENTS

A. Properties with differences in regulatory guidelines the Housing Authority must always use stricter guidelines

B. Completion of a LIHTC application, this includes signature of all household member 18 yrs. of age or older and/or those emancipated by the courts.

C. **Age of information**

All applications, verifications of income, asset, student verifications, etc. cannot exceed **30 days prior** to the effective date of the tenant income certification at move-in. If move-in occurs beyond 30 days but not to exceed 45 days a verbal 3rd party verification update will be obtained.

D. **Income**

All household members must report all sources of income.

- i. Annual income is the amount of income that is used to determine a household's eligibility for occupancy.
- ii. Full-time students with Financial Aid are required to provide verification of all financial aid and school expenses. (Refer to the most recent HUD 4350.3 Includable and Excludable income for countable income from financial aid.)

E. **Assets**

If the applicant has access to the item it must be considered regardless of whether or not the asset produces actual income.

F. **Student Status**

Low-income families cannot participate in the LIHTC program if all of the household members are full-time students, as determined under Section 151(c)(4) of IRC 42, unless exemptions are met.

G. **Race/Ethnicity Status**

The applicant has the right to disclose this information if they desire. This form must be completed on all household members, even if they choose to not disclose race/ethnicity. This form is for statistical purposes only and not used in determination of eligibility.

4. RD Requirements

A. **Age of information**

RD 515 allows that any written income-related verification is valid for **90 days** and may be valid for an additional 90 days with oral re-verification at the end of the first 90 day period. **In no case may information that is older than 180 days be used.**

B. **Allowed Deductions** include amounts that can be used to reduce the total household income.

C. Student Status

RD additionally requires: A student or other temporary resident of the community who may be considered an eligible tenant when all RD 515 requirements are met.

1. The student is of legal age in accordance with the applicable state law or is otherwise legally able to enter into a binding contract under state law;
2. The person seeking occupancy has established a household separate and distinct from the person's parents or legal guardians;
3. The person seeking occupancy is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence is provided to this effect; and
4. The person seeking occupancy signs a written statement indicating whether or not the person's parent's, legal guardians, or other provide any financial assistance and this financial assistance is considered as part of the current annual income and is verified in writing by the Housing Authority.

5. Required Verifications

Information provided on the application will be verified through the use of 3rd party verification and in accordance with the required forms of the Montana Board of Housing and Investors.

Information to be verified includes, but is not limited to:

- A. Application Data
- B. Verification of household income assets
- C. Verification of full-time student status
- D. Criminal Records
- E. Credit Reports
- F. Any other documentation that the Authority deems necessary

Non-Low income Families

Pursuant to the regulations outlined in the IRC 42, applicants who are not LIHTC program eligible cannot be considered for any LIHTC program unit.

Non-Indian Families

The Housing Authority may provide housing or housing assistance to a non-Indian family within the reservation/Indian area if it determines that the presence of the family on the reservation/Indian area is essential to the well-being of Indian families and the need for housing for the Family cannot reasonably be met without such assistance and,

The determination described in part (1) shall be made by written resolution of the Board of Commissioners before the family may be determined eligible.

Officer in the Neighborhood

At time of move-in the household must meet LIHTC eligibility. The rent cannot exceed current rent limits set by the LIHTC program.

Notification of Rejected Applicants

All applicants who are determined not to be eligible for the LIHTC program shall be promptly notified in writing. The notice shall contain a brief description of the reason (s) they were determined to be ineligible and will explain the applicant's rights in accordance with the Grievance Policy.

IV. APPLICATION UPDATE

Applicants shall provide to the Housing Authority any changes in family composition or income as they occur. Applicants are required to update their application at least every six months in order to be considered for assistance.

If the household composition changes, upon documentation, the Housing Authority may place the applicant on appropriate sized list as of their original date.

Failure to update within the required timeframe, the applicant will be removed from all waiting lists. To be reconsidered, must submit a new application.

All applications and verifications for the LIHTC/RD programs shall be updated prior to applicant being offered a LIHTC unit.

V. WAITING LIST

When demand for a particular program or for units is anticipated to exceed anticipated availability, eligible applicants shall be placed on a written waiting list according to area selection.

If an applicant is offered the next available unit and declines units up to two times, the applicants' name will remain on the waiting list in their original position. If the applicant declines a unit a third time the applicant's name will be placed at the bottom of the waiting list.

For a Rural Development unit

When an applicant has submitted an application, the Housing Authority must place the applicant on the waiting list. All applications, whether complete, eligible or ineligible, will be placed on the list. The waiting list will document the final disposition of all applications (rejected, withdrawn, or placed in a unit).

The date and time a complete application was submitted will be recorded on the waiting list and will establish priority for selection from the list. If an applicant submits an incomplete application they must be notified in writing within 10 days of the items that are needed for the application to be considered complete and that priority will not be established until the additional items are received.

The race and the ethnicity of each applicant shall be recorded on the waiting list. This information shall be collected for statistical purposes only and must not be used when making eligibility determinations or in any other discriminatory manner. The information

shall be recorded using the race and ethnicity codes that are utilized on the RD 3560-8 (tenant certification form).

The waiting list shall be kept with the following columns but not limited to:

1. Date and time application is complete
2. HOH name
3. Ethnicity
4. Race
5. Gross household income
6. bedroom size
7. LIHTC Income limit 50% AMI
8. RD Adjusted Income limit 50% AMI
9. Disposition (examples missing information and notified on..., moved into unit number..., inactivated due to ..., denied due to ...)
10. Comments

Applicants shall provide to the Housing Authority any changes in family composition or income as they occur. Applicants are required to update their application not less than every six months in order to be considered for assistance.

Selecting applications from the waiting list

Income limits shall follow limits set forth above. Since this policy is for properties that are using both RD 515 and LIHTC you take the stricter of the two programs when it comes to income guidelines.

For the Felsman North & East Duplexes the stricter income limits on all units is 50% AMI.

Selection from the waiting list will be made according to date and time in the following order:

- Very Low income applications (50% AMI)
- Low-income applicants (80% AMI)
- Moderate-income applications (over 80% AMI)

Within 10 calendar days of receipt of a complete application, the Housing Authority must notify the applicant in writing that he/she has been selected for immediate occupancy, placed on a waiting list, or rejected

Names of those that have been placed on the waiting list cannot be purged for **three years** from the date they were placed on the waiting list regardless to their status.

ASSIGNING AN AVAILABLE UNIT

Once a unit becomes available, the Housing Authority will determine who will receive that unit based on

- A. Income limits, then

- B. Eligible tenants residing in the property who are either under or over-housed receive priority over new applications if relocating them into newly vacant unit would bring the household into compliance with the occupancy policy for the property, or
- C. If there are no current tenants that need to relocate then the Housing Authority will select a household from the waiting list who are eligible based on the unit size, income levels, and priorities, and
- D. Need for rental Assistance

PRIORITIES FOR UNITS

- A. All households that are considered must be LIHTC eligible. If the household does not meet the LIHTC eligibility they cannot be considered for a unit.
- B. If the household meets both LIHTC eligibility and the RD 515 income priority has been determined, the following are exceptions to the RD standard that can be considered:
 - If the unit is a handicapped accessible unit, then an eligible household that needs the features of that unit will receive priority over all other applicants but must qualify under the LIHTC income guidelines. The RD guideline may not apply in this situation. If more than one household needs this feature then you would follow the RD income guidelines and serve the very low then the low and then the moderate income households.
 - The Housing Authority may leave a housing unit vacant if the Housing Authority cannot rent the next available unit to a LIHTC eligible applicant and none of the applicants on the waiting list meet the applicable LIHTC eligibility requirements. However, if the rental assistance is not used for a period greater than 6 months the Housing Authority could lose the rental assistance for the remainder of the project.
 - Letter Priority Entitlement (LOPE). This is a letter issued by RD providing a tenant with priority entitlement to rental units in other RD financed housing projects for 120 days from the date of the LOPE. Persons displaced by RD action, or displaced person in a federally declared disaster area have priority over all other applicants of the individuals applicant's income group.
- 3. Household's need for rental assistance. Households where their net tenant contribution to rent determined in accordance with §3560.203(a)(2) is less than the basic rent for the unit.

PRIORITIES FOR RENTAL ASSISTANCE:

The Housing Authority must use the following priorities when assigning available rental assistance.

Rental assistance for the LIHTC/RD 515 properties is **project-based**. Accumulation of a *period of 6 months* or more of *unused rental assistance* can result in loss of rental assistance for the remaining term of the loan.

1. **First priority** is to eligible very low-income tenants paying the highest percentage of their adjusted annual income for RD approved shelter costs.
2. **Second priority**, if the housing project has vacant rental units, is to eligible very low-income applicants on the waiting list.
3. **Third priority** is to eligible low-income tenants paying the highest percentage of their adjusted annual income for RD approved shelter costs.
4. **Fourth priority**, if the housing project has vacant rental units, is to eligible low-income applicants on the waiting list.
5. **Fifth priority** is to household which are residing in a rental unit for which they do not qualify on the basis of an occupancy waiver or other special approval situation.

In order to provide rental assistance to priorities 3-5 the Housing Authority must document that there were no applicants, tenants to satisfy priorities 1 or 2.

NOTIFICATION

The Housing Authority will deliver by mail to each family selected for services, a written notice of selection which will include the following statements:

1. That the family has been selected for an upcoming unit;
2. That documentation regarding current household composition, income, assets, student status, etc. must be provided prior to the family being offered the unit

Once the required documentation has been reviewed and eligibility determined, a written notice will be sent which will include the following statements:

1. That the family has been approved
2. That the family must respond and schedule a move-in orientation within five (5) working days or forfeit the unit;
3. That the required deposits must be paid in full prior to the date of occupancy;
4. That the head of household must arrange for all adult household members to visit the Housing Authority to complete the occupancy orientation, sign the appropriate lease, tenant income certification. The Head of Household will participate in the initial move-in inspection.

VI. OCCUPANCY STANDARDS

| Number of Bedrooms | Number of Occupants | |
|--------------------|---------------------|-----------|
| | Minimum # | Maximum # |
| 0 | 1 | 1 |
| 1 | 1 | 2 |
| 2 | 1 | 4 |
| 3 | 3 | 6 |
| 4 | 6 | 8 |
| 5 | 8 | 10 |

Two persons shall normally occupy each bedroom, except in the following circumstances:

- A child of less than two years of age may occupy the same bedroom as the parents.

Except for husband and wife, and children up to the age of five years of age, persons of the opposite sex will not occupy the same bedroom.

In determining the number of bedrooms a participant is eligible to rent, the Housing Authority will give consideration of sex and age of family members, and to the physical health problems of any family member.

VII. REAPPLYING FOR SERVICES

All applicants must follow the SKHA Reapplying for Services Policy.

VIII. DRUG AND CRIMINAL ACTIVITY

All applicants must follow the Housing Authority's Criminal and Drug Related Activity Policy

IX. CHANGE HEAD OF HOUSEHOLD

If a household member requests to be Head of Household this change can occur if:

1. If the household member was part of the original qualified household.
 - A. If member of the original qualified household relinquished HOH status and vacates unit he/she forfeits their status as part of original qualified household upon re-occupancy.
2. If household member was not part of the original qualified household but was a qualified household member when he/she was added.
3. All other requirements as outlined in the Housing Authority's Change of Head of Household Policy

X. ADDING HOUSEHOLD MEMBERS

If a household requests to add a new household member under the age of 18 they must provide the following

1. Copy of birth certificate and/or
2. Copy of paperwork verifying custody

If the household wishes to add a new household member 18 or older the Housing Authority's "Reapplying for Services Policy" will apply. Being over-income will not prohibit the new household member from being added to the household.

Additionally in Rural Development properties, new household members will be considered if:

1. Household doesn't become oversized for unit

2. Household total combined income exceeds limits for rental assistance.

XI. TRANSFER

If the head of household wishes to transfer, the Housing Authority's Transfer Policy will apply in addition to LIHTC/RD regulations regarding transfer. If the household's total income exceeds program limits, in order for the head of household to move to another unit within the same property the Syndicators must approve the transfer.

If the Housing Authority determines that the leased premises is no longer appropriate for Tenant's needs or the household is no longer program eligible, the Housing Authority may require the Tenant to move to another unit, within the area in which Tenant lives, as soon as an appropriate unit is available.

The Housing Authority shall repair hazards to life, health or safety within seventy-two (72) hours. The Housing Authority shall offer Tenant temporary alternative housing, outside the LIHTC/RD properties or the Housing Authority may qualify the Tenant for an available unit within the same property if repair cannot be made within seventy-two hours.

If such hazards are not repaired within seventy-two (72) hours and temporary alternative housing is not offered to Tenant, Tenant rent shall abate during the entire period of the existence of such hazard, while Tenant resides within the hazardous premises. However, rent shall not abate if Tenant rejects the temporary alternative housing.

A current household who is over the income limits for the property is allowed to transfer from one unit to another, as long as they were originally qualified at the time they moved in.

XII. INDEMNIFICATION:

Tenant agrees to and shall hold and keep harmless and indemnify the Housing Authority from and for any payments, expenses, costs, attorney's fees and from and for any debts, claims, and liabilities for losses or damage to the property or injuries to persons from any cause due to any act or omissions by the Tenant or Tenant's guests, licensees, invitees, or for any cause or reason whatsoever arising out of the occupancy by the Tenant.

XIII. GRIEVANCE

Must follow the Housing Authority Grievance Policy

Approved by the Board of Commissioners of the Salish and Kootenai Housing Authority at a Regular Meeting held November 15, 2016.