

Trenton Indian Housing Authority

EMERGENCY RENTAL ASSISTANCE POLICY

(COVID-19)

April 21, 2021

TDHE POLICIES. *TIHA* has adopted a series of administrative and management policies. These Policies are formally adopted by the *TIHA* 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, *TIHA* may from time to time adopt other rules, requirements, and procedures to administer its programs, however all of these practices must comply with *TIHA* Policies.

The policy was adopted on April 21, 2021 due to revised Frequently Asked Questions and Amended Grant Agreement issued by the U.S. Department of Treasury on March 26, 2021.

Separate *TIHA* Policies may be adopted for various housing programs. This policy is strictly limited to the Emergency Rental Assistance (ERA) program 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). *TIHA* may have other rental assistance programs in place with separate policies that are distinguished from this program.

1. **THE PURPOSE OF THIS POLICY.** This policy contains the requirements for the *TIHA* COVID-19 Emergency Rental Assistance program that was created and funded by the Consolidated Appropriations Act, 2021, P.L. 116-260 (December 27, 2020).
2. **DURATION OF PROGRAM.** This program shall continue until December 31, 2021, or until all Emergency Rental Assistance program (ERA) funds are expended, or until ERA funds are recaptured and returned to Treasury, whichever event occurs first.
3. **AVAILABLE USE OF ASSISTANCE FUNDS.** *TIHA* 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;
 - i. A full payment of arrears is allowed up to the 12-month limit established by the statute.
 - ii. In some cases, *TIHA* may provide less than the full coverage of arrears.
 - c. Utilities and home energy costs;
 - i. Utilities include separately stated charges related to the occupancy of a rental property, such as electricity, gas, water and sewer, trash removal and energy costs, such as fuel oil. Payments to public utilities are permitted.
 - ii. *TIHA* may provide utility or energy cost assistance to an eligible household without also covering rent.
 - iii. Utilities that are covered by the landlord will be treated as rent.

- d. Utilities and home energy arrears;
- e. Other expenses related to housing incurred due, directly or indirectly, to COVID-19. Such expenses include:
 - i. Relocation expenses;
 - ii. Rental fees (if a household has been temporarily or permanently displaced due to the COVID-19 outbreak);
 - iii. Reasonable accrued late fees (if not included in rental or utility arrears and if incurred due to COVID-19);
 - iv. Internet service provided to the rental unit when internet is required by the household due to the COVID-19 outbreak to engage in distance learning, telework, telemedicine, and obtain government services
 - v. All payments for housing-related services must be supported by documentary evidence such as a bill, invoice, or evidence of payment to the provider of the service.
 - vi. *The cost of hotel or motel room occupied by an eligible household provided that:*
 - 1. *the household has been temporarily or permanently displaced from its primary residence or does not have a permanent residence elsewhere;*
 - 2. *the total months of assistance provided to the household do not exceed 12 months (plus an additional three months if necessary to ensure housing stability for the household); and*
 - 3. *documentation of the hotel or motel stay is provided and the other applicable requirements provided in the statute and this policy are met.*
 - 4. *The cost of the hotel or motel stay would not include expenses incidental to the charge for the room.*
 - 5. *TIHA shall consider the cost effectiveness of offering assistance for this purpose and if the household is eligible for an existing program with narrower eligibility criteria that can provide similar assistance for hotel or motel stays, such as the HUD FEMA Public Assistance, TIHA should utilize such programs prior to providing similar assistance under the ERA program.*
- f. 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. *These funds may be used to cover both direct and indirect costs.*
 - i. 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.
 - ii. *The total of all administrative costs, whether direct or indirect costs, may not exceed 10 percent of the total amount of the total amount provided to*

TIHA by Treasury for this ERA program. TIHA may apply their negotiated indirect cost rate to this ERA program but only to the extent that the total of the amount charges pursuant to that rate and the amount of direct costs charges to the ERA program does not exceed 10 percent of the amount of the award.

- iii. *Any direct and indirect administrative costs must be allocated by TIHA to either the provision of financial assistance or the provision of housing stability services. To the extent administrative costs are not readily allocable to one or the other of these categories, TIHA may assume an allocation of the relevant costs of 90 percent to financial assistance and 10 percent to housing stability services.*
- iv. *The total of all administrative costs incurred by the TIHA and all subrecipients/subgrantee, whether direct or indirect costs, may not exceed 10 percent of the total amount of the ERA award provided to TIHA from Treasury. (The grantee may permit a subrecipient/subgrantee to incur more than 10 percent of the amount provided to the subrecipient/subgrantee so long as the total of all administrative costs incurred by the grantee and all subrecipients/subgrantees, whether as direct or indirect costs, does not exceed 10 percent of the total amount of the original award provided to TIHA from Treasury.*

- 4. **LENGTH OF OCCUPANCY.** There is no requirement regarding a household's length of tenure/occupancy in their current unit.
- 5. **MORTGAGE AND HOMEOWNER'S CANNOT BE ASSISTED.** Mortgage payments and their utilities or energy costs are not eligible uses of these ERA funds.
- 6. **AVAILABLE AND MAXIMUM ASSISTANCE.** Assistance may be provided to each eligible household for a period not to exceed 12 months except that *TIHA* may also provide ERA 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.
- 7. **PROSPECTIVE RENT.** *Prospective* rent payments are 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:
 - a. Subject to availability of remaining funds;
 - b. 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;
 - c. An eligible household does not need to have any rental arrears in order to be assisted for prospective rent assistance.

8. **RENT-TO-OWN AGREEMENTS.** *TIHA may provide financial assistance to households that are renting their residence under a “rent-to-own” agreement such as old-style Mutual Help Agreements, under which the renter has the option (or obligation) to purchase the property at the end of the lease term, provided that a member of his or her household:*

- a. *is not a signor or co-signor to mortgage on the property;*
- b. *does not hold the deed or title to the property; and*
- c. *has not exercised the option to purchase.*

9. **MANUFACTURED HOUSING.** *Rental payments for either the manufactured home and/or the parcel of land the manufactured home occupies are eligible for financial assistance under this program. Households renting manufactured housing and/or the parcel of land the manufactured home occupies may also receive assistance for utilities and other expenses related to housing.*

10. **ELIGIBLE HOUSEHOLD.**

- a. To be eligible for assistance, a household must be obligated to pay rent on any type of residential dwelling and *TIHA* must determine that:
 - i. that 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;
 - ii. that one or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
 - iii. the household has a household income at or below 80 percent of the area median income.
- b. ERA payments may be provided to eligible households who have occupied more than one rental unit since the COVID-19 outbreak began.
- c. Tribal members living outside Tribal lands may receive ERA assistance, provided they have not received duplicate assistance from another Tribe, *TIHA*, state, or local government.
- d. Non-tribal members, including non-Indians, living on Tribal lands may receive ERA assistance, provided they have not received duplicate assistance from another Tribe, *TIHA*, state, or local government.

11. **AREA TO BE SERVED.** *TIHA* shall provide ERA assistance within Tribal lands and the following geographic areas/locations:
TIHA will provide assistance to those individuals that qualify and live within the Trenton Indian Service Area which includes the counties of Williams, Divide, and Mckenzie Counties in North Dakota and Roosevelt, Sheridan, and Richland counties in Montana.

12. DUPLICATION OF ASSISTANCE PROHIBITED. To the extent feasible, *TIHA* shall ensure that any assistance provided in their ERA program is not duplicative of any other federally-funded rental assistance provided to such household.

- a. An eligible household that occupies a federally-subsidized residential or mixed-use property may receive ERA assistance, provided that ERA funds are not applied to costs that have been or will be reimbursed by any other federal assistance.
- b. 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 ERA assistance for the tenant-owed portion of rent or utilities that is not subsidized.
- c. *TIHA* shall review the household's income and sources of assistance to confirm that the ERA assistance does not duplicate any other assistance, including tribal, federal, state, and local assistance provided for the same costs. *TIHA* may rely on an attestation from the applicant regarding non-duplication with other government assistance in providing assistance to a household.
- d. *TIHA* 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 ERA assistance.

13. APPLICATIONS.

- a. Forms. The ERA application forms include:
 - i. ERA Joint Landlord and Tenant Application, or
 - ii. In cases where a Landlord or Utility Provider cannot or will not cooperate, just a Tenant Application; and
 - iii. Eligibility Information Statement.
- b. Submission.
 - i. Applications may be submitted in person, or by a designated individual on the applicants behalf.
 - ii. The application forms and any other application information may be submitted by a member of the Household, or, in some cases, by the Landlord on behalf of the Household/Tenant.
- c. Application Information Required. A completed application shall include the following:
 - i. the date the application is completed;
 - ii. name and contact information for the applicant;
 - iii. family composition;
 - iv. Income information shall include, as applicable:
 1. documentation evidencing that the applicant has qualified for unemployment benefits,
 2. documentation evidencing that the applicant has experienced a reduction in income,
 3. documentation evidencing that the applicant has incurred significant costs, or

4. 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 or utilities;
- v. copies of rent/mortgage and/or utility bills that have not been paid due to COVID-19;
- vi. **all applications for assistance shall include an attestation from the applicant that all information included is correct and complete.**
- vii. When an applicant requests assistance for rent or rental arrears, *TIHA* must obtain, if available, a current lease, signed by the applicant and the landlord or sublessor that identifies the unit where the applicant resides and establishes the rental payment amount.
 1. If the household does not have a signed lease, documentation of residence may include evidence of paying utilities for the residential unit, 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 *TIHA*.
 2. 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 *TIHA*.
 3. 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, *TIHA* 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, *TIHA* 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:
 - i. a past due utility or rent notice or eviction notice;
 - ii. unsafe or unhealthy living conditions evidenced by Notice received or other documentation provided by the County or other State Service; or
 - iii. any other evidence of risk, as determined by *TIHA*.

e. Written Attestations.

- i. If an applicant specifies that they have qualified for unemployment benefits, *TIHA* may rely on either a written attestation signed by the applicant or other relevant documentation regarding the household member's qualification for unemployment benefits.
- ii. 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, *TIHA* shall obtain a written attestation signed by the applicant that one or more members of the household meets this condition.
- iii. 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, *TIHA* may accept a written attestation from the applicant regarding household income. If such written attestation without further documentation is relied on, *TIHA* must reassess household income for such household every three months. In appropriate cases, *TIHA* 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.
- iv. 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.

- i. 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.
- ii. When a Landlord applies for the assistance on behalf of a Tenant
 1. The Landlord must obtain the signature of the Tenant on the application, which may be documented electronically;
 2. Documentation of the application shall be provided to the Tenant by the Landlord; and
 3. Any payments received by the Landlord shall be used to satisfy the Tenant's rental obligations to the Landlord.

14. INCOMPLETE APPLICATIONS. Incomplete applications cannot be processed. When an application is incomplete, *TIHA* 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. *TIHA* shall work with an applicant to correct application deficiencies.

15. INCOME DETERMINATION.

Definition of Income: With respect to each household applying for assistance, *TIHA* 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.

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, *TIHA* 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 *TIHA*'s other housing assistance programs who have an up-to-date household income recertification on file with *TIHA*.

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>. *TIHA*'s assisting current participants in their other housing assistance programs may use the definition of Area Median Income from those programs to determine ERA eligibility for those applicants under the "Categorical Eligibility" definition above.

In determining the income of a household for program eligibility, *TIHA* shall consider either a. or b. below.

- a. The household's total income for calendar year 2020
 - i. *TIHA* 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;
 - ii. *TIHA* 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.
- b. Sufficient confirmation of the household's monthly income at the time of application for such assistance.
 - i. *TIHA* 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.
 - i. If a household qualifies based on monthly income, *TIHA* must re-determine the household income eligibility every three months for the duration of the assistance. ***For re-determination, TIHA 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 and a confirmation from tenant household that nothing has changed since that verification was made.***

16. DOCUMENTATION OF INCOME VERIFICATION.

- a. *TIHA* 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.
- b. Under limited circumstances, *TIHA* may rely on a written attestation (see Section 11) from the applicant without further documentation of household income.
- c. *TIHA* 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, *TIHA* remains responsible for making the required determination regarding an applicant's household income and documenting that determination.

17. VERIFICATION REQUIREMENTS. All application information provided to *TIHA* shall be verified using normal practices *TIHA* engages in when processing applications for other housing programs.

18. RECERTIFICATION. Each household will be required to re-apply and *TIHA* 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.

19. PROGRAM PRIORITIES.

- a. *TIHA* shall prioritize consideration of the applications of an eligible household that satisfies any of the following conditions:
 - i. The income of the household does not exceed fifty percent (50%) of the area median income for the household.
 - ii. 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.

20. ORDER OF ASSISTANCE.

- a. Assistance shall be provided on a first come, first served basis. Acceptance into the program is based on the date the application is approved.
- b. Rental or utility assistance that will be paid on behalf of tenants who reside in *TIHA* owned or managed units shall not take priority over ERA assistance that will be paid to other landlords or utility providers. Applicants who reside in units owned or managed by *TIHA* will also be placed on any priority or waiting lists in the order in which completed applications are received.

21. APPROVED HOUSEHOLDS. Once *TIHA* determines that an applicant household is eligible to become a participant of the program, *TIHA* shall formally notify the eligible household within three days in writing. *TIHA* shall also make efforts to immediately notify

the eligible household by telephone or e-mail in order to immediately begin processing the assistance payments.

22. WHEN TDHE IS THE LANDLORD. *TIHA* may provide assistance to households for which *TIHA* is the landlord so long as *TIHA* complies with all provisions of the ERA statute, the award terms, Treasury guidance, and this ERA policy, and that no preferences beyond those priorities outlined in Section 17 are given to households that reside in *TIHA*'s own properties. See also, "Categorical Eligibility," section 13, above.

23. 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. *TIHA* shall also work with an applicant to correct application deficiencies.

24. 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:

- a. applications shall be processed, in the order received, within [10] business days.
- b. Assistance shall be provided for approved eligible households within [10] days after the household's landlord or utility provider 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).
- c. An efficient process is also required in order to prevent possible homelessness or displacement of an eligible household.

25. DISTRIBUTION OF ASSISTANCE.

- a. Assistance for this program shall be disbursed directly to the eligible household's landlord or utility provider unless the landlord or utility provider does not agree to accept such payment after outreach to the landlord or utility provider.
- b. In the event a landlord or utility provider does not agree to accept such payments on behalf of the eligible household, *TIHA* may disburse the approved assistance funding directly to the eligible household for the purpose of making payments to the household's landlord or utility provider. When funding is disbursed in this manner, the participating household shall be required to provide *TIHA* with payment receipts for all amounts provided before any additional rental or utility assistance will be approved or disbursed.
- c. *TIHA* must make reasonable efforts to obtain the cooperation of landlords and utility providers to accept ERA payments.
 1. Outreach will be considered complete if

- a. a request for participation is sent in writing, by mail, to the landlord or utility provider, and the addressee does not respond to the request within 14 calendar days after mailing; or
- b. *TIHA* has made at least three attempts by phone, text, or e-mail over a 10 calendar-day period to request the landlord or utility provider's 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.

26. REPORTING. *TIHA* shall comply with all federal reporting requirements for this program. *TIHA* will maintain all documentation required for accurate reporting, including:

- a. Address of the assisted rental unit;
- b. For landlords and utility providers: the name, address, and Social Security number, tax identification number or DUNS number;
- c. Amount and percentage of monthly assisted household rent covered by ERA assistance;
- d. Amount and percentage of separately-stated utility and home energy costs covered by ERA assistance for the assisted household;
- e. Total amount of each type of assistance provided to each household (*i.e.*, rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears, and other expenses related to housing 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 and number of months of utility or home energy cost payments for which ERA assistance is provided;
- h. Household income and number of individuals in the household;
- i. Gender, race and ethnicity for the primary applicant for assistance;
- j. Number of applications received;
- k. Number of eligible households receiving assistance;
- l. Acceptance rate of applicants;
- m. Average amount of funding per eligible household;
- n. Average number of monthly rental or utility payments covered.
- o. Records regarding Housing Stability Services and the amount of funds provided.

27. TREATMENT OF ASSISTANCE FOR OTHER TDHE PROGRAMS. 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 *TIHA* and financed in whole or in part with Federal funds.

28. COMPLIANCE WITH FEDERAL AND TRIBAL LAW. 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).
