



**RESOLUTION OF THE GOVERNING BODY
OF THE
THREE AFFILIATED TRIBES
OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Authorization to Adopt Policies and Procedures Manual for the Three Affiliated Tribes Low Income Home Energy Assistance Program (LIHEAP) for FY 2023."

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and

WHEREAS, The Constitution and By-laws of the Three Affiliated Tribes, also known as the Mandan, Hidatsa, and Arikara Nation (or "Tribes"), was adopted by membership of the Tribes on May 15, 1936 pursuant to the Indian Reorganization Act of 1934 and duly approved by the Secretary of Interior; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5 (1) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, Article VI, Section 5 (c) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the authority to administer any funds or property within the exclusive control of the Tribes to make expenditures from available tribal funds for public purposes, provided that all expenditures from tribal funds shall be by resolution duly passed by the Tribal Business Council to such effect; and

WHEREAS, Article VI, Section 5 (d) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to negotiate with Federal, State, and local governments on behalf of the Tribes, and to advise and consult with representative of the Department of the Interior on all activities that may affect the Fort Berthold Reservation; and

WHEREAS, The Tribe's LIHEAP Policies and Procedures Manual for FY2023 has been brought before the Tribal Business Council for review and consideration and the Council has been informed that the State median income guidelines for FY2023 have not been made available yet; and



WHEREAS, The Tribal Business Council has determined that it is in the best interests of the Three Affiliated Tribes and its people to adopt the proposed Three Affiliated Tribes' LIHEAP Policies and Procedures Manual, which will incorporate the FY2023 State Median income guidelines when they become available.

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes adopts the Three Affiliated Tribes' Low Income Home Energy Assistance Program's Policies and Procedures Manual for FY 2023, and authorizes that the FY2023 State median income guidelines be incorporated into the Manual when they become available.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 14th day of September 2022; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [X] voting. [] not voting.

Dated this 14th day of September 2022.

ATTEST:



Tribal Secretary, Fred W. Fox
Tribal Business Council



Chairman, Mark N. Fox
Tribal Business Council



Three Affiliated Tribes’

Low Income Home Energy Assistance Program
(LIHEAP)

2023 Policy & Procedures Manual

**The Policy and Procedures Manual may be changed as necessary by TAT LIHEAP Staff, according to changing applicable Guidelines, Regulations, and Laws.



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SUMMARY

The Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, authorized a number of block grants including the Low Income Home Energy Assistance Program (LIHEAP). LIHEAP, administered by the Department of Health and Human Services (HHS), has authorized grants since 1982 to states, tribes, and territories to assist low-income households with the costs of home energy.

A directly funded Tribal LIHEAP Program must include a heating assistance program and/or cooling assistance program and include a way to handle crisis situations, usually through a crisis intervention component. LIHEAP grantees may also choose to provide a low-cost weatherization program or other energy-related home repair.

Grantees must set program eligibility standards within the maximum established by law. The law provides that an eligible household must have an income that does not exceed the greater of 150% of the poverty income guidelines or 60% of the state median income level. Federal regulations for LIHEAP require grantees to adjust their income eligibility criteria each year by October 1, so that the criteria are in agreement with the most recently published update of the poverty level or state median income.

PROGRAM OVERVIEW

The Three Affiliated Tribes' LIHEAP is a federally funded Program that assists low-income households with their home energy costs related to heating and cooling. The purpose of the LIHEAP is to *assist* with your energy needs, but not to pay for all energy costs related to heating and/or cooling your home.

The applicant must be the head of a household in which at least one household member is a citizen of a federally recognized tribe, and must reside on or within a twelve-mile (12) radius of the Fort Berthold Indian Reservation to qualify for this Program. If no member of the applicant's household is a citizen of a federally recognized tribe, or if the applicant lives outside the twelve (12) mile radius of the Fort Berthold Indian Reservation, then the applicant must apply to his/her local state program.

Please apply early, as there is limited funding available. Funding is granted to households that have completed an application packet, and meet income guidelines. For your application packet to be considered complete, you must have all the required documents and signatures in your application packet. If you are denied funding, for whatever reason, you may appeal that decision or reapply to the Program. Also, you may apply for additional assistance if there is a change of circumstance.

PROGRAM INTEGRITY

The purpose of the LIHEAP is to assist with energy needs, but not to pay for all energy costs related to heating and/or cooling the eligible household's home. The Three Affiliated Tribes' LIHEAP will work to ensure that all federal requirements are met to ensure the integrity of

the Program.

SERVICE AREA

The Three Affiliated Tribes' LIHEAP Program shall service any Head of Household in whose household is a citizen of a federally recognized tribe and who resides within a 12-mile radius of the exterior boundaries of the Fort Berthold Indian Reservation. Any person not meeting the above requirements shall be directed to apply to her/his local LIHEAP Program.

ELIGIBILITY & ELIGIBILITY DETERMINATION

Applicants must show an energy burden. LIHEAP benefits are targeted to assist Low-income households, particularly those with the lowest incomes, which pay a high proportion of their income for home energy.

Income of all household members will be determined by the gross income for the household from all sources of income, including but not limited to: wages, per capita payments, social security, Temporary Assistance to Needy Families, General Assistance, interest income, etc.

Note: Any income generated from mineral rights/royalties, stimulus or tax rebates shall NOT be included in the computation of household income.

Income Guidelines:

It is the policy of the Three Affiliated Tribes to determine eligibility for LIHEAP Program based upon the 60% of the state median income level for the state of North Dakota.

A household's income must be at or below 60 percent of North Dakota's median income and within these limits. Below is the guideline for October 1, 2022-September 30, 2023:

Household Size	Income
1	\$33,407
2	\$43,687
3	\$53,966
4	\$64,246
5	\$74,525
6	\$84,804
7	\$86,732
8	\$88,869
9	\$90,587
10	\$92,514
11	\$94,442
12	\$96,369

Both homeowner and renter households are eligible for the Program.

Note: *Income guidelines change yearly; please check with LIHEAP staff for update.*

PRIORITY FUNDING

There is priority funding for households that meet certain conditions. Priority shall be given to households with members that are a targeted population for services under this Program. Target populations households include:

1. Elders
2. Disabled Persons
3. Families with children under the age of 6 years
4. Households with High Energy burdens

PROGRAM START AND END DATES

The Program will accept applications beginning on the Program Start Date and will continue to accept applications until the Program End Date, or until funds are depleted, whichever comes first. Below are the start date and end dates for each Program, and the minimum and maximum benefits for Fiscal Year 2023:

	Program Start Date/Accept Applications	Program End Date	Minimum Benefit	Maximum Benefit
Heating Assistance	October 1, 2022	April 30, 2023	\$2,216.00	\$8,483.00
Cooling Assistance	May 1, 2023	August 1, 2023	\$2,000.00	\$10,000.00
Crisis Assistance	October 1, 2022	September 30, 2023	Up to	\$10,000.00

TYPES OF ASSISTANCE

Heating Assistance

Heating assistance applications are available for eligible households from October 1-April 30, to assist households in obtaining energy to heat their homes. Any applications received after April 30 for eligible households will be for CRISIS ONLY.

Cooling Assistance

Cooling assistance is available for eligible households that have members of a targeted population, as listed above under PRIORITY FUNDING. The Program start date is May 1, and ends on August 1.

Cooling assistance also may be available for individuals with **certain medical conditions** who qualify for the Low Income Home Energy Assistance Program. A signed statement is required from a medical professional (physician, physician's assistance, nurse practitioner, or public

health nurse) verifying a medical condition and the need for a cooled living space.

The Program can help with:

Buying and installing an air conditioning unit
Repairing an air conditioning unit
Buying oscillating or window fans

Crisis Assistance

Crisis assistance is available from October 1-September 30 each Program year. In order to access crisis assistance, an emergency situation must be present. Examples of an emergency situation include: Broken heating equipment or leaking fuel lines that must be replaced; Lack of fuel; Main heating source or second heating source (a source that is used to operate the main heating source or used if the main heating source is not working) has been completely shut-off; Danger of being without fuel (less than a 15-day supply) or having utility service terminated (receiving notice that service will be shut off within the next sixty (60) days.

There is an Assets Test that households must meet to qualify for crisis assistance, and additional documentation is also required. The additional documentation includes: shut-off notice or verification from heating or cooling company provider that services are terminated, or proof of a near empty or empty tank, and household must have exhausted all regular heating and/or cooling benefit(s).

The Three Affiliated Tribes' LIHEAP will work with all eligible households, and will respond accordingly to the emergency situation, within the required federal timeframe. Services provided by Three Affiliated Tribes' LIHEAP crisis assistance may include locating service repair persons or paying the utility bill.

APPLICATION DOCUMENTATION & PROCESS

The application process for LIHEAP includes a face-to-face interview, verification of eligible information, and completion and filing of an application form.

The application for LIHEAP benefits includes the application, insert page, housing statement, and release of information.

Complete applications consist of Verification of Income, Social Security Cards for all household members, Verification of Citizenship in a federally recognized tribe for the Head of Household, Copy of Identification, Release of Information, and a Housing Statement from landlord or copy of deed if the property owner is the head of household applicant. The application will be considered incomplete if any of the above is missing and will not be considered for funding until the application is complete.

Most households receiving TANF, SSI, Food Stamps or certain needs-tested veteran's health benefits may be automatically eligible. Grantees must also offer eligibility to other



households not receiving benefits from these programs and base their eligibility on income using the income guidelines identified above.

The highest level of assistance is to go to those households with the lowest incomes and highest energy costs or needs in relation to income, taking into consideration family size.

MANDATORY DOCUMENTATION TO BE CONSIDERED FOR FUNDING

1. **A Completed Signed LIHEAP Application;**
2. **A Copy of a federally recognized tribe enrollment identification for all tribal citizen household members** (Physical address must match where services will be received.)
3. **Photo Identification**-If household members are not citizens of a federally recognized tribe and over the age of eighteen (18) years of age, photo identification is required. Acceptable photo identification includes: state identification card, state driver's license, United States Passport, etc.
4. **Social Security Cards for all Household Members** Social Security Cards are requested to verify all household members' eligibility for the LIHEAP funding. § 205(c)(2)(C)(i) of Social Security Act, 42 U.S.C. §405(c)(2)(C)(i).
5. **Verification of Income** for the last 3 months. Examples of income verification include: Copy of previous year's income tax returns, Pay Stubs, Social Security Award Letters, Bank Statements, Unemployment Insurance, Retirement/Pension benefits, General Assistance, Temporary Assistance for Needy Families (TANF), Child Support, Interest, Dividends, Royalties, Veterans Administration Benefits for all Household members, etc.

OR

Verification of NO Income Form (attach documentation for each person in the household over the age of 18 years who currently has no income.)

6. **Copy of most current utility bill(s)**-Billing address must match where services will be received.
7. **Copy of Current Rental Lease or Deed to Home**-Building address must match where services will be received. If there is no deed for individual home ownership, a notarized statement must be provided indicating ownership.
8. **Appeals Notice**
9. **Release of Information** to verify Program eligibility;
10. If requesting **Crisis Assistance**, Documentation must be provided in order to receive Crisis Assistance which includes: shut-off notice or verification from heating or cooling company

provider that services are terminated, or proof of a near empty or empty tank, and household must have exhausted all regular heating or cooling benefits.

THE HEAD OF HOUSEHOLD'S SIGNATURE IS REQUIRED ON THE FOLLOWING:

Statement of No Income, if required.
Signature Page.
Appeal Notice.
Release of Information.
Any Grievance/Appeal Form filed.

DECISION NOTICES FOR HEATING AND/OR COOLING APPLICATIONS

When the decision is to approve assistance for Low Income Home Energy Assistance Program (LIHEAP), the agency approval notice "Notice of Action" will be sent if recipient has a complete application. When the decision is to deny or reduce assistance, the denial reason must be stated on the "Notice of Action" letter, which is sent to the recipient within 30 days.

CRISIS APPLICATIONS & DECISION NOTICES

If you are applying for crisis assistance, the Tribe will respond within forty-eight (48) hours of your application, or within eighteen (18) hours of your application if it is a life-threatening situation.

PAYMENT PROCESS

Benefit payments may be made directly to home energy suppliers on behalf of eligible households. If payments are made to energy suppliers, they must agree to comply with the provisions of law. A vendor agreement is sent to all energy suppliers for the fiscal year.

GRIEVANCE AND APPEAL HEARINGS

A grievance or appeal hearing is a process through which any individual may have a decision reviewed by an impartial third party.

Three Affiliated Tribes must provide a fair hearing upon request to individuals whose applications are denied or not acted upon with reasonable promptness.

FOR GRIEVANCES:

An applicant may file a Grievance if he/she feels that he/she has been mistreated by any of the LIHEAP Staff. The LIHEAP Director will arrange a formal hearing regarding your grievance within fifteen (15) business days¹ of receipt of a Grievance/Appeal Form. The Director will

¹ **Business Days** are the days between and including Monday to Friday, and do not include any

investigate your claims, render a decision, and mail a response back to you within ten (10) business days of the formal hearing, at the address provided on the Grievance/Appeal Form.

If you are not satisfied with the decision provided by the LIHEAP Director, you will have ten (10) business days after the date of the mailing to notify the LIHEAP Director. Once you have notified the LIHEAP Director, the LIHEAP Director will arrange a grievance appeal hearing with the Three Affiliated Tribes' Chief Executive Officer within fifteen (15) business days, and will send you notice of the grievance appeal hearing at the address provided on the Grievance/Appeals Form.

After the grievance appeal hearing, the Chief Executive Officer will have ten (10) business days to review and render a final written decision. The Chief Executive Officer's written decision will be the final decision in satisfying the grievance.

At all times, the head of household applicant is responsible for updating the LIHEAP Program of any contact information change, including but not limited to change of physical and mailing addresses, telephone numbers, and email addresses.

FOR LIHEAP FUNDING PROGRAM APPEALS:

If you do not agree with a funding decision, including the denial of funding, you have a right to an appeal. A person who is filing the appeal is known as the "appellant." After the appellant files the Grievance/Appeal Form, a Fair Hearing must be held in a manner that emphasizes fairness and impartiality.

The appellant has a right to the following: a formal appeal hearing held in a place convenient to the appellant; an opportunity to review all case files; a right to formal appeals officers who are members of the Three Affiliated Tribes Business Council and who have not been involved in the matter that is being appealed; a right to a representative to accompany appellant to the formal appeal; to present written and oral statements and other evidence; to subpoena and cross examine witnesses (testimony is given under oath); and the right to have the formal appeal recorded. The decision is placed on the record.

Therefore, the following must be followed:

- Within fifteen (15) business days of a funding decision, the appellant must provide a written request by letter or on the Grievance/Appeal Form. The Appeal must be addressed to the attention of the LIHEAP Director.
- Within ten (10) business days of receipt of the letter or the Grievance/Appeal Form, the Director must respond in writing to schedule an informal meeting with the appellant to resolve the Appeal. If the Director cannot reach the applicant by mail, email, or telephone to schedule a meeting, the Appeal will be determined closed after five (5) business days.

Three Affiliated Tribes' recognized holidays and weekends.

- Within ten (10) business days after the informal meeting, if no agreeable conclusion can be reached, the appellant can request a formal hearing before the Three Affiliated Tribes' Business Council.
- The Three Affiliated Tribes' Business Council's decision shall contain findings of fact based on policy, laws, and rulings made.
- The final decision shall be based solely upon the testimony and evidence presented during the Appeal. The final decision will consider whether the LIHEAP office acted correctly in applying rules and regulations, policy material, and applicable statutes. The final decision shall contain findings of facts, and a basis for the final decision.
- The Three Affiliated Tribes' Business Council's written decision shall be the final decision.
- If there is a final determination by the Three Affiliated Tribes' Business Council that the application was clearly fraudulent, the applicant shall be ineligible for LIHEAP funding for one (1) year.

OPERATING PRINCIPLES

In compliance with Title VI of the Civil Rights Act of 1964, no individual shall be excluded from participation in, denied benefits or subjected to discrimination under any program or activity receiving Federal Funds, because of:

1. Race;
2. Color;
3. National Origin;
4. Handicap;
5. Religion, or
6. Sex

In compliance with the Age Discrimination Act of 1975, no individual shall be denied services or participation or be subjected to discrimination in any of its programs or activities on the basis of age.

CONFIDENTIAL INFORMATION

Public law and federal regulations place restrictions on the release of confidential information and set guidelines for the disclosure of non-confidential materials. All applications, records, files, and communications relating to specific applicants for assistance and recipients of services funded, are confidential records.

All information, regarding an applicant or recipient, is confidential and may be disclosed only for purposes of determining eligibility, providing services, or investigating suspected fraud in connection with the Program.

General information, policy statements, or statistical materials, which cannot be directly identified to any individual or family, are not considered confidential information. They may be given to, or provided by: agencies, helping organizations, or contracted parties, unless restricted by federal regulations or court orders.

NOTE: Policy and Procedure Manual may be amended, as necessary by LIHEAP Staff, in accordance with changes to applicable Guidelines, Regulations, and Law.

FRAUD AND ABUSE

The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this title.

HHS included in its block grant regulations a requirement that grantees establish systems and procedures to prevent, detect and correct waste, fraud and abuse in LIHEAP. These systems and procedures should address possible waste, fraud, and abuse by recipients, vendors, and administering agencies. HHS will monitor grantees for implementation of this requirement during reviews of grantee programs.

Some types of fraud include: false reporting of household size, total gross income, and receipt of LIHEAP assistance through another jurisdiction.

If found guilty, you will be denied services for a period of up to (1) one year with the possibility of federal criminal prosecution and/or fines.

To report abuse or fraud, all inquiries should be addressed to the Coordinator or Director of the LIHEAP Program.