

**LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS  
COVID-19 Emergency Rental Assistance Program Policy**

Adopted: March 2, 2021

Modified:

## **SECTION I. PURPOSE**

- A. This Emergency Rental Assistance Program Policy (“Policy”) shall govern the Lac Vieux Desert Band of Lake Superior Chippewa Indians (“Tribe”) COVID-19 Emergency Rental Assistance Program (“ERA Program”) and the expenditure and management of the Emergency Rental Assistance Funds (“ERA Program Funds”) received from the U.S. Treasury pursuant to Section 501 of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) (“Section 501”).
- B. The Secretary of the U.S. Department of Health and Human Services declared the public health emergency for COVID-19 on January 31, 2020. The eligible period for relief under the Paycheck Protection Program for covered wages began February 15, 2020, and the eligible period for relief through the Coronavirus Relief Fund (CRF) under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) began March 1, 2020. An emergency declaration was issued on March 13, 2020, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5191(b).
- C. The COVID-19 pandemic poses an immediate and imminent threat to the health, safety, and well-being of the Tribe. The purpose of the ERA Program is to provide emergency rental assistance for the payment of rents and utilities, and arrearages for the same, for low-income Tribal members and other Indian families who have disproportionately suffered from the impacts of the COVID-19 pandemic. The ERA Program is designed to assist Tribal and other Indian households whose income is at or below 80% of the Median Income who face potential eviction or homelessness because they are unable to pay rent and utilities due to the COVID-19 pandemic.
- D. Notwithstanding any provision set forth in any other THE TRIBE Policy, receipt of assistance from the ERA Program established under this Policy shall not make the Recipient or Recipient family ineligible for assistance under any of the regular THE TRIBE policies.
- E. Nothing in this Policy shall be construed to invalidate any otherwise legitimate grounds for eviction.
- F. Assistance to be provided under the ERA Program is subject to availability of funds. No applicant or household determined to be eligible is entitled to or has a property right to receive funding under the ERA Program. When funding for the ERA Program is fully-expended, the ERA Program will terminate. THE TRIBE may terminate this Program at any time.
- G. This Policy is based and the ERA Program will be carried out in reliance upon the February 22, 2021 guidance document from the Department of Treasury (entitled “Emergency Rental Assistance: Frequently Asked Questions”), which Treasury may be

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modifying or clarifying with future guidance. This Policy and the administration of the ERA Program will be subject to change if and when additional guidance is provided.

## SECTION II. DEFINITIONS

**General:** The following definitions shall apply to this ERA Program Policy.

- A. **“Applicant”** means any person or family who applies for assistance pursuant to these Policies and Procedures.
- B. **“Area Median Income”** means, with respect to a household, the median income for the United States consistent with ONAP Program Guidance, No.2020-01 dated July 30, 2020 as determined by the Secretary of Housing and Urban Development (“HUD”).
- C. **“COVID-19”** refers to the viral disease caused by the novel coronavirus known as SARS-CoV-2.
- D. **“Eligible Household”** means a household that meets the eligibility requires provided for in Section IV.
- E. **“Financial Assistance”** means payments provided through the ERA Program Funds for Rent Arrears, Utility and Home Energy Costs Arrears, Current and Prospective Rent, Current and Prospective Utility Costs, and Other Eligible Housing Related Expenses.
  - 1. **“Rent”** is the monthly amount charged by a Landlord for possession and occupancy of a dwelling unit. If Utility Costs are included in the monthly payment to the Landlord, they are deemed to be Rent.
  - 2. **“Rent Arrears”** mean rental payments in arrears.
  - 3. **“Prospective Rent”** means rental payments expected to be owed.
  - 4. **“Current Rent”** means the rental payment for the current month that is due and owing but not yet in arrears.
  - 5. **“Utility Costs”** means utility and home energy costs related to the occupancy of rental property (e.g. electricity, gas, water and sewer, trash removal, and energy costs (such as fuel oil)) that are separately-stated charges. Utility Costs do not include telecommunication services (e.g. telephone and cable services).
  - 6. **“Utility Costs Arrears”** means Utility Cost payments in arrears.
  - 7. **“Prospective Utility Costs”** means Utility Cost payments expected to be owed.

8. **“Current Utility Costs”** means Utility Costs that are currently due and owing but not yet in arrears.
  9. **“Rental Deposits”** means a deposit required by a Landlord as a condition of obtaining possession and occupancy of a rented dwelling unit. To be covered by this Emergency Rental Assistance Program, such deposits must be reasonable and may not exceed an amount equivalent to two (2) months rental payments for the premises being rented.
  10. **“Other Housing Expenses”** means expenses related to housing incurred due, directly or indirectly, to the novel coronavirus disease (COVID-19) outbreak, as defined by the Secretary. Maintenance costs are not included in this definition.
- F. **“Housing Stability Services”** means case management and other services related to the COVID-19 pandemic, as defined by the Secretary, intended to help keep Eligible Households stably housed.
  - G. **“Income”** means either a household’s annual income or sufficient confirmation of the household’s monthly income at the time of application by [Abbreviated Name].
  - H. **“Indian Tribe”** means a Tribe that is a federally recognized Tribe or a “State recognized Tribe” as those terms are defined in NAHASDSA, 25 U.S.C. 4103(13).
  - I. **“Landlord”** means any individual person, family, or entity who owns or manages a dwelling unit and rents or leases that dwelling unit to an Eligible Household.
  - J. **“NAHASDA”** means the Native American Housing Assistance and Self-Determination Act passed by the U.S. Congress in 1996.
  - K. **“Recipient”** means a household of one or more individuals that receives Financial Assistance from the ERA Program Funds.
  - L. **“Secretary”** means the Secretary of the U.S. Department of Treasury, except where otherwise indicated.
  - M. **“Treasury”** means the U.S. Department of Treasury.
  - N. **“Tribal Member”** means an enrolled member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians.
  - O. **“Tribe”** means the Lac Vieux Desert Band of Lake Superior Chippewa Indians.
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### SECTION III. EMERGENCY PROGRAM OVERVIEW

A. The Tribe shall only use the ERA Program Funds to provide Financial Assistance and Housing Stability Services to Eligible Households in accordance with the terms of this Policy.

1. **Application.** To participate in the ERA Program, an Applicant or a Landlord/owner acting on behalf of the Applicant must first submit a complete, written Application to the Tribe. This Application must include all information described below in Section V.
2. **Participation.** If an Applicant is approved for participation in the ERA Program, they must then submit information and supporting documentation each month for the Rents and Utility Costs for which they seek continued Financial Assistance, unless such payments are to be provided for a three month, for which the Applicant must provide such information for the three-month period.

#### B. Financial Assistance

1. At least 90 percent of the ERA Program Funds received by the Tribe must be used to provide Financial Assistance to Eligible Households as defined herein.
2. The Tribe does not need to provide assistance with respect to Rent in order to provide assistance with respect to Utility Costs, and does not need to provide assistance with respect to Utility Costs in order to provide assistance with respect to Rent.
3. **The Tribe may not provide ERA Program assistance to homeowners to cover their mortgage payment, utilities, or energy costs.**
4. **The Tribe as the Landlord.** The Tribe may provide assistance to Eligible Households for which the Tribe is the Landlord, provided that the Tribe complies with the all provisions of the Section 501 statute and relevant Treasury guidance and that no preferences beyond those outlined in the Section 501 statute are given to Eligible Households that reside in the Tribe's own properties.
5. **Arrears Payments:** If any Eligible Household has any Rent Arrears or Utility Costs Arrears, the Tribe must first provide Financial Assistance under this ERA Program to pay all or a portion of those arrears before providing payments for any Current or Prospective Rent or Current or Prospective Utility Costs payments, if and only to the extent that those arrears were the result of financial distress caused by COVID-19.

- (1) **Arrears Cut-Off.** The Tribe may only use ERA Program Funds to pay Rent Arrears and Utility Costs Arrears for rent and utility and home energy costs incurred on or after March 13, 2020<sup>1</sup> for which Eligible Households are in arrears.
  - (2) **Rent Arrears and Utility Costs Arrears** means money that is overdue after missing one or more required payments. Arrears includes interest charges and penalties accrued from the date on which the first missed payment was due. Arrears **does not** include interest charges or penalties accrued for overdue rent or utility and home energy costs incurred before March 13, 2020.
  - (3) An Eligible Household that does not have any arrears payments may still participate in the ERA Program.
6. **Term.** The Tribe shall provide Financial Assistance for a period not to exceed twelve (12) months except that the Tribe may provide Financial Assistance for an additional three (3) months only if necessary to ensure housing stability for an Eligible Household, subject to the availability of funds.
7. **Prospective Rent Payments—Limitation on Assistance**
  - a. Pursuant to Section 501(c)(2)(B) and subject to the exception in subparagraph (b), the Tribe shall not provide an Eligible Household with Financial Assistance for Prospective Rent payments for more than three (3) months based on any Application by or on behalf of the household. This limitation does not apply to Prospective Utility Costs.
  - b. **Exception:** For any Eligible Household described in subparagraph (a), such Eligible Household may receive Financial Assistance for Prospective Rent payments for additional months (up to three months) at the expiration of the three (3) month period described in subparagraph (a):
    - (1) Subject to the availability of the Tribe’s remaining ERA Program Funds; and

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<sup>1</sup> March 13, 2020 is the date of the emergency declaration pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5191(b), and is the date identified by Treasury in its initial FAQ as the beginning of the COVID-19 pandemic for the purposes of calculating arrears resulting from COVID-19.

- (2) Based on a subsequent application submitted by the Recipient for additional Prospective Rent, provided that the total months of Financial Assistance provided to the Eligible Household do not exceed the total months of assistance allowed under paragraph (III)(B)(6).

**8. Distribution of Financial Assistance**

- a. For all Financial Assistance for Rent Arrears, Utility Costs Arrears, Current or Prospective Rent, Current or Prospective Utility Costs, or Rental Deposits provided to an Eligible Household, the Tribe will make payments to the Landlord or utility provider on behalf of the Eligible Household.

- (1) The Tribe must make reasonable efforts to obtain the cooperation of Landlords and utility providers to accept payments from the ERA Program. Outreach will be considered complete if a request for participation is sent in writing, by certified mail, to the Landlord or utility provider, and the addressee does not respond to the request within 21 calendar days after mailing; or, if the Tribe has made at least three attempts by phone or email over a 21 calendar-day period to request the Landlord or utility provider's participation. All efforts must be documented. The cost of the mailing will be an eligible administrative cost.

- (2) **Exception:** If, after the Tribe's outreach to the Landlord or utility provider, the Landlord or utility provider does not agree to accept such payment from the Tribe, the Tribe may make such payments directly to the Eligible Household for the purpose of making payments to the Landlord or utility provider.

- b. For any payments made by the Tribe to a Landlord or utility provider on behalf of an Eligible Household, the Tribe shall provide documentation of such payments to such household.

- 9. Duplication of Assistance.** An Eligible Household that occupies a federally-subsidized residential or mixed-use property may receive ERA Program assistance, provided that ERA Program Funds are not applied to costs that have been or will be reimbursed under any other federal assistance. To the extent feasible, the Tribe will ensure that any Financial Assistance provided to an Eligible Household pursuant to the ERA Program Funds is not

duplicative of any other Federally funded rental assistance provided to such household.

- a. If an Eligible Household receives a monthly federal subsidy (e.g., a Housing Choice Voucher, Public Housing, or Project-Based Rental Assistance) and the Eligible Household's rent is adjusted according to changes in income, the Eligible Household may not receive ERA Program assistance to cover the portion of the rental payment that has been subsidized but only that portion that the Eligible Household is required to pay out of its own funds.
- b. If an Eligible Household receives rental assistance other than through the ERA Program, the ERA Program assistance may only be used to pay for costs, such as the tenant-paid portion of Rent and Utility costs, that are not paid for by the other rental assistance. Pursuant to Section 501(k)(3)(B) of Subdivision N of the Act and 2 CFR 200.403, when providing ERA Program assistance, the Tribe must review the Eligible Household's income and sources of assistance to confirm that the ERA Program assistance does not duplicate any other assistance, including federal, state, and local assistance provided for the same costs.

10. **Treatment of Assistance.** Assistance provided to an Eligible Household from the ERA Program Funds will not be regarded as Income and will not be regarded as a resource for purposes of determining the eligibility of the Eligible Household or any member of the Eligible Household for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program, or any Tribal program financed in whole or in part with Federal funds.

#### C. **Housing Stability Services**

1. Not more than 10 percent of the ERA Program Funds received by the Tribe pursuant to Section 501 may be used to provide Eligible Households with Housing Stability Services intended to help keep Eligible Households stably housed.

### SECTION IV. **ELIGIBILITY**

- A. **Eligibility Requirements.** To be eligible to apply for the ERA Program, at the time the Applicant applies to the Program the Applicant must meet the following eligibility requirements:

1. The Applicant is part of a household of one (1) or more individuals who are



occupying as tenants and obligated to pay rent on a residential dwelling and with respect to which the Tribe determines—

- a. That one (1) or more individuals within the house has:
  - (1) Qualified for unemployment benefits, or
  - (2) Experienced a reduction in household Income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 pandemic, to which the applicant shall attest in writing;
- b. That one (1) or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability, which may include:
  - (1) A past due utility or rent notice or eviction notice;
  - (2) Unsafe or unhealthy living conditions; or
  - (3) Any other evidence of such risk, as determined by THE TRIBE; and
- c. The household has a household Income that is not more than 80 percent of the Area Median Income for the household.
- d. There are no geographic limitations on where a Applicant household is located to be eligible for Financial Assistance under the ERA Program.

**B. Income Determination.** In determining the Income of a household for purposes of determining such household's eligibility for assistance from the ERA Program Funds, THE TRIBE will consider either the household's total annual Income or monthly Income:

- 1. **Annual Income.** The Tribe may consider the household's total annual income for calendar year 2020.
  - a. **Annual Income.** THE TRIBE may choose between using the definition of "annual income" as provided by HUD in 24 CFR 5.609 or 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.
    - (1) For determining annual income, the Tribe should 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.

2. **Monthly Income.** Subject to subparagraph (a) below, the Tribe may determine Income based on sufficient confirmation of the household's monthly income at the time of Application for such assistance.
  - a. In the case of Income determined based on monthly income under the preceding subparagraph (2), the Tribe shall be required to re-determine the eligibility of a household's Income after each such period of three (3) months for which the household receives assistance from the ERA Program Funds.
    - (1) For determining monthly income, the Tribe must obtain income source documentation for at least the two months prior to the submission of the application for assistance.

## **SECTION V. APPLICATIONS FOR ERA PROGRAM**

- A. **Participation Applications:** To participate in the ERA Program, an Applicant must first submit a complete, written Application on the forms provided by the Tribe attached as Exhibits to this Policy. All information required to be on the forms must be completed, or the Application will be returned. Applications for the ERA Program must be submitted to the Tribe by mailing or dropping off the Applications to the following address:

Lac Vieux Desert Band of Lake Superior Chippewa Indians  
Attn: Planning Dept.  
PO Box 249  
Watersmeet, MI 49969

Or submitting such Applications by email to: [bruce.lapointe@lvd-nsn.gov](mailto:bruce.lapointe@lvd-nsn.gov)

### **The Application must include the following information and supporting documentation:**

1. **Applicant and household Information.** Full name and date of birth of the applicant and of all members of Applicant's household; Applicant's address and contact information.
2. **Financial Hardship.** Information and supporting documentation demonstrating that one (1) or more individuals within the household has:

- a. Qualified for unemployment benefits, or
  - b. Experienced a reduction in household Income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 pandemic, which the Applicant shall attest to in writing by signing the Certification of Economic Hardship;
3. **Housing Instability.** Information and supporting documentation demonstrating that one (1) or more individuals within the household faces a risk of experiencing homelessness or housing instability, which may include:
- a. A past due utility or rent notice or eviction notice;
  - b. Unsafe or unhealthy living conditions; or
  - c. Any other evidence of such risk, as determined by the Tribe.
4. **Income.** Information and supporting documentation demonstrating the Applicant has a household Income that is not more than 80 percent of the Area Median Income for the household. The Applicant must submit documentation evidencing either their annual income or monthly income, as follows:
- a. **Annual income:** The Applicant must submit a wage statement, interest statement, unemployment compensation statement, or a copy of Form 1040 as filed with the IRS for the household for 2020.
  - b. **Monthly income:** The Applicant must submit sufficient confirmation of the household's monthly income at the time of application for at least the two months prior to the submission of the application for assistance. If an Applicant qualifies for the ERA Program based on monthly income, the Applicant must resubmit documentation on the household's monthly income every three months for the duration of assistance.
5. **Release of Information.** This form is attached as an exhibit.
6. **Certification of Economic Hardship.** A signed self-certification of economic hardship. This form is attached as an Exhibit.
7. Such other information as may be specifically requested by the Tribe to document Income, the need for the services being applied for, and the connection of that need for services to the COVID-19 pandemic.

**B. Application for Assistance by Landlords and Owners**

1. Subject to paragraph (B)(2) of this Section, a Landlord of a residential dwelling may:
  - a. Assist a renter of such dwelling in applying for assistance from the ERA Program; or
  - b. Apply for such assistance on behalf of a renter of such dwelling.

**2. Requirements for Applications Submitted on Behalf of Renters**

- a. If a Landlord of a residential dwelling submits an Application for assistance from the ERA Program Funds on behalf of a renter of such dwelling—
  - (1) The Landlord must obtain the signature of the renter on such Application, which may be documented electronically;
  - (2) Documentation of such Application must be provided to the renter by the Landlord; and
  - (3) Any payments received by the Landlord from the ERA Program Funds shall be used to satisfy the renter’s rental obligations to the Landlord.

**C. Notification of Change of Eligibility.** Applicants are required to notify the Tribe in writing immediately whenever any determining factor of eligibility changes. This includes:

1. No longer qualifying for unemployment benefits,
2. No longer experiencing a reduction in household income or other financial hardship,
3. No longer facing a risk of homelessness or housing instability, or
4. Having an income that is above 80 percent of the Area Median Income for the household.

**D. Falsification.** If it is discovered that an Applicant has falsified his or her Application, or otherwise abused the ERA Program, or if a Recipient fails to notify the Tribe of changes to the household’s eligibility, the household will be subject to penalties. Penalties will include ineligibility for continued participation in the ERA Program and repayment of the value of any benefit for which they were not eligible to receive.

**E. Application Review**

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1. The Planning Department shall sign and date the Application when it is received.
2. **Preferences and Priorities.** Applications will be reviewed and processed as they are received. However, in anticipation of the Tribe receiving a substantial number of applications within a short period of time, with a finite amount of funding available, the Tribe shall review and process Applications for Financial Services under this Policy according to the following order of preferences.
  - a. First preference will be given to Eligible Households that have at least one family member (regardless of whether that member is an adult or head of household) who is a Tribal Member.
  - b. Second preference will be given to Eligible Households that have at least one family member (regardless of whether that member is an adult or head of household) who is a member of an Indian Tribe.
  - c. Third preference will be given to all other Eligible Households.

In reviewing Applications, the Tribe will further prioritize consideration of the Applications of an Eligible Household that satisfies any of the following conditions:

- a. The Income of the household does not exceed 50 percent of the Area Median Income for the household.
  - b. 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.
  - c. One or more individuals within the household were unable to reach their place of employment or their employment was closed because of a public health order imposed as a direct result of COVID-19.
3. **Approval of Application.** The Planning Department will notify Applicants in writing, within fourteen (14) days of THE TRIBE's receipt of the Application, of the Tribe's decision of whether the Applicant has been approved to receive Financial Assistance.
  4. **Denial of Application.** If upon initial review, the Tribe determines that the Applicant is not eligible or the request is outside of this Policy, or there are no longer any ERA Program Funds available, the Tribe will notify the Applicant in writing of this determination, the applicable policies which

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support the determination, and the process of appeal (if allowed).

- a. **Process of Appeal.** Any Applicant who is dissatisfied with a decision of the Tribe concerning eligibility of assistance, the level of benefit approved, or the type of services available, can appeal that decision to the Tribal Council.
- b. **No Appeal.** If the reason for the denial of the Application is that there are no longer any ERA Program Funds remaining, such denial is not subject to appeal.

## **SECTION VI. ERA PROGRAM PARTICIPATION**

### **A. Submission of Documentation**

1. Once an Applicant is approved for participation in the ERA Program, they must submit information and documentation on the Rent Arrears, Utility Costs Arrears, Prospective Rent, and Prospective Utility Costs for which they are seeking Financial Assistance.
  - a. Applicants may initially submit the above information and documentation at the same time that they submit their initial program Application.
2. For each additional month (or three-month prospective period, if applicable) that a Recipient seeks Financial Assistance under this ERA Program, the Recipient must submit the information and documentation listed below for the Rent and Utility Costs for which they seek assistance.
3. **Information and Documentation of Need for Financial Assistance.** Applicants and Recipients must submit information and supporting documentation on the following:
  - a. Signed copy of the Applicant's current or prospective rental agreement; and
  - b. **Rent Arrears.** If the applicant is seeking assistance for past rent for which they are in arrears:
    - (1) Copies of the notice(s) of past rent due;
    - (2) Documentation detailing the past rent due, accrual of any interest charges and/or penalties, and the total amount in arrears;

- (3) Name and current address of the Landlord to whom payment must be made.
- c. **Utility Costs Arrears.** If the applicant is seeking assistance for past rent for which they are in arrears:
  - (1) Copies of the notice(s) of past Utility Costs due;
  - (2) Documentation detailing the past Utility Costs due, accrual of any interest charges and/or penalties, and the total amount in arrears;
  - (3) Name and current address of utility provider to whom payment must be made.
- d. **Current or Prospective Rent, or for Rental Deposit.** If the applicant is seeking assistance for current or future Rent payments or Rental Deposit:
  - (1) Name and current address of the Landlord to whom payment must be made.
- e. **Current or Prospective Utility Costs:** If the applicant is seeking assistance for current or future Utility Costs:
  - (1) Copy of utility bill showing utility costs due; and
  - (2) Name and current address of utility provider to whom payment must be made.

**B. Prospective Payments**

- 1. If a Recipient who has already received three (3) months of Prospective Rent or Prospective Utility Costs seeks assistance for additional Prospective Rent or Prospective Utility Costs, the Recipient must submit a new application for additional Financial Assistance.

**SECTION VII. ERA PROGRAM MANAGEMENT**

**A. Maintenance of and Access to Records.**

- 1. The Tribe must create and maintain a set of files for this ERA Program separate from all other Tribal programs.
- 2. The Tribe may copy relevant documents from a Recipient's existing file under

a separate Tribal program so that the Recipient does not need submit the same documentation twice, provided that the copied documentation for the ERA Program is kept separately with all other ERA Program files.

3. The Tribe shall maintain records and financial documents sufficient to support compliance with Section 501(c) regarding the eligible uses of funds for a period of five (5) years after all funds have been expended or returned to Treasury.

## B. Report Requirements

1. The Tribe shall maintain and submit quarterly records detailing such information as is required by the Secretary. Such report may include:
  - a. Number of applications received;
  - b. Address of the rental unit of each Recipient;
  - c. Name, address, social security number, tax identification number or DUNS number, as applicable, for the Landlord and utility provider;
  - d. Amount and percentage of monthly rent covered by ERA assistance;
  - e. Amount and percentage of separately-stated utility and home energy costs covered by ERA assistance;
  - f. Total amount of each type of assistance (i.e., rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears) provided to each household, Amount of outstanding rental arrears for each household;
  - g. Number of months of rental payments and number of months of utility or home energy cost;
  - h. Payments for which ERA assistance is provided;
  - i. Household income and number of individuals in the household; and
  - j. Gender, race, and ethnicity for the primary applicant for assistance.
2. **Privacy Requirements.** The Tribe shall establish data privacy and security requirements for the information required by the Secretary for use of ERA Program Funds, in accordance with Section 501(g)(4). The data privacy and security requirements must—



- a. Include appropriate measures to ensure that the privacy of the individuals and households is protected;
- b. Provide that the information, including any personally identifiable information, is collected and used only for the purpose of submitting reports in compliance with this Policy; and
- c. Provide confidentiality protections for data collected about any individuals who are survivors of intimate partner violence, sexual assault, or stalking.

C. **Compliance with Applicable Laws and Regulations.** In carrying out housing activities funded by the ERA Program Funds, the Tribe will comply with the following laws and regulations.

- 1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as the Secretary may determine are inapplicable to the ERA Program Funds and subject to such exceptions as may be otherwise provided by the Secretary. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to the ERA Program Funds.
- 2. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- 3. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- 4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180 (including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and the Treasury’s implementing regulation at 31 C.F.R. Part 19.
- 5. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- 6. Government-wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- 7. New Restrictions on Lobbying, 31 C.F.R. Part 21.

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8. Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, which prohibit discrimination on the basis of race, color, national origin, sex, familial status, or disability, with the understanding, codified in regulation at 24 CFR 1000.12(d), that Tribes and TDHEs carrying out housing activities satisfy these requirements by their compliance with the Indian Civil Rights Act, 25 U.S.C. §§ 1301-1304 (ICRA), and with the further understanding that, as codified in 25 U.S.C. §§4114(b) and 4131(b), Tribes and TDHEs are permitted to use Indian and Tribal-specific preference in providing housing services, as well as in contracting and hiring.
  9. The non-discrimination requirements as applied under Section 504 of the Rehabilitation Act of 1973 and the Department of Housing and Urban Development implementing regulations at 24 CFR part 8.
  10. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and the Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
- D. **Publications.** Any publications produced with the ERA Program Funds must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

## **SECTION VIII. USE AND MANAGEMENT OF FUNDS**

- A. **Use of funds.** The Tribe understands and agrees that the ERA Program Funds may only be used for the purposes set forth in Section 501.
- B. **Financial Management of ERA Program Funds**
  1. The ERA Program Funds received by the Tribe must be held and maintained in a bank account depository separate from all other Tribal funds.
  2. The depository in which the ERA Program Funds are deposited must be a financial institution that is approved by Treasury and that is sufficiently insured by the Federal Deposit Insurance Corporation ("FDIC") or National Credit Union Share Insurance Fund ("NCUSIF").
  3. The ERA Program Funds should be accounted for separately from other Tribal funds.
  4. **Collateralization of ERA Program Funds.** All deposits of ERA Program Funds that are in excess of the FDIC insured amount must be continuously and fully

secured.

**C. Administrative Costs**

1. Not more than ten (10) percent of the amount of the ERA Program Funds that the Tribe receives may be used for administrative costs attributable to providing Financial Assistance and Housing Stability Services as defined above, including for data collection and reporting requirements related to such funds.
2. The ERA Program Funds may not be used for any administrative costs other than to the extent allowed under preceding subparagraph (C)(1) of this Section.
3. Administrative expenses of the Tribe may be treated as direct costs, but the Tribe may not cover indirect costs using the ERA Program Funds, and the Tribe may not apply its negotiated indirect cost rate to ERA Program Funds.
4. The sum of the amount of the ERA Program Funds expended on Housing Stability Services described in Section 501(c)(3) and the amount of the ERA Program Funds expended on administrative expenses described in Section 501(c)(5) may not exceed 10 percent of the total award.

**D. Expenditure of ERA Program Funds**

1. Pursuant to Section 501(d), at least 65% of the total amount of ERA Program Funds received by the Tribe must be expended by September 30, 2021. If the Tribe does not expend at least 65% of the ERA Program Funds by September 30, 2021, the Tribe will be required to repay to the Treasury the entire amount not expended ("Excess ERA Program Funds") by that date.
2. Pursuant to Section 501(e), the Tribe must expend all ERA Program Funds by December 31, 2021, unless, in the case of a reallocation made by the Secretary pursuant to Section 501(d), the Tribe requests and receives from the Secretary an extension of up to 90 days. The Tribe will be required to repay to the Treasury any amounts not expended by December 31, 2021, except in the case of an extension.
  - a. Any such requests for extension must be provided in the form and must include such information as Treasury may require.
3. Amounts not expended by the Tribe in accordance with Section 501 must be repaid to Treasury in the manner specified by Treasury.

E. **Cost Sharing.** Cost sharing or matching funds are not required to be provided by the Tribe.

F. **Debts Owed the Federal Government.**

1. Any funds paid to the Tribe (1) in excess of the amount to which the Tribe is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are not repaid by the Tribe as may be required by Treasury pursuant to Section 501(d) shall constitute a debt to the federal government.
2. Any debts determined to be owed the federal government must be paid promptly by the Tribe. A debt is delinquent if it has not been paid by the date specified in the Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. The Treasury will refer any debt that is more than 180 days delinquent to the Treasury's Bureau of the Fiscal Service for debt collection services.
3. Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law. Administrative charges, that is, the costs of processing and handling a delinquent debt, shall be determined by the Secretary.