

**POKAGON BAND OF POTAWATOMI INDIANS
COVID-19 EMERGENCY ASSISTANCE PROGRAM POLICY**

1. PURPOSE

- a. After the World Health Organization declared COVID-19 a pandemic, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia in response to COVID-19.
- b. The CARES Act, which was enacted in response to COVID-19 pandemic, provides funding to governments, including tribal governments such as the Band, that generally may be used to cover costs that are necessary expenditures incurred due to the Emergency.
- c. Treasury has issued guidance on its interpretation of the limitations on the permissible use of the CARES Act funds.
- d. The Band is a sovereign, federally recognized Indian tribe, and under the Band's Constitution, the Tribal Council is responsible for promoting and protecting the general welfare of the Band.
- e. The Emergency, and the actions taken to mitigate it, have had, and are expected to continue to have, a direct impact on the Band, including without limitation, a significant reduction in Band workforce and administrative capacity of the Band.
- f. The Emergency, and actions taken to mitigate it, have had, and are expected to continue to have, a direct impact on Band Citizens, and Non-Citizen Parents, including Increased Need and/or Job Loss Related Need.
- g. The Tribal Council developed the Program as a general welfare program to respond directly to the Emergency by providing Assistance to Band Citizens and Non-Citizen Parents suffering Increased Need and/or Job Loss Related Need due to the Emergency.
- h. The Tribal Council finds that:
 - (i) The Program is a necessary expenditure to respond to the Emergency, including its second-order effects;
 - (ii) The Program is structured in such a manner to ensure that the Assistance is determined to be necessary in response to the Emergency and otherwise satisfies the requirements of the CARES Act and applicable law; and
 - (iii) The Assistance is for the promotion of the general welfare and is not lavish or extravagant.

- i. This Policy states the written guidelines under which Band Citizens and Non-Citizen Parents may qualify for Assistance.
- j. The Tribal Council intends for Assistance to Band Citizens to be non-taxable under the Tribal General Welfare Exclusion Act, 26 U.S.C. 139E and IRS Revenue Procedure 2014-35.
- k. This Policy is structured to ensure as much as possible, within the realm of what is administratively feasible, that Assistance is necessary.
- l. The Assistance shall be funded solely from funds the Band received pursuant to the CARES Act in an amount determined by the Tribal Council.
- m. This Policy shall be interpreted, and the Program administered, in a manner consistent with the above purposes.

2. DEFINITIONS

- a. “Adult” means a person who is eighteen (18) years of age or older.
- b. “Applicant” means any person who submits an application for Assistance to the Department.
- c. “Assistance” means the emergency financial assistance grants provided under the Program established under this Policy.
- d. “Band” means the Pokagon Band of Potawatomi Indians.
- e. “Band Citizen” means an enrolled member of the Band.
- f. “CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act, Pub L. No. 116-31.
- g. “COVID-19” means the Coronavirus Disease 2019.
- h. “Department” means the Band’s Department of Social Services.
- i. “Director” means the Director of the Department.
- j. “Emergency” means the COVID-19 public health emergency.
- k. “Highly Likely” means having a high probability of occurring or being true based on an objective review of relevant facts and circumstances.

- l. “Increased Need” means financial need arising from increased costs related to the Emergency, including without limitation, food, childcare, medical care, home office, cleaning supplies, personal protection equipment and education (such as having to purchase a laptop for remote learning) and funeral expenses.
- m. “Job Loss Related Need” means financial need arising from employment interruption, job loss or reduced income, including without limitation, difficulty in making mortgage or rent payments, utility payments, purchasing food, and paying for medical care, making car payments, paying for insurance and similar living expenses, all as a result of the Emergency.
- n. “Minor” means a Band Citizen who is less than 18 years of age.
- o. “Non-Citizen Parent” means a person who:
 - (i) is not a Band Citizen;
 - (ii) is the biological or adoptive parent, step-parent, or legal guardian of a Minor; and
 - (iii) has sole or joint custody (both legal and physical) of the Minor.
- p. “Policy” means this COVID-19 Emergency Assistance Program Policy.
- q. “Program” means the COVID-19 Emergency Assistance Program established under this Policy.
- r. “Treasury” means the United States Department of Treasury.
- s. “Tribal Council” means the governing body of the Band established pursuant to Article X of the Constitution.

3. ELIGIBILITY

- a. To qualify for Assistance under the Program, a person must:
 - (i) Be a Band Citizen or Non-Citizen Parent (no other person shall be eligible for the Program);
 - (ii) Be at least 18 years of age;
 - (iii) Have Increased Need, or Job Loss Related Need;

- (iv) Have an adjusted gross income for 2019 that does not exceed, or have suffered an income reduction in 2020, and it is Highly Likely that the person will have an adjusted gross income for 2020, that does not exceed:
 - (A) \$75,000 for Applicants who: (1) filed their 2019 federal income tax return under “single” status; or (2) are Highly Likely to file their 2020 federal income tax return under such status, as applicable;
 - (B) \$112,500 for Applicants who: (1) filed their 2019 federal income tax return under “head of household” status; or (2) are Highly Likely to file their 2020 federal income tax return under such status, as applicable; or
 - (C) \$150,000 for Applicants who: (1) filed their 2019 federal income tax return under “married filing jointly” status; or (2) are Highly Likely to file their 2020 federal income tax return under such status, as applicable.

Applicants who did not file a 2019 federal income tax return, or who may not file a 2020 federal income tax return, as applicable, shall be eligible for Assistance subject to the limitations of this Policy.

The purpose of the 2020 adjusted gross income provision is to allow Applicants who have suffered an income reduction in 2020 to qualify under the Program subject to the provisions of this Policy. For example: An Applicant who filed a 2019 federal income tax return under “single” status and had adjusted gross income of \$80,000, but suffered a job loss in 2020, which makes it Highly Likely that the Applicant’s adjusted gross income will not exceed \$75,000 for 2020, would meet the adjusted gross income eligibility limit.

- (v) Complete and return to the Department an application as described in Section 4 of this Policy and supply all required documentation, including as set forth in Exhibit A, Schedule of Acceptable Documents.
- b. The Applicant shall have the burden of proving eligibility and need under the Program.
 - c. Assistance shall only be available to Applicants who meet all requirements of this Policy and shall:
 - (i) be awarded in accordance with this Policy to any Applicant who meets the requirements of this Policy, subject to the limitations of this Policy; and
 - (ii) not discriminate in favor of members of the Tribal Council.

4. APPLICATION

- a. All applications for Assistance shall be made on a form provided by the Department.
- b. All applications for Assistance shall require the Applicant to provide, at a minimum, the following information:
 - (i) The Applicant's name, address, telephone number, and date of birth, and if the Applicant is a Non-Citizen Parent, a copy of a current photo identification;
 - (ii) If the Applicant is a Band Citizen, the Applicant's Band enrollment number, or if the Applicant is a Non-Citizen Parent, the name, date of birth, and Band enrollment number of each Minor.
 - (iii) The name(s) of all dependents and other persons who reside at the Applicant's principal residence;
 - (iv) A description of the need, including without limitation, the amount of Assistance requested; and
 - (v) All documentation deemed necessary by the Director to evaluate the application, including without limitation, to demonstrate eligibility for Assistance under Section 3 of this Policy and need under Section 5 of this Policy. Exhibit A to this Policy lists the types of documentation that may be accepted by the Department to demonstrate eligibility under Section 3 of this Policy and need under Section 5 of this Policy; and
- c. All applications for Assistance shall be signed by the Applicant and shall include, without limitation, an attestation and certification that:
 - (i) The Applicant has read the Policy in effect at the time the application is submitted and is eligible to receive Assistance under the Policy;
 - (ii) To the best of the Applicant's information, knowledge, and belief all information provided is true, accurate, and complete;
 - (iii) The Applicant acknowledges and understands that the Applicant must retain copies of all evidence submitted to support Increased Need and/or Job Loss Related Need, as applicable and must provide the same to the Department upon request;
 - (iv) The Applicant acknowledges and understands that if the Applicant is a Band Citizen, then although the Band has structured the Program with the intent that the Assistance be non-taxable, that if the IRS deems the Assistance, or any part of the Assistance, to be taxable, the Band Citizen (and not the Band) shall be solely responsible for any taxes, interest and penalties owed from the Applicant's receipt of any Assistance;

- (v) The Applicant acknowledges and understands that if the Applicant is a Non-Citizen Parent, then the Band will treat the Assistance as taxable, and the Non-Citizen Parent (and not the Band) shall be solely responsible for any taxes, interest and penalties owed from the Applicant's receipt of any Assistance; and
 - (vi) The Applicant acknowledges and understands that providing any false information may subject the Applicant to legal action, including without limitation, criminal prosecution.
- d. All applications shall be delivered to the Director at the Department by any of the following methods:
- (i) Personal or private courier delivery;
 - (ii) U.S. mail; or
 - (iii) Electronically, including without limitation, e-mail or fax.
- e. No application will be accepted after 5:00 pm, December 10, 2020.

5. TYPES OF NEED

- a. Assistance shall only be provided for the following types of need because of the Emergency and the actions taken to mitigate it have had and are expected to continue to have a direct impact on the Band Citizen or Non-Citizen Parent:
- (i) Increased Need; or
 - (ii) Job Loss Related Need.
- b. An Applicant may apply for Assistance for both Increased Need and Job Loss Related Need in the same month, but Assistance shall not be awarded for both Increased Need and Job Loss Related Need in the same month, but rather for each month, the Department will award the higher amount for which the Applicant is eligible.
- c. Assistance shall only be provided for Increased Need or Job Loss Related Need, as applicable, for the period of August 1, 2020 through December 10, 2020 and shall not be provided for amounts accrued prior to August 1, 2020.

6. AMOUNT AND PAYMENT

- a. Assistance shall not exceed \$1,500 per month, per household, for either Increased Need or Job Loss Related Need.
- b. Assistance is limited and subject to available funding.

- c. Applicants must have and retain a copy of all evidence submitted to the Department in support of Increased Need and/or Job Loss Related Need, as applicable, and must provide the same to the Band upon request.
- d. Assistance shall not be used for or include expenses that:
 - (i) have been or will be reimbursed under any federal program or any other Band program; or
 - (ii) for damages covered by insurance.

7. MISCELLANEOUS

- a. Any decision by the Director, including without limitation, regarding any documentation deemed necessary by the Director of the Department to evaluate the application, shall be final and shall not be subject to review or appeal.
- b. Assistance will be awarded to eligible Band Citizens and Non-Citizen Parents on a first-come, first-served basis.
- c. This Policy shall be interpreted in a manner that is consistent with any applicable guidance issued by Treasury regarding the CARES Act.
- d. While this Policy is structured with the intent that the Assistance be non-taxable to Band Citizens under the Tribal General Welfare Exclusion Act and IRS Revenue Procedure 2014-35, if the Internal Revenue Service deems the Assistance, or any portion of the Assistance, to be taxable, then the Band Citizen (and not the Band) shall be solely responsible for any taxes, interest and penalties owed from receipt of the Assistance. Band Citizens are encouraged to contact a tax advisor with any tax questions relating to the Assistance.
- e. The Band will treat any Assistance provided to Non-Citizen Parents as taxable, and the Non-Citizen Parent (and not the Band) shall be solely responsible for any taxes, interest and penalties owed from receipt of the Assistance.
- f. Band funds for Assistance shall remain the assets of the Band until distributed.
- g. Assistance shall not be subject to anticipation, alienation, assignment (either at law or in equity), pledge, encumbrance, attachment, garnishment, levy, or execution.
- h. The Department shall maintain all Program records for a minimum of 4 years, but if other applicable Band law or policy requires such records be maintained beyond 4 years, the Department shall maintain such records for the minimum duration required by such applicable Band law or policy.

- i. Nothing in this Policy shall be construed to vest in any person any right or interest in any Band revenues or assets.
 - j. The Tribal Council reserves the right to amend or repeal this Policy, subject to applicable Band and federal law.
 - k. Nothing in this Policy shall: (i) create any obligation that is legally enforceable against the Band; or (ii) waive the sovereign immunity of the Band or any of its officials or employees.
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EXHIBIT A
SCHEDULE OF ACCEPTABLE DOCUMENTS

- **Band Citizen.** The following documents shall be acceptable to prove status as a Band Citizen under this Policy:
 - Copy of Band enrollment card; or
 - Letter of enrollment from the Band Enrollment Department.
- **Non-Citizen Parent.** The following documents shall be acceptable to prove status as a Non-Citizen Parent under this Policy:
 - Minor's birth certificate listing Non-Citizen Parent or Non-Citizen Parent's spouse as the mother or father, along with a marriage certificate; or
 - Court order listing Non-Citizen Parent as Minor's adoptive parent or Non-Citizen Parent's spouse as the adoptive parent, along with a marriage certificate; or
 - Court order listing Non-Citizen Parent as the Minor's legal guardian or awarding sole or joint custody (both legal and physical) of the Minor.
 - Additionally, a copy of the Minor's Band enrollment card or letter of enrollment from the Band Enrollment Department and a copy of a current photo identification for the Non-Citizen Parent.
- **Adjusted Gross Income.** The following documents shall be acceptable to prove 2019 adjusted gross income under this Policy:
 - Copy of signed 2019 federal tax returns and all amendments filed; or
 - Copy of all W-2s and 1099 tax forms issued to the Applicant (if a 2019 federal tax return was not filed)
 - If the Applicant did not file a 2019 federal tax return and did not receive any W-2s or 1099s, then an appropriate affidavit.
- **Increased Need.** The following documents shall be acceptable to prove Increased Need under this Policy:
 - Receipts, statements, and bills of sale evidencing payment.
- **Job Loss Related Need.** The following documents shall be acceptable to prove Job Loss Related Need under this Policy:

- Termination letter from employer, layoff letter from employer, pay statements evidencing reduction in hours or pay, or unemployment notices; and
- Receipts, statements, and bills of sale evidencing payment.
- **Director Authority.** Notwithstanding the above, the Director shall retain the authority to (1) accept other reliable documents deemed sufficient by the Director; and (2) deem any document, including without limitation, any photo identification, to be insufficient or unreliable and require an Applicant to provide additional proof of eligibility under this Policy.