

# Housing Authority of the Sac and Fox Nation



## COVID-19 Emergency Rental Assistance Program Policy

Adopted: 03/15/2021, Resolution 2021-23  
Modified: 04/19/2021, Resolution 2021-27

## **SECTION I. PURPOSE**

- A. This Emergency Rental Assistance Program Policy (“Policy”) shall govern the Housing Authority of the Sac and Fox Nation (“HASFN”) 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, Indian, and other 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 HASFN 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 HASFN 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. HASFN may terminate this Program at any time.
- G. This Policy is based and the ERA Program will be carried out in reliance upon the March 16, 2021 guidance document from the Department of Treasury (entitled “Emergency Rental Assistance: Frequently Asked Questions”), which Treasury may be 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.

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## 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 income limits for families published in accordance with 42 U.S.C. 1437a(b)(2), available under the heading for “Access Individual Median Family Income Areas” at <https://www.huduser.gov/portal/datasets/il.html>.
- 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 HASFN 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. This definition includes rental payments for either a manufactured home (mobile home) and/or the parcel of land a manufactured home occupies.
  - 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. This definition includes utility and home energy costs for manufactured homes, as well as regular monthly cost for firewood if the wood is used for heating or cooking. Utility Costs do not include telecommunication services (e.g. telephone, cable, and internet services, which can be paid for as “other services”). Payments to public utilities are permitted.

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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. **“Other Expenses”** means expenses related to housing incurred due, directly or indirectly, to the novel coronavirus disease (COVID-19) outbreak, defined by the Secretary to include the following: relocation expenses and rental fees (if a household has been temporarily or permanently displaced due to the COVID-19 outbreak); application or screening fees; reasonable accrued late fees (if not included in rental or utility arrears and if incurred due to COVID-19); any rental deposit required by a Landlord as a condition of obtaining possession and occupancy of a rented dwelling unit; Internet Service provided to the rental unit for the purposes of engaging in distance learning, telework, and telemedicine and for obtaining government services; and payment to a hotel/motel if the applicant is staying at a hotel/motel longer term (one week or longer) as a means of avoiding homelessness, 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); (3) documentation of the hotel or motel stay is provided and the other applicable requirements imposed by law or policy are met. Neither maintenance costs nor expenses incidental to the charge for a hotel/motel room are included in this definition.
- F. **“Housing Stability Services”** means case management and other services related to the COVID-19 pandemic intended to help keep Eligible Households stably housed, as defined by the Secretary to include the following: 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.
- G. **“Income”** means either a household’s annual income or sufficient confirmation of the household’s monthly income at the time of application by HASFN.
- 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. **“Internet Service”** means a mass-market retail service by wire or radio that provides

the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communication service, but excluding dial-up internet access service. This term also encompasses any service that the Federal Communications Commission finds to be providing a functional equivalent of the service described in the previous sentence.

- J. **“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.
- K. **“NAHASDA”** means the Native American Housing Assistance and Self-Determination Act passed by the U.S. Congress in 1996.
- L. **“Recipient”** means a household of one or more individuals that receives Financial Assistance from the ERA Program Funds.
- M. **“Secretary”** means the Secretary of the U.S. Department of Treasury, except where otherwise indicated.
- N. **“Treasury”** means the U.S. Department of Treasury.
- O. **“Tribal Member”** means an enrolled member of the Sac and Fox Nation of Oklahoma.
- P. **“Tribe”** means the Sac and Fox Nation of Oklahoma.
- Q. **“HASFN”** means the Housing Authority of the Sac and Fox Nation.

### **SECTION III. EMERGENCY PROGRAM OVERVIEW**

- A. HASFN 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 HASFN. This Application must include all information required by HASFN, as 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**

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1. At least 90 percent of the ERA Program Funds received by the HASFN must be used to provide Financial Assistance to Eligible Households as defined herein. This 90 percent includes payments for Rent, Utility Costs, and Other Eligible Expenses.
2. HASFN 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. HASFN may not provide ERA Program assistance to homeowners to cover their mortgage payment, utilities, or energy costs except:
  - a. HASFN may provide financial assistance to households that are renting their residence under a “rent-to-own” agreement or Mutual Help and Occupancy Agreement (MHOA), under which the Applicant has the option (or obligation) to purchase the property at the end of the lease term, provided that a member of the Applicant’s household:
    1. Is not a signor or co-signor to the mortgage on the property;
    2. Does not hold the deed or title to the property; and
    3. Has not exercised the option to purchase.
4. **HASFN as the Landlord.** HASFN may provide assistance to Eligible Households for which HASFN is the Landlord, provided that HASFN 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 HASFN’s own properties.
5. **Arrears Payments:** If any Eligible Household has any Rent Arrears or Utility Costs Arrears, HASFN 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.** HASFN 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.** HASFN shall provide Financial Assistance for a period not to exceed twelve (12) months except that HASFN 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 HASFN 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 month period described in subparagraph (a):
    1. Subject to the availability of HASFN’s remaining ERA Program Funds; and
    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

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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.

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, HASFN will make payments to the Landlord or utility provider on behalf of the Eligible Household.
    - 1. HASFN 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. 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 14 calendar days after mailing;
      - B. if HASFN has made at least three attempts by phone, text, or email over a 10 calendar-day period to request the Landlord or utility provider's participation; or
      - C. the Landlord confirms in writing that the Landlord does not wish to participate.
      - D. For any of these methods, the final outreach attempt to the Landlord or utility provider must be documented. The cost of the mailing is an eligible administrative cost.
    - 2. **Exception:** If, after HASFN's outreach to the Landlord or utility provider, the Landlord or utility provider does not agree to accept such payment from HASFN, HASFN 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 HASFN to a Landlord or utility provider on behalf of an Eligible Household, HASFN shall provide documentation of such payments to such household.
9. Other Eligible Expenses. HASFN may also make for other eligible expenses related to housing incurred due, directly or indirectly, to the novel

coronavirus disease (COVID-19) outbreak as follows:

- a. Relocation expenses and rental fees (if a household has been temporarily or permanently displaced due to the COVID-19 outbreak);
- b. Application or screening fees;
- c. Reasonable accrued late fees (if not included in rental or utility arrears and if incurred due to COVID-19);
- d. Any rental deposit required by a Landlord as a condition of obtaining possession and occupancy of a rented dwelling unit;
- e. Internet service provided to the rental unit, so long as the Eligible Household provides documentation or self-attestation that the service is for the purposes of engaging in distance learning, telework, and telemedicine or for obtaining government services; payments can be used for payment arrears (up until March 13, 2020), for installation, and for up to three months prospective monthly payments; provided that HASFN will first ensure that there are sufficient ERA Program funds available to cover other eligible expenses under this Policy before making payments for such service;
- f. Payment to hotel/motel if the Applicant is staying at a hotel/motel longer term (one week or longer) as a means of avoiding homelessness, 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); (3) documentation of the hotel or motel stay is provided and the other applicable requirements imposed by law or policy are met.

Payments for the Other Eligible Expenses will be paid directly to the provider of such services, subject to the same terms and conditions, and same exceptions, as payments to Landlords and utility providers as set out in Section III.B.8, above.

10. **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, HASFN 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 or utilities that has been subsidized, **but ERA Program assistance can be provided to pay the Eligible Household's owed portion of Rent or Utility Costs (i.e., the amount that the Eligible Household is required to pay out of its own funds to the Landlord or utility provider).**
- 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, HASFN 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.

11. **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, the HASFN 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 HASFN pursuant to Section 501 may be used to provide Eligible Households with Housing Stability Services intended to help keep Eligible Households stably housed. HASFN must maintain records regarding such Housing Stability Services and the amount of funds provided to them.
2. **The combined amount of ERA Program funds spent for Housing Stability Services and for Administrative Costs may not exceed 10 percent of the**

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*total ERA Program funds grant received by HASFN.<sup>2</sup>*

**SECTION IV. ELIGIBILITY**

A. **Eligibility Requirements.** In order 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 HASFN determines—
  - a. That one (1) or more individuals within the house has:
    1. Qualified for unemployment benefits as evidenced by a written attestation signed by the Applicant or other relevant documentation regarding the household member’s qualification 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, as evidenced by a written attestation signed by the Applicant that one or more members of the household meets this condition;
  - 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, including overcrowding, lack of adequate heat, plumbing, or sewer, threat or occurrence of domestic violence, criminal activity including drug-related criminal activity, as evidenced by a written attestation from the Applicant, documentary or photographic evidence, court or police records; or
    3. Any other evidence of such risk, as determined by HASFN,

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<sup>2</sup> While this allocation may be subject to change, initial comments from the Department of Treasury indicate that the 10% maximum expenditure allowed for Housing Stability Services and the 10% maximum expenditure allowed for Administrative Costs must come out of the same 10% allocation, and that 90% of the grant must be expended on Financial Assistance as defined herein.

which evidence may include a written attestation from the Applicant, documentary or photographic evidence, court or police records; 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 an 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, HASFN will consider either the household's total annual Income or monthly Income:

- 1. **Annual Income.** HASFN may consider the household's total annual income for calendar year 2020.
  - a. **Annual Income.** HASFN 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.
  - b. For determining Annual Income, HASFN 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, HASFN may determine Income based on sufficient confirmation of the household's monthly income at the time of Application for such assistance and extrapolating over a 12-month period to determine whether household income exceeds 80 percent of area median income.
  - a. In the case of Income determined based on monthly income under the preceding subparagraph (2), HASFN 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, HASFN must obtain income source documentation for at least the two months prior to the

submission of the application for assistance.

3. **Documentation of Income Determination:** Applicant must provide sufficient information to HASFN to enable HASFN to have a reasonable basis under the circumstances for determining Income. Except as discussed below, this generally requires 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. As discussed below, under limited circumstances, HASFN may rely on a written attestation from the applicant without further documentation of household income. HASFN has the discretion to provide waivers or exceptions to this documentation requirement to accommodate disabilities, extenuating circumstances related to the pandemic, or a lack of technological access. In these cases, HASFN is still responsible for making the required determination regarding the Applicant's household income and documenting that determination.
4. **Categorical Eligibility:** If an Applicant's household income has been verified to be at or below 80 percent of the area median income in connection with another tribal, local, state, or federal government assistance program, HASFN will rely on a determination letter 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.
5. **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, will accept a written attestation from the Applicant regarding household income. If such a written attestation without further documentation is relied on, HASFN will reassess household income for such household every three months. In appropriate cases, HASFN will 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.

## **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 HASFN, which are 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 HASFN by mailing or dropping off the Applications to the following COVID-19 Emergency Rental Assistance Program Policy

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address:

Housing Authority of the Sac and Fox Nation  
Attn: Housing Department  
201 N. Harrison  
Shawnee, OK 74801

Or submitting such Applications by email to: [eraprogram@hasfn.net](mailto:eraprogram@hasfn.net)

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

**1. Applicant and household Information.**

- a. Full name and date of birth of the applicant and of all members of Applicant's household;
- b. Applicant's address and contact information; rental unit address (if different from Applicant's current address);
- c. For Landlords and utility providers, the name, address, and Social Security number, tax identification number or DUNS number;
- d. Total amount of each type of assistance requested by Applicant to be provided to the 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);
- e. Amount of outstanding rental arrears for the household;
- f. Amount of outstanding utilities arrears for the household;
- g. Number of months of rental payments and number of months of utility or home energy cost payments for which ERA Program assistance is requested;
- h. Household income and number of individuals in the household; and
- i. Gender, race, and ethnicity of the primary Applicant for assistance (for Treasury reporting purposes only).

- 2. Financial Hardship.** Information and supporting documentation demonstrating that one (1) or more individuals within the household is experiencing financial hardship. The Applicant must submit documentation

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as set out in Section IV.A, above.

3. **Housing Instability.** Information and supporting documentation demonstrating that one (1) or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability. The Applicant must submit documentation as set out in Section IV.A, above.
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 as set out in Section IV.B, above.
5. **Release of Information.** This form is attached as an exhibit.
6. **Attestation of Economic Hardship.** A signed self-attestation of economic hardship. This form is attached as an Exhibit.
7. Such other information as may be specifically requested by the HASFN 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 HASFN 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 and Investigation.**

1. 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 HASFN 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. HASFN shall have the right to seek such repayment through garnishment of the Tribal Member's per capita distribution or wages, if any.
2. HASFN shall retain the right to conduct a follow-up investigation into any self-attestations submitted or regarding any other documentation, at its own discretion, if it determines that the reliability or accuracy of the information provided is in doubt.

E. **Application Review**

1. The HASFN staff member receiving the Application shall sign and date the Application when it is received at the HASFN offices.
2. **Preferences and Priorities.** Applications will be reviewed and processed as they are received. However, in anticipation of HASFN receiving a substantial number of applications within a short period of time, with a finite amount of funding available, HASFN shall review and process Applications for Financial Services under this Policy according to the following order of preferences.
  - a. The Income of the household does not exceed 50 percent of the Area Median Income for the household.

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- 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.

In reviewing Applications, HASFN will further prioritize consideration of the Applications of an Eligible Household

- 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.
3. **Approval of Application.** HASFN will notify Applicants in writing, within fourteen (14) days of HASFN’s receipt of the Application, of HASFN’s decision of whether the Applicant has been approved to receive Financial Assistance.
  4. **Denial of Application.** If upon initial review, HASFN 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, HASFN will notify the Applicant in writing of this determination, the applicable policies which support the determination, and the process of appeal (if allowed).
    - a. **Process of Appeal.** Any Applicant who is dissatisfied with a decision of HASFN concerning eligibility of assistance, the level of benefit approved, or the type of services available, can appeal that decision under the regular HASFN appeal procedures for denial of services.
    - 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
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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. HASFN must create and maintain a set of files for this ERA Program separate from all other HASFN programs. Any Recipient who also participates in another HASFN program must have a separate file maintained specifically for the ERA Program.
2. HASFN may copy relevant documents from a Recipient's existing file under a separate HASFN 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. HASFN shall maintain records and financial documents sufficient to support compliance with Section 501(c) regarding the eligible uses of funds.
4. The U.S. Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of HASFN in order to conduct audits or other investigations.
5. HASFN shall maintain records for a period of five (5) years after all funds have been expended or returned to the Treasury.

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## B. Report Requirements

1. HASFN shall maintain and submit quarterly records detailing such information as is required by the Secretary. HASFN should be prepared to collect and retain records on the following:
  - 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.** HASFN 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, HASFN 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 (Nonprocurement), 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.
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.** HASFN 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 HASFN must be held and maintained in a bank account depository separate from all other HASFN 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 HASFN 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. This may be accomplished by the pledging or setting aside of collateral of identifiable U.S. Government securities. Such securities shall be owned by the depository, and the manner of collateralization shall provide HASFN with a continuing perfected security interest for the full term of the deposit in the collateral in accordance with applicable laws and Federal regulations. Such collateral shall, at all times, have a market value at least equal to the amount of the deposits so secured.

### C. Administrative Costs

1. HASFN may not use more than ten percent (10%) of the amount of the ERA Program Funds that HASFN receives for administrative costs attributable to providing Financial Assistance as defined above, including for data collection and reporting requirements related to such funds.
2. HASFN may not use more than ten percent (10%) of the amount of the ERA Program Funds that HASFN receives for Housing Stability Services.
3. Notwithstanding subparagraphs (C)(1) and (C)(2), above, HASFN may not use more than a total of ten percent (10%) of the amount of the ERA Program Funds that HASFN receives for the **combined expenditures** on administrative costs and Housing Stability Costs.
4. 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.
5. Administrative expenses of HASFN may be treated as direct costs, but HASFN may not cover indirect costs using the ERA Program Funds, and HASFN may not apply its negotiated indirect cost rate to ERA Program Funds.

### 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 HASFN must be expended by September 30, 2021. If HASFN does not expend at least 65% of the ERA Program Funds by September 30, 2021, HASFN 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), HASFN 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), HASFN requests and receives from the Secretary an extension of up to 90 days. HASFN 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 HASFN 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 COVID-19 Emergency Rental Assistance Program Policy

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HASFN.

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

1. Any funds paid to HASFN (1) in excess of the amount to which HASFN 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 HASFN 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 HASFN. 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.