

# **SALISH AND KOOTENAI HOUSING AUTHORITY**

## **EMERGENCY RENTAL ASSISTANCE POLICY (COVID 19)**

**SALISH & KOOTENAI HOUSING AUTHORITY POLICIES.** Housing Authority has adopted a series of administrative and management policies. These Policies are formally adopted by the Housing Authority and the Board and staff are required to follow them until they are revised or changed by formal action. Some of the provisions of these Policies, but not all, reflect requirements of federal or tribal law. Furthermore, Housing Authority may from time to time adopt other rules, requirements, and procedures to administer its programs; however all of these practices must comply with Housing Authority Policies.

**This Emergency Rental Assistance Policy was adopted by the Salish and Kootenai Housing Authority Board of Commissioners on the 22<sup>nd</sup> day of July, 2021.**

# EMERGENCY RENTAL ASSISTANCE POLICY

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## **SECTION 1 PURPOSE STATEMENT**

The purpose of this program is strictly limited to the Emergency Rental Assistance Program (ERAP) established by the U.S. Department of the Treasury under Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020). Housing Authority may have other rental assistance programs in place with separate policies that are distinguished from this program.

This policy contains the requirements for the Housing Authority COVID-19 Emergency Rental Assistance program that was created and funded by the Consolidated Appropriations Act, 2021, P.L. 116-260 (December 27, 2020).

## **SECTION 2 PROGRAM**

- 2.1. Duration of Program** – This program shall continue until December 31, 2021, or until all ERAP funds are expended, or until ERAP funds are recaptured and returned to Treasury, whichever event occurs first.
- 2.2 Available Use of Assistance Funds** – Housing Authority shall only use the Emergency Rental Assistance program funds to provide financial assistance and housing stability services to eligible households. Such assistance may include the following:
- A. Rent
  - B. Rental arrears accrued not earlier than March 13, 2020;
    - 1. A full payment of arrears is allowed up to the 12-month limit established by the statute.
    - 2. In some cases, Housing Authority may provide less than the full coverage of arrears.
  - C. Other expenses related to housing incurred due, directly or indirectly, to COVID-19. Such expenses include:
    - 1. Rental Security Deposit
    - 2. Reasonable accrued late fees (if not included in rental if incurred due to COVID-19);
  - D. Not more than 10% of the funds for this program may be used for administration costs attributable to providing financial assistance or housing stability services. Housing Stability Services related to the COVID-19 outbreak include those that enable eligible households to maintain or obtain housing. Such services may

include housing counseling, fair housing counseling, case management related to housing stability, housing related services for survivors of domestic abuse or human trafficking, attorney's fees related to eviction proceedings, and specialized services for individuals with disabilities or seniors that supports their ability to access or maintain housing.

### **2.3 ERAP Program Requirements**

- A. Length of Occupancy, there is no requirement regarding a household's length of tenure/occupancy in their current unit.
- B. Mortgage and Homeowners, mortgage payments and their utilities or energy costs are not eligible uses of these ERAP funds.
- C. Available and maximum assistance, may be provided to each eligible household for a period not to exceed 12 months except that Housing Authority may also provide ERAP assistance to an eligible household for an additional 3 months only if necessary to ensure housing stability subject to the availability of funds. The assistance period should be calculated to include any months for which arrears have been paid/assisted.
- D. Prospective rent payments, limited to three months based on any application by or on behalf of the household, except that a household may receive assistance for prospective rent payments for additional months:
- E. Subject to availability of remaining funds; based on a subsequent application for additional financial assistance provided that the total months of financial assistance given to the household do not exceed twelve months plus an additional 3-months, if necessary, to ensure housing stability for an assisted household.
- F. An eligible household does not need to have any rental arrears in order to be assisted for prospective rent assistance.

### **2.4 Eligible Household**

- A. To be eligible for assistance, a household must be obligated to pay rent on any type of residential dwelling and Housing Authority must determine that:
  - 1. one or more individuals within the household has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experiences other financial hardship due, directly or indirectly, to the novel coronavirus disease (COVID-19) outbreak;
  - 2. one or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
  - 3. the household has a household income at or below 80 percent of the area median income.

- B. ERAP payments may be provided to eligible households who have occupied more than one rental unit since the COVID-19 outbreak began.
- C. A household living outside Tribal lands may receive ERAP assistance if a member of the household is a CSKT Tribal member and descendant, provided they have not received duplicate assistance from another Tribe, Housing Authority, state, or local government.
- D. Non-tribal members, including non-Indians, living on Tribal lands may receive ERAP assistance, provided they have not received duplicate assistance from another Tribe, Housing Authority, state, or local government.
- E. Area to be served. ERAP assistance is not limited to Tribal lands.

## **2.5 Duplication of Assistance Provided**

- A. To the extent feasible, Housing Authority shall ensure that any assistance provided in their ERAP program is not duplicative of any other federally-funded rental assistance provided to such household.
- B. An eligible household that occupies a federally-subsidized residential or mixed-use property may receive ERAP assistance, provided that ERAP funds are not applied to costs that have been or will be reimbursed by any other federal assistance.
- C. If an eligible household receives a monthly federal subsidy (e.g. a Housing Choice Voucher, Public Housing, or Project-Based Rental Assistance) and the tenant rent is adjusted according to changes in income, the renter household may receive ERAP assistance for the tenant-owed portion of rent that is not subsidized.
- D. Housing Authority shall review the household's income and sources of assistance to confirm that the ERAP assistance does not duplicate any other assistance, including tribal, federal, state, and local assistance provided for the same costs. Housing Authority may rely on an attestation from the applicant regarding non-duplication with other government assistance in providing assistance to a household.
- E. Housing Authority may also coordinate with other tribally designated housing entities, state, or local entities to confirm that an applicant has not applied for or received assistance from other entities offering ERAP assistance.

## **2.6 Applications**

- A. Applications may be submitted in person, email, fax, or at [www.skha.org](http://www.skha.org).

- B. The ERAP application forms include:
1. Tenant Application
  2. Lease agreement
  3. All supporting documents
- C. Application Information Required. A completed application shall include the following:
1. the date the application is completed;
  2. name and contact information for the applicant;
  3. family composition;
  4. Income information shall include, as applicable:
    - a. documentation evidencing that the applicant has qualified for unemployment benefits,
    - b. documentation evidencing that the applicant has experienced a reduction in income,
    - c. documentation evidencing that the applicant has incurred significant costs, or
    - d. documentation that an applicant has experienced other financial hardship due directly or indirectly to COVID-19 that threaten the household's ability to pay rent;
  5. Copies of rent invoice that have not been paid due to COVID-19;
  6. All applications for assistance shall include an attestation from the applicant that all information included is correct and complete. (Fraud Statement)
  7. When an applicant requests assistance for rent or rental arrears, Housing Authority must obtain, if available, a current lease, signed by the applicant and the landlord or sub lessor that identifies the unit where the applicant resides and establishes the rental payment amount.
    - a. If the household does not have a signed lease, an attestation by a landlord who can be identified as the verified owner or management agent of the unit, or other reasonable documentation as determined by Housing Authority.
    - b. In the absence of a signed lease, evidence of the amount of a rental payment may include bank statements, check stubs, or other documentation that reasonably establishes a pattern of paying rent, a written attestation by a landlord who can be verified as the legitimate owner or management agent of the unit, or other reasonable documentation as determined by Housing Authority.
    - c. Written attestation. If an applicant is able to provide satisfactory evidence of residence but is unable to present adequate documentation of the amount of the rental obligation, Housing Authority may accept a written attestation from the applicant to support the payment of assistance up to a monthly maximum of 100% of the greater of the Fair Market Rent or the Small Area Fair Market Rent for the area in which the applicant resides, as most recently determined by the U.S. Department of Housing and Urban Development (HUD) and made available at <https://www.huduser.gov/portal/datasets/fmr.html>. In this case, the

applicant must also attest that the household has not received, and does not anticipate receiving, another source of public or private subsidy or assistance for the rental costs that are the subject of the attestation. Such assistance may be provided for up to three months at a time. After three months, Housing Authority must obtain evidence of rent owed consistent with the above after three months in order to provide further assistance to such a household.

- D. Individuals within a household at risk of experiencing homelessness or housing instability. One or more individuals within the Household can demonstrate a risk of experiencing homelessness or housing instability, which may include:
1. rent notice or eviction notice;
  2. unsafe or unhealthy living conditions evidenced by photos.
  3. any other evidence of risk, as determined by Housing Authority.
- E. Written Attestations.
1. If an applicant specifies that they have qualified for unemployment benefits, Housing Authority may rely on either a written attestation signed by the applicant or other relevant documentation regarding the household member's qualification for unemployment benefits.
  2. If an applicant specifies that they have experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak, Housing Authority shall obtain a written attestation signed by the applicant that one or more members of the household meets this condition.
  3. Written Attestation Without Further Documentation: To the extent that a household's income, or a portion thereof, is not verifiable due to the impact of COVID-19 (for example, because a place of employment has closed) or has been received in cash, or if the household has no qualifying income, Housing Authority may accept a written attestation from the applicant regarding household income. If such written attestation without further documentation is relied on, Housing Authority must reassess household income for such household every three months. In appropriate cases, Housing Authority may rely on an attestation from a caseworker or other professional with knowledge of a household's circumstances to certify that an applicant's household income qualifies for assistance.
  4. Section 11 (c)(vii)(3), describes circumstances when a written attestation can be submitted to document the applicant's rental obligation.
- F. Requirements when a Landlord applies on behalf of a Tenant.
1. A Landlord may assist a Tenant by applying for assistance from a payment made under this program or by applying for such assistance on behalf of a Tenant.
  2. When a Landlord applies for the assistance on behalf of a Tenant
    - a. The Landlord must obtain the signature of the Tenant on the application, which may be documented electronically;

- b. Documentation of the application shall be provided to the Tenant by the Landlord; and
  - c. Any payments received by the Landlord shall be used to satisfy the Tenant's rental obligations to the Landlord.
- G. Incomplete Applications. Incomplete applications cannot be processed. When an application is incomplete, Housing Authority shall contact an applicant if additional information is required. For purposes of priority or waiting lists an eligible household cannot be placed on a priority or waiting list until all required documentation has been submitted. Housing Authority shall work with an applicant to correct application deficiencies.

## 2.7 **Income Determination**

- A. Definition of Income: With respect to each household applying for assistance, Housing Authority may choose between using HUD's definition of "annual income" in 24 CFR 5.609 and using adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 series for individual federal annual income tax purposes.
- B. Categorical Eligibility: If an applicant's household income has been verified to be at or below eighty percent (80) of the area median income in connection with another Tribal, local, state, or federal government assistance program, Housing Authority is permitted to rely on a determination letter or other written evidence from the government agency that verified the applicant's household income, provided that the determination for such program was made on or after January 1, 2020. This includes current participants in Housing Authority's other housing assistance programs who have an up-to-date household income recertification on file with Housing Authority.
- C. Definition of Area Median Income: The area median income for a household is the same as the income limits from families published in accordance with 42 U.S.C. 1437 a(b)(2), available under the heading for "Access Individual Median Family Income Areas" at <https://www.huduser.gov/portal/datasets/il.html>. Housing Authority's assisting current participants in their other housing assistance programs may use the definition of Area Median Income from those programs to determine ERAP eligibility for those applicants under the "Categorical Eligibility" definition above.
- D. In determining the income of a household for program eligibility, Housing Authority shall consider either 1. or 2. below.
- 1. The household's total income for calendar year 2020
  - 2. Housing Authority may choose between using the definition of "annual income" as provided by HUD in 24 CFR 5.609 and using adjusted gross income as defined for purposes of reporting under Internal Revenue Service



(IRS) Form 1040 series for individual Federal annual income tax purposes. This does not require the applicant to actually file or used a 1040 form with the IRS;

3. Housing Authority shall obtain at the time of application source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement), or a copy of Form 1040 as filed with the IRS for the household.

E. Sufficient confirmation of the household's monthly income at the time of application for such assistance.

1. Housing Authority shall review the monthly income information provided by the applicant at the time of the application and extrapolate over a 12-month period to determine whether the household income exceeds eighty percent (80%) of area median income.
2. If a household qualifies based on monthly income, Housing Authority must re- determine the household income eligibility every three months for the duration of the assistance.

F. Documentation of Income Verification

1. Housing Authority must have a reasonable basis under the circumstances for determining household income. This may include requiring a written attestation from the applicant as to household income and also documentation available to the applicant to support the determination of income, such as paystubs, W-2s or other wage statements, tax filings, bank statements demonstrating regular income, or an attestation from an employer.
2. Under limited circumstances, Housing Authority may rely on a written attestation (see Section 11) from the applicant without further documentation of household income.
3. Housing Authority has the discretion to provide waivers or exceptions to this documentation requirement to accommodate disabilities, extenuating circumstances related to the COVID-19 pandemic, or a lack of technological access. However, Housing Authority remains responsible for making the required determination regarding an applicant's household income and documenting that determination.

G. Verification of Requirements, all application information provided to Housing Authority shall be verified using normal practices Housing Authority engages in when processing applications for other housing programs.

H. Recertification Each household will be required to re-apply and Housing Authority is required to re-determine the eligibility of a household's income after each such period of 3 months for which the household receives assistance under this program.

## **2.8 Program Priorities**

- A. Housing Authority shall prioritize consideration of the applications of an eligible household that satisfies any of the following conditions:
  - 1. The income of the household does not exceed fifty percent (50%) of the area median income for the household.
  - 2. One or more individuals within the household are unemployed as of the date of the application for assistance and have not been employed for the 90-day period preceding such date.
  
- B. Order of Assistance
  - 1. Assistance shall be provided on a first come, first served basis. Acceptance into the program is based on the date the application is approved.
  - 2. Rental assistance that will be paid on behalf of tenants who reside in Housing Authority owned or managed units shall not take priority over ERAP assistance that will be paid to other landlords. Applicants who reside in units owned or managed by Housing Authority will also be placed on any priority or waiting lists in the order in which completed applications are received.
  
- C. Approved Households, once Housing Authority determines that an applicant household is eligible to become a participant of the program, Housing Authority shall formally notify the eligible household within three days in writing. Housing Authority shall also make efforts to immediately notify the eligible household by telephone or e-mail in order to immediately begin processing the assistance payments.
  
- D. When Housing Authority is the landlord, it may provide assistance to households for which Housing Authority is the landlord so long as Housing Authority complies with all provisions of the ERAP statute, the award terms, Treasury guidance, and this ERAP policy, and that no preferences beyond those priorities outlined in Section 17 are given to households that reside in Housing Authority's own properties. See also, "Categorical Eligibility," section 13, above.
  
- E. Denial of Assistance, all ineligible applicants shall be promptly notified in writing, which could include email, if available. Notification shall include all reasons for the ineligibility determination. Housing Authority shall also work with an applicant to correct application deficiencies.
  
- F. Time is of the essence, pursuant to the statute, the expiration date for this program is December 31, 2021. Additionally, sixty-five percent (65%) of the funding allocated must be obligated by September 30, 2021 or funding will be recaptured and returned to Treasury. As a result, the following deadlines shall be required:
  
- G. Applications shall be processed, in the order received, within four business

days.

- H. Assistance shall be provided for approved eligible households within eight business days after the household's landlord has agreed to accept payment on behalf of the household or when payments will be disbursed directly to an eligible household as described in Section 20 (b).
- I. An efficient process is also required in order to prevent possible homelessness or displacement of an eligible household.

## **2.9 Distribution of Assistance**

- A. Assistance for this program shall be disbursed directly to the eligible household's landlord unless the landlord does not agree to accept such payment after outreach to the landlord.
- B. In the event a landlord does not agree to accept such payments on behalf of the eligible household, Housing Authority may disburse the approved assistance funding directly to the eligible household for the purpose of making payments to the household's landlord. When funding is disbursed in this manner, the participating household shall be required to provide Housing Authority with payment receipts for all amounts provided before any additional rental will be approved or disbursed.
- C. Housing Authority must make reasonable efforts to obtain the cooperation of landlords to accept ERAP payments.
  - 1. Outreach will be considered complete if
    - a. a request for participation is sent in writing, by mail, to the landlord, and the addressee does not respond to the request within 14 calendar days after mailing; or
    - b. Housing Authority has made at least three attempts by phone, text, or e-mail over a 10 calendar-day period to request the landlord participation; or
    - c. A landlord confirms in writing that the landlord does not wish to participate.
    - d. The final outreach attempt or notice to the landlord must be documented.
    - e. The cost of contacting landlords would be an eligible administrative cost.

## **2.10 Reporting Requirements**

- A. Housing Authority shall comply with all federal reporting requirements for this program. Housing Authority will maintain all documentation required for accurate reporting, including:
- B. Address of the assisted rental unit;

- C. For landlords: the name, address, and Social Security number, tax identification number or DUNS number;
- D. Amount and percentage of monthly assisted household rent covered by ERAP assistance;
- E. Total amount of each type of assistance provided to each household (i.e., rent, rental arrears, rental security deposits incurred due directly or indirectly to the COVID-19 outbreak);
- F. Amount of outstanding rental arrears for each assisted household;
- G. Number of months of rental payments for which ERAP assistance is provided;
- H. Household income and number of individuals in the household;
- I. Gender, race and ethnicity for the primary applicant for assistance; K. Number of applications received;
- J. Number of eligible households receiving assistance;
- K. Acceptance rate of applicants;
- L. Average amount of funding per eligible household;
- M. Average number of monthly rental payments covered.
- N. Records regarding Housing Stability Services and the amount of funds provided.

## **2.11 TREATMENT OF ASSISTANCE FOR OTHER HOUSING AUTHORITIES**

- A. Assistance provided to a household from a payment under this program shall not be regarded as income and shall not be regarded as a resource for purposes of determining the eligibility of the household or any member of the household for other benefits or assistance provided by Housing Authority and financed in whole or in part with Federal funds.

## **2.12 COMPLIANCE WITH FEDERAL AND TRIBAL LAW**

- A. This Emergency Rental Assistance program shall be conducted in full compliance with applicable tribal and federal law and regulations described in Section 501(a) of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020).