

# **OCCUPANCY POLICY FOR TENANT BASED ASSISTANCE PROGRAM**

**SALISH AND KOOTENAI HOUSING POLICIES.** The Salish and 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 are required to follow them. Some of the provisions of these Policies, but not all, reflect requirements of federal or tribal law. The 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.

## **I. REQUIREMENTS**

Fairness and Non- Discrimination

- (1) 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 in part on family ties, political views, or personal bias. Selections made by the staff may be reviewed by the Board of Commissioners for compliance with this Policy and other Housing Authority requirements.
- (2) Pursuant to the NAHASDA law and regulations, the Housing Authority will comply with the following nondiscrimination requirements, as applicable:
  - (A) The Age Discrimination Act of 1975 (42U.S.C. 6101-6107) and HUD’s Implementing regulations in 24 CFR part 146
  - (B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD’s Implementing regulations at 24 CFR part 8.
    - (i) The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 .S.C.1301-1303).

## **II. PROGRAM OBJECTIVES**

This program is created to supplement existing Housing Authority’s housing stock by utilizing community housing inventory meeting the Housing Authorities standards and payment policies.

A Participant may not receive the benefit of Tenant Based Assistance while receiving the benefit of any other form of housing subsidy for the same dwelling unit or for a different dwelling.

The assisted unit must be the Participant's only residence.

The Participant may receive Tenant Based Assistance for a combined period of five (5) years, excluding elderly or handicapped individuals.

Current Participants that have been in the program for a combined period of five (5) years or more will have one year (365 days) from the date their next Annual Certification effective date to secure alternative housing.

When a current Participant or future Applicant is approved for a TBA slot the Participant must apply for other housing services offered through the Housing Authority.

### **III. BRIEFING OF THE PROGRAM**

Once the Housing Authority has approved the Participant in the program the Participant must schedule an appointment to come in to the Housing Authority office for an oral briefing of the program. This briefing will include the following:

- Description of overall program functions
- Family, owner, and Housing Authority responsibilities in the program
- When, and where, the Participant can rent a unit
- Bedroom size the Participant is eligible to rent
- Time frame allowed to lease a unit (expiration date)
- How the assistance level is determined and amount Participant is eligible to receive
- HUD Brochure "A Good Place to Live"
- Copy of Montana Residential Landlord and Tenant Act and Illegal Housing Discrimination Act.

The approved Participant will have sixty (60) days to secure an approved unit. If the participant does not secure an approved unit within the set time frame, the TBA will expire and the Participant will lose their TBA service and will be removed from the waiting list.

### **IV. OCCUPANCY**

#### **Determination of Assistance Amount**

The factors used to determine the amount of assistance to be paid to the owner on behalf of the Participant are:

- Annual income of the family  
(Annual income as defined in the Housing Authority's Policy)
- Fair Market Rent for Lake County as determined by HUD

**Adjusted Annual Income**

The term “adjusted income” means the annual income that remains after excluding the following amounts as defined in Section 4 of the Native American Assistance and Self Determination Act of 1996 as follows:

- (A) Youths, Students and Persons with Disabilities. - \$480.00 for each member of the family residing in the household (other than head of the household) –
  - (i) who is under 18 years of age; or
  - (ii) who is-
    - (I) 18 years of age; or older; and
    - (II) a person with disabilities or a full-time student.
- (B) Elderly and disabled families-\$400.00 for an elderly or disabled family.
- (C) Medical and Attendant Expenses-The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of-
  - (i) medical expenses, in the case of an elderly or disabled family; and
  - (ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family including a member who is a person with disabilities) to be employed.
- (D) Child Care Expenses-Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.
- (E) Earned Income of Minors.-The amount of any earned income of any member of the family who is less than 18 years of age.
- (F) Travel Expenses.-Excessive travel expenses, not to exceed \$25 per family per week, for employment or education-related travel.
- (G) Other Amounts.-Such other amounts as may be provided in the Indian housing plan for an Indian tribe.

**V. OCCUPANCY STANDARDS**

<u>Number of bedrooms</u>	<u>NUMBER OF OCCUPANTS</u>	
	<u>Minimum</u>	<u>Maximum</u>
0	1	1
1	1	2
2	1	4
3	4	6
4	6	8
5	8	10

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.

## **VI. FORMULA FOR DETERMING ASSISTANCE AMOUNT**

The assistance amount a Participant will be eligible to receive will be the rent charged by the landlord (for the size of unit the family is eligible to rent according to the occupancy standard) minus 30 percent of the family's adjusted monthly income, but cannot exceed the fair market rent.

If 30 percent of the Participant's income meets or exceeds the fair market rent, the participant is not eligible for assistance.

## **VII. SERVICE AREA**

The Participant can lease anywhere in the service area of the Housing Authority. Requests for assistance outside this area will not be approved. The service area of this Housing Authority is the Flathead Reservation. Requests for assistance outside this area will be approved for Missoula or Kalispell only and only for cases where the need is demonstrated and verified by a physician for medical reasons or for full time students with verified acceptance and attendance in college in Missoula or Kalispell and are approved by the Housing Authority.

## **VIII. APPROVAL OF LEASE**

All lease terms will be for a minimum of six months and thereafter a month to month unless a 30-day notice is provided by the Participant or owner of intent not to renew the lease. The party giving notice to the Housing Authority must provide such notice

The Housing Authority will provide the Participant a copy of the Montana Residential Landlord and Tenant Act and Illegal Housing Discrimination Act, as well as a list of NAHASDA requirements to give to potential owners to assist them in submitting an acceptable lease.

Upon receipt of the proposed lease the Housing Authority will review it and determine if there are any unlawful provisions in the lease.

If any unlawful provisions are found the Housing Authority will require the landlord to amend them. If the owner is not willing to amend them, the lease will be disapproved.

If the lease covers all necessary provisions required and are determined to have no unlawful provisions, the Housing Authority will approve the lease.

The Housing Authority is not a party to the lease and assumes no responsibility in its enforcement.

## **IX. MIMIMUM HOUSING QUALITY STANDARDS**

The Housing Authority will utilize the Housing Quality Standards adopted by HUD for the section 8-voucher program in determining if the unit is a decent, healthy and safe place to live.

The Housing Authority will provide the Participant with the brochure “A Good Place to Live!” HUD-593-PIH (9) to assist them in finding housing that meets the minimum requirements.

## **X. INSPECTIONS**

The Housing Authority will conduct pre-occupancy inspections utilizing the HUD section 8 HQS and inspection form to insure the unit is a healthy, safe, and decent place to reside, prior to approval of assistance payments. If the unit does not pass the inspection, assistance can be approved if the landlord is willing to make necessary repairs to bring the unit up to the minimum requirements. If the landlord is not willing to make the repairs assistance cannot be approved.

The Housing Authority will also conduct special inspections if it is reported that the dwelling no longer meets the minimum requirements and the owner is unwilling to make the necessary repairs. If it is determined that the unit no longer meets the minimum requirements the Housing Authority will request the necessary repairs in writing to the landlord. If the landlord is unwilling to make the repairs, the Housing Authority will allow the tenant a transfer to a unit that does meet the requirements.

If the Participant causes damage to the unit, it is the owner’s responsibility to take appropriate action in accordance with the lease and state and local law.

## **XI. EXECUTION OF AGREEMENTS FOR ASSISTANCE PAYMENTS**

Once the lease and the unit have been approved, and the owner has signed the agreement to abide by the owner obligation statement, the Housing Authority will sign a contract with the owner for the assistance payment amount showing the effective date of payments and the amount of the monthly payment.

If a Participant moves into a unit during the month rather than at the beginning of the month, the assistance payment will be pro-rated for the remaining days left in the month and a check will be issued within five (5) working days. Thereafter, the assistance payment will be made on or before the first working day of each month. The Participant is not responsible for the approved assistance payment made by the Housing Authority.

## **XII. TRANSFERS**

Transfers will not be allowed during the initial lease period unless both parties are willing to break the lease and there is good cause to break the lease as determined by the Housing Authority.

Transfer requests after the initial lease period will be approved if the family is in complete compliance with program requirements and their lease.

Transfer Looking Status means: the period between the time the Participant is granted a transfer and the time the Participant signs a new lease with a landlord.

Looking status can be for a total of sixty (60) days. If the Participant does not secure an approved unit within the set time frame, the transfer period will expire and the Participant and will be denied a transfer.

Must follow the Housing Authority's Transfer Policy.

## **XIII. CERTIFICATION REQUIREMENTS**

The monthly assistance amount will be calculated utilizing the information provided and verified and will not exceed 30% of the Adjusted Monthly Income in accordance with the Native American Housing Assistance and Self-Determination Act of 1996, SEC. 203 (a) RENTS, (2) MAXIMUM RENT.

All Participants will be required to submit income verification for all family members and changes in household composition at least annually to determine if they are still eligible for the program and if the assistance amount needs to be adjusted.

If a family's income decreases or family size changes prior to the regularly scheduled exam, an interim certification can be completed.

If the assistance amount will decrease due to changes in income or family composition, the Housing Authority will give the Participant and the owner a 30-day notice of the decrease in assistance.

If the certification requires an increase in the assistance amount the Housing Authority will make the change effective the first of the following month after certification is complete and notification will be sent as soon as certification is complete to the Participant and owner of the change.

All Participants who are over income for the program at the time of certification will be given 30 day notice of termination. The owner will also receive a copy of this notice.

Non Elderly Participants will be scheduled annually unless there is a reduction in family income that could result in an increase in HAP.

Elderly and handicapped Participants will be scheduled every three (3) years unless there is a reduction in family income that could result in an increase in HAP. Elderly means: Head of Household must be 62 years of age or older.

Households that list children that are under the age of 18 and report zero income must provide a copy of both the mother's and father's Income Tax Return or a copy of the individual claiming the children for tax purposes. This documentation will be used to determine annual household income.

If there is a reduction or increase in income this change must be reported to the Housing Authority within ten (10) days of its occurrence. If the change is not reported within the ten (10) days the Housing Authority may retroactively apply the adjustment(s) back to the date of its occurrence and this can constitute fraud.

The household's Annual Certification date will continue to be the date established at the time of move-in.

All Participants are required to sign a release of information allowing the Housing Authority to verify all information necessary to determine continued eligibility or assistance amount.

All Participants must also complete and sign the certification of income and family composition form, which includes a statement of household member information, such as social security numbers, dates of birth and information on income and assets.

Failure of the Participant in complying with reporting and certification requirements will result in termination of assistance.

**Adding an unrelated adult(s) to the household:** If an unrelated adult is allowed to be added to the household, the person being added will not be counted to increase assistance amount or bedroom size. Number 5 of the Forms and Verification required by the Housing Authority for Certification will apply.

### **Forms and Verification required by the Housing Authority for Certification**

- (1) The Head of the household must complete and sign a Certification of Family Income, Composition and Asset form.
- (2) The Head of household and all members of the household 18 and older must sign a Federal Privacy Act/Release of Information form (HUD 9886) for certification.
- (3) Verification of income from all sources for all family members must be submitted. This includes income received for children such as Social Security, SSI, and foster care payments, AFDC, TANF, Grand Parents Assistance and child support.

- (4) All members of the family who are 18 or older and have no income must sign a No Income Declaration Form.
- (5) When adding other adult(s) to the household the Participant must have written landlord approval. The Housing Authority will conduct a background check to verify: accounts receivable with the Housing Authority, previous tenancy status and criminal background to determine suitability for tenancy. If the person(s) being added to the household has any unfavorable background information as stated above, approval cannot be granted to reside in the household. Added adult(s) will not be counted to increase assistance amount or bedroom size.

All of the above forms and verifications are required before a certification can be completed.

Additional forms or verifications that may be necessary if the tenant is eligible for additional allowances as follows:

- (1) Child Care Allowance - form provided by the Housing Authority must be completed by the child care provider, or the same information provided on a similar form completed and signed by the child care provider.

The Housing Authority will provide this allowance to households that must pay for childcare for children under the age of 13 because there is no adult in the household who is not working or attending school and/or if not working or attending school is not capable of caring for the children. Any amounts that are reimbursed to the family or paid by an agency or individual outside the household cannot be used for this allowance.

Written documentation from a medical professional must be provided if the family is declaring that an adult in the household is not capable of caring for the children. Childcare cannot be paid to a family member listed on the household.

- (2) Travel Allowance - form provided by the Housing Authority to be completed by employer or verified by the Housing Authority representative if residing in housing owned unit or same information completed on a similar form and signed by the employer. Only one person in the household can receive this allowance. The person receiving this allowance must travel at least (10) miles round trip to work or school.
- (3) Medical and Attendant Expenses - Receipts from medical or pharmacy suppliers or itemized statements from the suppliers of service showing medical expenses, reasonable attendant care and auxiliary apparatus paid for by the tenant, or proof of Medicare or other health insurance costs must be submitted.

If the required verifications and/or forms are not submitted for the above allowances by deadline for certification, the Participant will not receive any of the allowances they may be eligible for. If verification is received after the certification has been

processed, the allowances will begin the first of the following month after the Authority receives the verification.

The Housing Authority may backdate certifications on a case-by-case basis if there are circumstances that warrant such an adjustment as determined by the Authority.

## **Annual**

### **Failure to Certify Household Income and Composition**

The Occupancy Certification Specialist mails current participants a letter 120 days prior to the effective date advising them to come in and complete their annual certification requirements. If the Participant does not complete the certification by the time there is only 30 days left to comply, the Occupancy Certification Specialist then sends out another notice advising the Participant that they have 30 days left to comply. If after these notices have been sent and the Participant has still not complied with the certification requirement within 30 days of the certification deadline, the Certification Specialist will process a termination of the Participant's current assistance effective at the end of the certification period.

### **Effective Dates for Certifications**

Annual certifications will be effective on the first of the month of the anniversary date. If the certification date has passed the Participant will receive a notice of termination of assistance.

If the certification is an interim certification due to loss of income, the assistance change will be effective the first of the month the certification was completed. If the interim certification is due to an income increase, the assistance change will be effective the first of the second month after the certification has been completed by the Participant.

If the Participant misrepresents, negligently or intentionally, any fact used by the Housing Authority to determine his/her assistance, the Housing Authority shall retroactively apply any decrease in assistance due to Participant's misrepresentation and the Housing Authority may pursue legal action pursuant to "Fraud Notice".

## **XIV. PARTICIPANT OBLIGATIONS**

When the Participant's lease and unit are approved, the Participant must sign an agreement to fulfill and abide by the required obligations for participation in the program as shown below. Any breach of the Participant obligations is grounds for termination of assistance.

**The family must:**

- (1) Supply the Housing Authority with any information that the Housing Authority determines to be necessary for use in a regularly scheduled certification of family composition and income.
- (2) Disclose and verify social security numbers.
- (3) Supply any information requested by the Housing Authority to verify the family is living in the unit or information related to family absence from the unit.
- (4) Promptly notify the Housing Authority if the family or a member of the family will be away from the unit for more than 14 days.
- (5) Notify the Housing Authority and the owner in writing at least 30 days prior to moving out of the unit or terminating the lease.
- (6) Use the assisted unit for residence by the family only. The unit must be the family's only residence.
- (7) Request Housing Authority and landlord approval to add any other family members as occupants of the unit.
- (8) Give the Housing Authority a copy of any owner eviction notice, or notice of lease termination.
- (9) Pay all utility bills and the portion of the rent the Participant is responsible for (if applicable).

**The Participants must not:**

- (1) Own or have any interest in the unit.
- (2) Commit any serious or repeated violation of the lease.
- (3) Commit fraud, bribery or any other corrupt criminal act in connection with the program.
- (4) Participate in illegal drug activity or other criminal activity as defined in the Housing Authority's Criminal and Drug Related Criminal Activity Policy.
- (5) Sublease or let the unit or assign the lease or transfer the unit.
- (6) Receive any other housing subsidy for the same unit or a different unit from any state, federal or local housing program.

- (7) Damage the unit or premises (other than normal wear and tear) or permit any guest to damage the unit or premises.

### **Owner Obligations**

Prior to execution of the contract for assistance payment by the Housing Authority to the owner on behalf of the family, the owner must agree to the following obligations in the program and must sign a statement that they are willing to adhere to these obligations before assistance can be approved.

- (1) The owner is responsible for screening the Participant(s) for suitability as renters. The Housing Authority does not screen the tenants.
- (2) The owner is responsible for compliance issues concerning any and all conditions of the lease.
- (3) The owner is responsible for providing the Housing Authority with a copy of any eviction or lease termination.
- (4) The owner must notify the Housing Authority if any Participant vacates a unit.
- (5) The owner must provide the Housing Authority with a copy for approval of any changes to the lease during the tenancy of a Participant of this program.

### **Authority Obligations**

- (1) The Housing Authority is responsible for payment of the assistance amount to the owner each month by the first of each month.
- (2) The Housing Authority is responsible for conducting an inspection prior to approval of the unit, and for special inspections if the Participant reports that the unit no longer meets the minimum required standards and the damages were caused by maintenance neglect of the owner.
- (3) The Housing Authority is responsible for conducting certifications for continued eligibility of Participants at least annually.
- (4) The Housing Authority is responsible for providing notice to the landlord and the Participant if assistance amounts change or ceases.

## **XV. CHANGE/DISSOLUTION OF FAMILY COMPOSITION**

Participants must follow the Authority's Head of Household Change Policy.

## **XVI. TERMINATIONS**

The last Housing Authority Payment (HAP) that will be paid up to the last day of the following month that the termination notice was issued.

### **Terminations by the owner**

During the term of the lease the owner may not terminate tenancy except for:

- (1) Serious or repeated violations of the terms of the lease.
- (2) Violations of state, federal or local laws which relate to occupancy or use of the unit.
- (3) The owner desires to use the unit for personal use, or desires to sell or renovate the property.
- (4) The owner may not terminate tenancy for non-payment of the Housing Authority's assistance payment, this amount is due by the Housing Authority and contract for this is between the Housing Authority and the owner.
- (5) The owner must give the participant written notice of the grounds for the termination and provide a copy of any such notice to the Housing Authority. Any such notice must be in conformance with local or state law.

### **Termination of Tenancy by the Participant**

- (1) The **Participant** may terminate tenancy after the first year of the lease.
- (2) Terminations during the first year are allowed only if the owner agrees to release the **Participant** from the lease in writing and the Participant meets the requirements for a transfer.
- (3) The **Participant** must provide the owner and the Housing Authority with a copy of the notice of termination in accordance with the lease.
- (4) The **Participant** may also terminate the lease if the owner breaches HQS standards and refuses to repair unit after notification in writing of the necessary repairs.

### **Termination of Assistance by the Authority**

The Housing Authority may terminate Participant's assistance for any of the following reasons:

- (1) Any violation of Participant's obligations.
- (2) Suspicion of illegal drug activity or violent criminal activity in accordance with the

Authority's Policy on Criminal and Criminal Drug Activity.

- (3) Failure of the Participant to sign and submit verification documents for re-certification.
- (4) If the Participant moves out of the unit.
- (5) If there is a change/dissolution in Participant's composition.
- (6) If the owner fails to maintain unit in accordance with HQS standards.
- (7) If available program funding is insufficient to support continued assistance for the families.
- (8) Participant must insure that he/she and/or the Participant's household member adheres to existing payback agreements until paid in full. If the payback agreement is breached a termination of TBA services will be processed.

#### **XVII. HEAD OF HOUSEHOLD CHANGE**

Participant must follow the Housing Authority's Head of Household Change Policy.

#### **XVIII. CRIMINAL AND DRUG-RELATED ACTIVITY**

Participant must follow the Housing Authority's Criminal and Drug-Related Activity Policy.

#### **XIX. INDEMNIFICATION**

Hold harmless: agrees to assume the liability and risk that may arise from the obligations, and protects and indemnifies the other party against having to bare any loss.

Indemnification: the act of making another "whole" by paying any loss another might suffer.

Participant agrees to and shall hold and keep harmless and indemnify the Housing Authority from and for any payments, expenses, costs, attorneys' 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 Participant or Participant's guests, licensees, invitees, or for any cause or reason whatsoever arising out of the occupancy by the Participant.

## **XX. GRIEVANCE**

Grievance means any formal complaint or dispute, which Participant has with respect to the Housing Authority action, or failure to act, in accordance with the lease, agreement, contract, or in accordance with the Housing Authority policies.

Grievances and appeals arising under this policy shall be resolved in accordance with the Grievance Policy set forth by the Board of Commissioners of the Housing Authority. A copy of the Grievance Policy is posted in the lobby of the Housing Authority and is made available to anyone who desires to review such policy.

**Approved by the Salish and Kootenai Housing Authority Board of Commissioners (BOC) at a Regular Meeting Held February 5, 2013**

**Updated and approved on November 5, 2013**

**Updated and approved by the BOC at a Regular Meeting held June 16, 2015**