

# The Zero Balance Project

## 2021 Federal Emergency Rental Assistance Program Guide for Landlord Application

Counties of Dakota, Hennepin & Ramsey; Cities of Minneapolis & Saint Paul

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## Program Purpose, Roles, and Responsibilities

1. The Zero Balance Project Landlord Application for Federal Emergency Rental Assistance (ERA) program allows landlords (property owners and managers) to apply for assistance on behalf of renters impacted by COVID-19. The program is established with pooled funding provided by the Counties of Dakota, Hennepin, and Ramsey and the Cities of Minneapolis and Saint Paul (Jurisdictions). The program will operate according to rules established by the Jurisdictions, in conformance with ERA legislation, as outlined in this Program Guide. The Program Administrator will follow this Program Guide to complete administrative tasks and implement the program.
2. Jurisdiction responsibilities:
  - a. Work with Administrator to establish and maintain this Program Guide and project timeline to support implementation;
  - b. Work with Administrator to develop and implement a shared program promotion strategy;
  - c. Provide Administrator with recommendations on software application platform and various notification templates and program language;
  - d. Provide guidance on any Federal requirement or changes related to ERA funding and/or specific to requirements the Jurisdictions want added; and
  - e. Provide ongoing communication with Administrator and prompt responses to any questions that arise. Teri Lazaretti of Dakota County will serve as the point of contact for the Administrator on behalf of all the Jurisdictions.
3. Administrator team and responsibilities:
  - a. Family Housing Fund (FHFund) responsibilities:
    - i. Serve as subrecipient of Federal ERA funds;
    - ii. Ownership of the program and provision of Federal dollars to support eligible rent and utility payments and administration costs;
    - iii. Approve payments recommended by CLA;
    - iv. Oversight of HousingLink and CLA's overall responsibilities (outlined below);
    - v. Establish and maintain this Program Guide to support implementation; and
    - vi. Provide a quality review of applications.
  - b. HousingLink (HL) responsibilities:
    - i. Work with Jurisdictions to develop and implement a shared program promotion and marketing strategy;
    - ii. Develop online tools to identify possible duplicate ERA awards; and
    - iii. Assist landlords in submitting applications through a call center and data entry of paper applications.
  - c. CliftonLarsonAllen (CLA) responsibilities:
    - i. Assist with the development of the Program Guide and required application testing to adhere to Treasury guidelines;
    - ii. Review applications, recommend payments for FHFund to approve, and process payments;
    - iii. Administer a call center to support landlord-applicants who have submitted an application and to support their renters providing required documentation;
    - iv. Send notice to payees and benefitting renter households confirming payment on behalf of renters;
    - v. Maintain program and payment documentation as outlined herein; and
    - vi. Generate and submit tax form documentation for all payments.

## Promotion and Marketing

- Program marketing efforts will be ongoing. Prior to program launch, provide prospective applicants with clear eligibility guidelines and complete instructions on the application process and required documents. Equip landlords to prepare to submit a complete application when the program launches. Equip landlords to convey renter requirements to their renters.
- Create a communications toolkit that includes scripted promotional messaging that all partners can share on websites, email newsletters, social media, radio, television, and newspapers. Distribute press releases to the major media outlets and smaller community-based publications and organizations.
- Distribute program information through a wide range of channels in Dakota, Hennepin, and Ramsey Counties, and the Cities of Minneapolis and Saint Paul, including online, community organizations, social service agencies, and 2-1-1 referral services.
  - Prioritize community-based publications and organizations that reach cultural and underserved communities. This includes intentional advertising with BIPOC media outlets such as The Spokesman-Recorder, The Circle, La Prensa, and KMOJ.
  - Distribute messaging to over 75 established Twin Cities organizations that reach underserved and culturally based communities.

## Applicant Assistance

- Landlords will apply via program application platform.
- Administrator (HousingLink) will provide front-end customer service to landlord-applicants. This includes answering questions about how to apply, questions about eligibility, and other general questions. Landlords will be able to call in and speak to someone in English, Spanish, Somali, Hmong, Oromo, or Karen. Phone services will be available for some extended weekday hours and scheduled weekend hours.
- Administrator (HousingLink) will also assist with technical questions and walk an applicant through the process of entering their assistance request through the online platform.
- Administrator (HousingLink) will also assist landlord-applicants who require alternatives to the online submission format. This will allow applications to be started over the phone or completed entirely via paper form. All paper form submissions and supporting documents for phone submissions by landlords can be submitted via US mail to HousingLink, 1400 VanBuren St NE, Ste 215, Minneapolis, MN 55413. HousingLink will submit these to the application platform (Neighborly).

## Application Processing and Assistance

- Administrator (CLA) will process submitted applications on an ongoing basis, prioritizing certain renter households as outlined in this guide.
- Administrator (CLA) will establish a multilingual call center to assist landlord-applicants and renters to submit required documentation and coordinate any clarification or additional information required to verify and complete the review of each application.
- Administrator (CLA) will assist renters who require alternatives to the online documentation format. This will allow renter documentation to be started over the phone or completed entirely via paper form. All paper form submissions and supporting documents for phone submissions by renters can be submitted via email to [ZeroBalanceProject@fhfund.org](mailto:ZeroBalanceProject@fhfund.org), or via US mail to Family Housing Fund, 310 4<sup>th</sup> Avenue South, Suite 9000, Minneapolis, MN 55415.

## Preventing Fraud and Duplication of Awards

Federal ERA statute requires that program payments not be duplicative of any other federally funded rental assistance provided to an eligible household. In order to meet this requirement:

- Application platform (Neighborly) will create a unique application for each landlord-applicant and for each renter. Application platform will check against the rest of applications within its system based on name, address, date of birth, email, and phone number.
- Application platform (Neighborly) will require both landlord-applicant and renter to attest that neither applicant nor renter have received, or are receiving any other source of assistance to pay for the expenses claimed in the application (checkbox).
- Administrator (CLA) will use multi-Jurisdictional database tools to check for duplicate applications, as such tools are available.
- Additional fraud prevention measures are provided for within the required Terms & Conditions for Landlords and Renters, below under ‘Addendum 1 -- Documentation Requirements.’

## Eligible Expenses

Housing and utility assistance may be paid for arrears incurred back to March 13, 2020 (except that any arrears submitted for March 2020 must be for no more than 62% of the monthly rent required by the lease agreement).

Households may receive up to 12 months of total assistance including up to 3 months of prospective rents at a time, but only households without rent arrears may receive prospective rents. If funding remains available, and households can demonstrate need for ongoing housing stability assistance, an additional 3 months (for a total of 15 months, maximum) of assistance is available to households.

Only the following expenses are eligible:

1. Rents. A written lease, oral lease (requires landlord attestation; oral lease is only allowed for residence in a building with fewer than 12 units per MN Statute), or implied lease (demonstrated by past payments; see ‘Addendum 1--Documentation Requirements’) must exist. The following types of rental homes are eligible for rental assistance:
  - a. Apartment rentals.
  - b. Single family home rentals.
  - c. Manufactured home lot rentals.
  - d. Rent-To-Own Rentals; in this case renter household must be renting their residence under a “rent-to-own” agreement, 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 the household meets ALL of the following criteria:
    - i. is not a signor or cosignor to the mortgage on the property;
    - ii. does not hold the deed or title to the property; and
    - iii. has not exercised the option to purchase.
  - e. Room rentals<sup>1</sup>
  - f. Tenant Portion of Subsidized Housing<sup>2</sup>
2. Utility and Home Energy Costs (water/sewer/electric/gas/trash/recycling/bulk fuel) paid by the Landlord as documented in the lease or rental agreement. These costs will be treated as rents.

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<sup>1</sup> Unrelated adults renting a room or otherwise under an arrangement to rent part of a home separately and who can demonstrate past payments would be considered separate households.

<sup>2</sup> Requires updated notice from the public housing authority (PHA) showing the rent amount reflecting that the renter portion has been adjusted for loss of income (renter or landlord receive these when rent adjusts).

- a. Telecommunication services (telephone, cable, internet) are NOT eligible.
  - b. No other utility or home energy costs are eligible.
3. Fees
- a. Late fees up to 8% of each month of rent (including any utilities as defined above), as capped by MN Statute.
  - b. Onsite storage rent, garage rent, and pet rent are eligible.
  - c. No other fees are eligible.

## Eligibility Requirements

Eligibility criteria for **BOTH** renter **AND** Landlord are outlined in the two sets of criteria below. Before proceeding, it is recommended that both parties discuss and agree that they are both willing and able to proceed and that both will complete the application, provide all required items, and abide by all required terms.

### Eligibility Criteria for renter (must meet all of these):

1. Must be a Dakota, Hennepin (including Minneapolis), or Ramsey County (including Saint Paul) resident, with proof of residency, and residing in the property as primary residence and;
2. One or more adults<sup>3</sup> in the household must have qualified for unemployment benefits, or have experienced a reduction in household income, or have incurred significant costs, or have experienced other financial hardship due directly to the coronavirus outbreak that can be documented and;
3. One or more adults in the household must be able to demonstrate a risk of experiencing homelessness or housing instability;
4. Must be able to provide a fully executed rental lease or other proof of a current lease agreement where the lease is in the Applicant's name and the Applicant is responsible for monthly rent payments (see 'Required Documentation');
5. Household income must fall at or below 80% of Area Median Income (see AMI table below); and
6. Must read and agree to all Terms & Conditions (outlined in Appendices).

### Eligibility Criteria for Landlord (must meet all of these):

1. Must document the right to payment for the property, demonstrating ownership or a management contract.
2. Must provide a valid W-9 for payment to the owner or manager of the rental property.
3. Must document that the location of each rental property is within Dakota County, Hennepin County, Ramsey County, Minneapolis, or Saint Paul.
4. Must be willing to accept payments from the program.
5. Must read and agree to full Terms & Conditions (outlined in Addendum 1, below).

## Prioritization Method and Criteria

Applications will be reviewed and paid on a first come, first served basis except that through June 20,

- applications for rental arrears will be processed before any applications that only contain prospective rents, and
- applications for units where the household meets one of the following criteria will be processed and paid before other applications:
  - a. Renter household income is at or below 50% of Area Median Income (see AMI table below), or
  - b. One or more household members have been unemployed for 90 days or more.

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<sup>3</sup> For purposes of this program, Adults are defined as being 18 years old as of March 13, 2020.

**2021 Area Median Income Table <sup>4</sup>**

Household Size	1	2	3	4	5	6	7	8
Income (80% of AMI)	\$55,950	\$63,950	\$71,950	\$79,900	\$86,300	\$92,700	\$99,100	\$105,500
Income (50% of AMI)	\$36,750	42,000	47,250	\$52,450	\$56,650	\$60,850	\$65,050	\$69,250

## Payments

- Payments to landlords (property owner or manager) will be paid via a mailed check. Direct payments to the eligible household may only be made in cases where the landlord or provider do not agree to accept such payments.
- Notice of payments must be sent to the landlord and the renter. Notice will include:
  - Total assistance amount; and
  - Months covered by the assistance amount.

## Recertification

Landlord-applicants must complete re-certification to demonstrate continued need for assistance every three months from the last assistance payments. This process will determine whether to continue financial assistance, and at what level. Only renters whose 2020 household income was eligible and prioritized, or who initially qualified with current income and the current income is still eligible and prioritized, are eligible to continue to receive assistance. Administrator will document rationale for continuing support in the case notes.

- If a renter household initially qualified using 2020 household income they do not need to resubmit income qualifications. This should be noted within the case notes for each application.
- If the renter household was initially approved using 60 days of prior income, the renter’s income must be reassessed if it has three months since the last assistance payment.

## Denial / Termination

Administrator may deny or terminate assistance for any of the following reasons:

- Does not meet eligibility criteria;
- Renter or Landlord-applicant are Non-Responsive or cannot resolve disputed rent arrears;
  - Administrator (CLA) will contact the landlord applicant and, when applicable the renter, to obtain necessary documentation at least three times over at least a 10 day period using multiple methods (telephone, email) and preferably at different times of the day.
  - If an applicant or the renter cannot be reached or fails to respond, the Administrator will notify the applicant and the renter that their request has been withdrawn for non-response.
  - If a renter disputes the rent arrears claimed by the landlord-applicant, Administrator will notify the landlord and renter they must agree on an amount within 3 business days or the request will be withdrawn.

<sup>4</sup> For family sizes larger than 8 persons, the income limit can be calculated by adding an additional eight (8) percent per person to the next lower limit. The resulting figure for other family sizes are then rounded up to the nearest \$50 if the value is not already a multiple of 50, to produce the final figure, per <https://www.huduser.gov/portal/datasets/il/il2021/2021summary.odn>.

- Administrator will document the communication attempts and reason for withdrawal in the notes in the Application Platform (Neighborly).
- Renter disputes the rent or utilities in arrears as reported by the landlord-applicant.
- Renter received assistance for the maximum program period;
- Has not complied with completing a required verification or recertification;
- Fraud.

To deny/terminate, Administrator (CLA) will provide a formal termination notice to both the Landlord and renter participants which includes:

- Denial/termination reason (one of the above),
- Summary of services and assistance provided,
- Appeal process, and
- How to reconnect or connect with other resources.

## Appeal Process

Either the landlord applicant or renter may appeal the decision by contacting the Administrator and requesting an appeal of the decision, either in writing or orally, within 10 days of the date of the denial notice.

After receiving a request for an appeal, the Administrator (CLA) will assign a staff person to review the materials submitted by the applicant to determine if the applicant is eligible for assistance. The reviewer must be a different staff member from the one who originally made the eligibility determination. If, on review, the applicant is deemed eligible, they will be assisted based on the time and date of the original application submission. If the applicant is again deemed ineligible, a notice of the appeal decision must be sent out to the applicant with the decision and the reasons for upholding the denial.

The appeal must be completed within five business days of receiving the request for appeal. If an applicant is successful in their appeal, their ability to receive assistance will depend on whether any Federal Emergency Assistance Program funds are available on the date of the appeal decision. A successful appeal decision does not guarantee receipt of assistance.

## Record-Keeping and Reporting Requirements

Required documentation will be collected and maintained in the application software system for six years. Per U.S. Treasury guidance, this will include:

- Address of the rental unit;
- For landlords (the party requesting payment), the name, address, and Social Security number, tax identification number or DUNS number;
- Amount and percentage of monthly rent covered by ERA assistance;
- Amount and percentage of separately stated utility and home energy costs covered by ERA assistance;
- Total amount of each type of assistance provided to each renter 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);
- Amount of outstanding rental arrears for each renter household;
- Number of months of rental payments and number of months of utility or home energy cost payments for which ERA assistance is provided;
- Renter household income and number of individuals in the household (categorical eligibility still requires an income number to be entered along with support);
- Gender, race, and ethnicity of the primary renter needing assistance; and
- Number of applications received in order to be able to report to Treasury the acceptance rate of applicants for assistance.

## Documentation Requirements

Application must include all documentation listed below. The application may not be approved if all required information is not provided in a legible form.

1. Proof of Rent Assistance amounts requested (one required; this documentation of a rent balance will also serve to demonstrate a risk of experiencing homelessness or housing instability). Applications for prospective rents only do not need to provide this documentation if rent arrears are resolved for the household and unit (also see 'Eligible Expenses,' above):
  - a. Lease/rent ledger; or if not possible,
  - b. Bank statement or checks stubs reflecting payments; or
  - c. Landlord attestation; or
  - d. Renter attestation. If renter attestation is used, the program will only pay 100% of Fair Market Rent (see FMR table below) and renter must also attest that they have not received and do not anticipate receiving other funds for this request. In addition, only 3 months of assistance will be paid with renter attestation of rental arrears. Any additional assistance requires a lease, ledger, bank statement, or landlord attestation.

**Fair Market Rent (FMR)<sup>5</sup>**

Final FY 2021 & Final FY 2020 FMRs By Unit Bedrooms					
Year	Efficiency	1-BR	2-BR	3-BR	4-BR
<b>FY 2021 FMR</b>	\$898	\$1,054	\$1,308	\$1,838	\$2,156
<b>FY 2020 FMR</b>	\$820	\$971	\$1,214	\$1,722	\$2,025

2. Documentation of unit where renter resides, and rental payment amount.
  - a. A current lease, and the most recent rent increase letter if the signed lease is expired; or
  - b. If a household does not have a signed lease,
    - i. documentation of residence may be satisfied by:
      1. evidence of paying utilities for the residential unit; or
      2. attestation by the landlord.
    - ii. documentation of the rental payment amount may be satisfied by:
      1. bank statements, check stubs, or other documentation that reasonably establishes a pattern of paying rent; or
      2. a written attestation by the landlord.
3. Proof of Ownership, Owner-Manager relationship (if applicant is not the Owner), and geographic Jurisdiction of each property.
  - a. (For property managers submitting the application) Copy of Management contract
  - b. Property / property tax record (paper or electronic copy retrieved from the sites below). This record must demonstrate that the property is within Dakota County, Hennepin County, Ramsey County, Minneapolis, or Saint Paul.
    - i. <https://www.hennepin.us/residents/property/property-information-search>
    - ii. <https://gis.co.dakota.mn.us/Webappbuilder/PropertyInformationPublic/index.html>
    - iii. <https://beacon.schneidercorp.com/application.aspx?app=RamseyCountyMN&PageType=Search>
4. Valid W-9 form (must match identify of payee in the application)
5. E-signed Landlord Terms & Conditions (must agree to all of these):

<sup>5</sup> Retrieved from [https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2021\\_code/2021summary.odn](https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2021_code/2021summary.odn) per Treasury guidance.

- a. I am the landlord/property owner or the duly authorized agent of the landlord/property owner for this rental unit.
- b. The rent/fees are accurate, owed by the renter(s), and have not been paid by the renter or any other source, including through RentHelpMN or any other government rental assistance program.
- c. Payment of the rent/fees listed through The Zero Balance Project emergency rental assistance program will satisfy the renter's monetary obligation for the rental unit for the months listed. The renter may not be charged future late fees, have their lease terminated, or an eviction filed for the rental unit for the months listed. This applies to all prospective rental payments.
- d. I agree to not pursue a judgment for possession or damages for any future nonpayment of rent or nonrenewal of the lease for sixty (60) days after the final month for which an assistance payment, including prospective rent, is made under this Agreement. (This requirement does not apply to Dakota County properties.)
- e. I agree to refrain from reporting late payments to credit bureaus for the households, units, and months for which I am awarded rent assistance, and I agree to report to credit bureaus payment on any previously reported late or unpaid balances.
- f. I agree not to report this Emergency Rental Assistance payment as rent in my provision of Certificates of Rent Paid to renters, as the Minnesota Department of Revenue has determined this funding to be emergency assistance ([CRP instructions](#)).<sup>6</sup>
- g. I agree to accept payment through this program, and to cash the awarded rent assistance within 30 days of payment.
- h. I understand that payments obtained under false pretenses or fraud may be subject to recapture and appropriate legal action. I will return any duplicated or excess payments.
- i. By typing my name below, I certify that I have read, understand, and agree with the statements above. The typed name below serves as my electronic signature for the above affirmations.

### Additional Required Documentation (from Renters)

6. Proof of Financial Hardship Due to the COVID-19 Outbreak (one required)
  - a. Attestation by renter household to be assisted that one or more household members has qualified for unemployment benefits
  - b. Attestation by renter household to be assisted that one or more household members has experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak.
  - c. (See 'Preventing Fraud,' above, for procedures to prevent abuse of written attestations.)
7. Proof of renter household income (one required; see also 'Household Income Determination,' below)
  - a. W-2s or other wage statements.
  - b. Paystubs - most recent to time of application (two months worth - 8 paystubs if paid weekly).
  - c. Tax filings for 2020.
  - d. Bank statements showing regular income.
  - e. Attestation from employer (current pay rate and hours per week).
  - f. 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 local, state, or federal government assistance program, Administrator may 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.
  - g. 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

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<sup>6</sup> CRP instructions retrieved here: [https://www.revenue.state.mn.us/sites/default/files/2020-12/crp\\_ldin\\_20.pdf](https://www.revenue.state.mn.us/sites/default/files/2020-12/crp_ldin_20.pdf)

place of employment has closed) or has been received in cash, or if the household has no qualifying income, Administrator (CLA) may accept a written attestation from the applicant regarding household income. If such a written attestation without further documentation is relied on, Administrator must reassess household income for such household every three months. In appropriate cases, Administrator 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. (See 'Preventing Fraud,' above, for procedures to prevent abuse of written attestations.)

8. E-signed Renter Terms & Conditions (must agree to all of these):
- a. I certify that all information in this application, and all information furnished in support of this application, is given for the purpose of obtaining funding under The Zero Balance Project Emergency Rental Assistance Program.
  - b. I understand that any willful misstatement of information will be grounds for disqualification.
  - c. I agree to provide any documentation needed to assist in determining eligibility and I am aware that all information and documents provided, except as exempted pursuant to law, are a matter of public record. I agree to allow my application to be shared with Minnesota Housing and other local administrators of Emergency Rental Assistance programs in order to prevent duplication of assistance as required by the U.S. Treasury department.
  - d. I further grant permission and authorize any bank, employer, or other public or private agency to disclose information deemed necessary to complete this application.
  - e. I certify that the rental assistance requested is true and complete to the best of my knowledge. I have noted any adjustments or exceptions to the rental assistance requested.
  - f. I have read and understand the (following) Tennessee Warning. *The purpose of this notice is to enable you to make an informed decision about whether to give data about yourself. This information is being collected to facilitate the implementation of the Emergency Rental Assistance Program, to effectively manage and evaluate the program's effectiveness, to comply with reporting requirements to the United States Department of Treasury, and to efficiently administer future COVID-related housing assistance programs specifically authorized by the legislature or mandated by the federal government. You are not legally required to provide any of the requested data; however, if you do not provide the data, we may not be able to provide you with the services or resources you are requesting. Your data may be shared between the Minnesota Housing Finance Agency, local jurisdictions implementing the Emergency Rental Assistance Program (Anoka County, Dakota County, Hennepin County, Ramsey County, Washington County, the City of Minneapolis, the City of Saint Paul), the United States Department of Treasury, the program administrators and contractors, community agencies funded from state, federal, and local resources that help provide housing assistance, and the organization(s) identified as holding debt for which you are seeking assistance, and other parties the deemed necessary. The data can also be shared upon court order or provided to the state or legislative auditor.*

## Renter Household Income Determination

Administrator (CLA) will determine income eligibility based on (i) categorical eligibility, or (ii) the household's total income for calendar year 2020, or (iii) the household's monthly income at the time of application, extrapolated over a 12-month period to determine whether household income exceeds 80 percent of area median income. If a household qualifies based on monthly income, the grantee must redetermine the household income eligibility every three months for the duration of assistance.

## Addendum 1: Frequently Asked Questions (FAQ)<sup>7</sup>

**U.S. Department of the Treasury  
Emergency Rental Assistance  
Frequently Asked Questions  
Revised May 7, 2021**

The Department of the Treasury (Treasury) is providing these frequently asked questions (FAQs) as guidance regarding the requirements of the Emergency Rental Assistance program established by section 501 of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) (ERA1) and the Emergency Rental Assistance program established by section 3201 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) (ERA2). These FAQs apply to both ERA1 and ERA2, except where differences are specifically noted. References in these FAQs to “the ERA” apply to both ERA1 and ERA2. These FAQs will be supplemented by additional guidance.<sup>8</sup>

### **1. Who is eligible to receive assistance in the ERA and how should a grantee document the eligibility of a household?**

A grantee may only use the funds provided in the ERA to provide financial assistance and housing stability services to eligible households. To be eligible, a household must be obligated to pay rent on a residential dwelling and the grantee must determine that:

- i. for ERA1:
  - a. one or more individuals within the household has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak;
  - b. one or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
  - c. the household has a household income at or below 80% of area median income.
- ii. for ERA2:
  - a. one or more individuals within the household has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic;
  - b. one or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
  - c. the household is a low-income family (as such term is defined in section 3(b))

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<sup>7</sup> Emergency Rental Assistance FAQs published by U.S. Department of the Treasury, retrieved at <https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf>

<sup>8</sup> On January 19, 2021, initial FAQs were released for ERA1. On February 22, 2021, the initial FAQs were revised to, among other things, clarify program requirements and provide additional flexibility with respect to documenting the eligibility of households. On March 16, 2021, FAQ 7 was revised to add rental security deposits as a permissible relocation expense and clarify that application or screening fees are permissible rental fees and FAQs 26–28 were added. On March 25, 2021, FAQ 29 was added. On May 7, 2021, these FAQs were revised to provide initial guidance for ERA2, to clarify differences between ERA1 and ERA2, and to clarify how ERA should be used to promote housing stability for eligible households.

of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).<sup>9</sup>

While there are some differences in eligibility between ERA1 and ERA2, the eligibility requirements are very similar, and Treasury is seeking to implement ERA2 consistently with ERA1, to the extent possible, reduce administrative burdens for grantees.

The FAQs below describe the documentation requirements for each of these conditions of eligibility. These requirements provide for various means of documentation so that grantees may extend this emergency assistance to vulnerable populations without imposing undue documentation burdens. As described below, given the challenges presented by the COVID-19 pandemic, grantees may be flexible as to the particular form of documentation they require, including by permitting photocopies or digital photographs of documents, e-mails, or attestations from employers, landlords, caseworkers, or others with knowledge of the household's circumstances. Treasury strongly encourages grantees to avoid establishing documentation requirements that are likely to be barriers to participation for eligible households, including those with irregular incomes such as those operating small business or gig workers whose income is reported on Internal Revenue Service Form 1099. However, grantees must require all applications for assistance to include an attestation from the applicant that all information included is correct and complete.

In all cases, grantees must document their policies and procedures for determining a household's eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations. Grantees must also have controls in place to ensure compliance with their policies and procedures and prevent fraud. Grantees must specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse.

## **2. How should applicants document that a member of the household has qualified for unemployment benefits, experienced a reduction in income, incurred significant costs, or experienced other financial hardship during or due to the COVID-19 outbreak?**

A grantee must document that one or more members of the applicant's household either (i) qualified for unemployment benefits or (ii) (a) for ERA1, experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak or (b) for ERA2, experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic.<sup>10</sup> If the grantee is relying on clause (i) for this determination, or if the grantee is relying on clause (ii) in ERA2, the grantee is permitted to rely on either a written attestation signed by the applicant or other relevant documentation regarding the household member's qualification for unemployment benefits. If the grantee is relying on

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<sup>9</sup> As of the date of these FAQs, the definition of "low-income families" in 42 U.S.C. 1437a(b) is "those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary [of Housing and Urban Development] with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes."

<sup>10</sup> Treasury is interpreting the two different statutory terms ("the COVID-19 outbreak" and "the coronavirus pandemic") as having the same meaning.

clause (ii) for this determination in ERA1, the statute requires the grantee to obtain a written attestation signed by the applicant that one or more members of the household meets this condition.

While grantees relying on clause (ii) in ERA1 must show financial hardship “due, directly or indirectly, to” COVID-19, grantees in ERA2 are also permitted to rely on financial hardship “during” the pandemic. It may be difficult for some grantees to establish whether a financial hardship experienced during the pandemic is due to the COVID-19 outbreak. Therefore, Treasury strongly encourages grantees to rely on the self-certification of applicants with regard to whether their financial hardship meets these statutory eligibility requirements. Further, because the standard in ERA2 is broader than the standard in ERA1, any applicant that self certifies that it meets the standard in ERA1 should be considered to meet the standard for purposes of ERA2.

### **3. How should a grantee determine that an individual within a household is at risk of experiencing homelessness or housing instability?**

The statutes establishing ERA1 and ERA2 both require that 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 (which may include overcrowding), or (iii) any other evidence of risk, as determined by the grantee. Grantees may establish additional criteria for determining whether a household satisfies this requirement, and should adopt policies and procedures addressing how they will determine the presence of unsafe or unhealthy living conditions and what evidence of risk to accept in order to support their determination that a household satisfies this requirement.

### **4. The statutes establishing ERA1 and ERA2 limit eligibility to households based on certain income criteria. How is household income defined for purposes of the ERA? How will income be documented and verified?**

*Definition of Income:* With respect to each household applying for assistance, grantees may choose between using the Department of Housing and Urban Development’s (HUD) definition of “annual income” in 24 CFR 5.609<sup>11</sup> 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.

*Methods for Income Determination:* The statute establishing ERA1 provides that grantees may determine income eligibility based on either (i) the household’s total income for calendar year 2020, or (ii) sufficient confirmation of the household’s monthly income at the time of application, as determined by the Secretary of the Treasury (Secretary). If a grantee in ERA1 uses a household’s monthly income to determine eligibility, the grantee should review the monthly income information provided at the time of application and extrapolate over a 12-month period to determine whether household income exceeds 80 percent of area median income. For example, if the applicant provides income information for two months, the grantee should multiply it by six to determine the annual amount. If a household qualifies based on monthly income, the grantee must redetermine the household income eligibility every three months for the duration of assistance.

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<sup>11</sup> See [https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5\\_1609](https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5_1609).

For ERA2, if a grantee uses the same income determination methodology that it used in ERA1, it is presumed to be in compliance with relevant program requirements; if a grantee chooses to use a different methodology for ERA2 than it used for ERA1, the methodology should be reasonable and consistent with all applicable ERA2 requirements. In addition, if a household is a single family that the grantee determined met the income requirement for eligibility under ERA1, the grantee may consider the household to be eligible under ERA2, unless the grantee becomes aware of any reason the household does not meet the requirements for ERA2. Finally, if multiple families from the same household receive funding under an ERA2 program, the grantee should ensure that there is no duplication of the assistance provided.

*Documentation of Income Determination:* Grantees in ERA1 and ERA2 must 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 certain circumstances, a grantee may rely on a written attestation from the applicant without further documentation of household income. Grantees have 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, the grantee is still responsible for making the required determination regarding the applicant's household income and documenting that determination. Treasury encourages grantees to partner with state unemployment departments or entities that administer federal benefits with income requirements to assist with the verification process, consistent with applicable law.

*Categorical Eligibility:* If an applicant's household income has been verified to be at or below 80 percent of the area median income (for ERA1) or if an applicant's household has been verified as a low-income family as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) (for ERA2) in connection with another local, state, or federal government assistance program, grantees are permitted to rely on a determination letter from the government agency that verified the applicant's household income or status as a low-income family, provided that the determination for such program was made on or after January 1, 2020.

*Fact-specific proxy:* A grantee may rely on a written attestation from the applicant as to household income if the grantee also uses any reasonable fact-specific proxy for household income, such as reliance on data regarding average incomes in the household's geographic area.

*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, grantees may accept a written attestation from the applicant regarding household income. If a written attestation without further documentation of income (or a fact-specific proxy as described above) is relied on, the grantee must reassess household income for such household every three months. In appropriate cases, grantees 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.

*Definition of Area Median Income:* For purposes of ERA1, the area median income for a

household is the same as the income limits for families published in accordance with 42 U.S.C. 1437a(b)(2), available under the heading for “Access Individual Income Limits Areas” at <https://www.huduser.gov/portal/datasets/il.html>.<sup>12</sup>

#### **5. ERA funds may be used for rent and rental arrears. How should a grantee document where an applicant resides and the amount of rent or rental arrears owed?**

Grantees 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. If a 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 the grantee. 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 defined by the grantee in its policies and procedures.

*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, grantees 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 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. This limited payment is intended to provide the most vulnerable households the opportunity to gather additional documentation of the amount of the rental obligation or to negotiate with landlords in order to avoid eviction. The assistance described in this paragraph may only be provided for three months at a time, and a grantee must obtain evidence of rent owed consistent with the above after three months in order to provide further assistance to such a household; Treasury expects that in most cases the household would be able to provide documentation of the amount of the rental obligation in any applications for further assistance.

#### **6. ERA funds may be used for “utilities and home energy costs” and “utilities and home energy costs arrears.” How are those terms defined and how should those costs be documented?**

Utilities and home energy costs are separately stated charges related to the occupancy of rental property. Accordingly, utilities and home energy costs include separately stated electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil. Payments to public utilities are permitted.

All payments for utilities and home energy costs should be supported by a bill, invoice, or evidence of payment to the provider of the utility or home energy service. Utilities and home energy costs that are covered by the landlord will be treated as rent.

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<sup>12</sup> Specifically, 80% of area median income is the same as “low income.” For the purpose of prioritizing rental assistance as described in FAQ 22 below, pursuant to section 501(c)(4)(A) of Subdivision N of the ERA1 statute, 50 percent of the area median income for the household is the same as the “very low-income limit” for the area in question.

**7. The statutes establishing ERA1 and ERA2 allow the funds to be used for certain “other expenses,” as defined by the Secretary. What are some examples of these “other expenses”?**

ERA1 funds used for “other expenses” must be related to housing and “incurred due, directly or indirectly, to the novel coronavirus disease (COVID-19) outbreak”. In contrast, ERA2 requires that “other expenses” be “related to housing” but does not require that they be incurred due to the COVID-19 outbreak.

For both ERA1 and ERA2, other expenses related to housing include relocation expenses (including prospective relocation expenses), such as rental security deposits, and rental fees, which may include application or screening fees. It can also include reasonable accrued late fees (if not included in rental or utility arrears), and Internet service provided to the rental unit. Internet service provided to a residence is related to housing and is in many cases a vital service that allows renters to engage in distance learning, telework, and telemedicine and obtain government services. However, given that coverage of Internet would reduce the amount of funds available for rental assistance, grantees should adopt policies that govern in what circumstances that they will determine that covering this cost would be appropriate.

All payments for housing-related expenses must be supported by documentary evidence such as a bill, invoice, or evidence of payment to the provider of the service. If a housing-related expense is included in a bundle or an invoice that is not itemized (for example, internet services bundled together with telephone and cable television services) and obtaining an itemized invoice would be unduly burdensome, grantees may establish and apply reasonable procedures for determining the portion of the expense that is appropriate to be covered by ERA. As discussed in FAQ 26 below, under certain circumstances, the cost of a hotel stay may also be covered as an “other expense.”

**8. Must a beneficiary of the rental assistance program have rental arrears?**

No. The statutes establishing ERA1 and ERA2 permit the enrollment of households for only prospective benefits. For ERA1, if an applicant has rental arrears, the grantee may not make commitments for prospective rent payments unless it has also provided assistance to reduce the rental arrears; this requirement does not apply to ERA2.

**9. May a grantee provide assistance for arrears that have accrued before the date of enactment of the statute?**

Yes, but not before March 13, 2020, 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).

**10. Is there a limit on how many months of financial assistance a tenant can receive?**

Yes. In ERA1, an eligible household may receive up to twelve (12) months of assistance (plus an additional three (3) months if necessary to ensure housing stability for the household, subject to the availability of funds). The aggregate amount of financial assistance an eligible household may receive under ERA2, when combined with financial assistance under ERA1, must not exceed 18 months.

In ERA1, financial assistance for prospective rent payments is limited to three months based on any application by or on behalf of the household, except that the household may receive assistance for prospective rent payments for additional months (i) subject to the availability of remaining funds currently allocated to the grantee, and (ii) based on a subsequent application for additional assistance. In no case may an eligible household receive more than 18 months of assistance under ERA1 and ERA2, combined.

**11. Must a grantee pay for all of a household’s rental or utility arrears?**

No. The full payment of arrears is allowed up to the limits established by the statutes, as described in FAQ 10 above. A grantee may structure a program to provide less than full coverage of arrears.

**12. What outreach should be made by a grantee to a landlord or utility provider before determining that the landlord or utility provider will not accept direct payment from the grantee?**

Treasury expects that in general, rental and utility assistance can be provided most effectively and efficiently when the landlord or utility provider participates in the program. However, in cases where a landlord or utility provider does not participate in the program, the only way to achieve the statutory purpose is to provide assistance directly to the eligible household.

In ERA1, grantees 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 (i) 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 seven calendar days after mailing; (ii) the grantee has made at least three attempts by phone, text, or e-mail over a five calendar-day period to request the landlord or utility provider’s participation; or (iii) a landlord confirms in writing that the landlord does not wish to participate. The final outreach attempt or notice to the landlord must be documented. The cost of contacting landlords would be an eligible administrative cost.

ERA2 does not require grantees to seek the cooperation of the landlord or utility provider before providing assistance directly to the tenant. However, if an ERA2 grantee chooses to seek the cooperation of landlords or utility providers before providing assistance directly to tenants, Treasury strongly encourages the grantee to apply the same ERA1 requirements as described above.

**13. Is there a requirement that the eligible household have been in its current rental home when the public health emergency with respect to COVID-19 was declared?**

No. There is no requirement regarding the length of tenure in the current unit.

**14. What data should a grantee collect regarding households to which it provides rental assistance in order to comply with Treasury’s reporting and recordkeeping requirements?**

Treasury will provide instructions at a later time as to what information grantees must report to Treasury and how this information must be reported. At a minimum, in order to ensure that Treasury is able to fulfill its reporting requirements and its ongoing monitoring and oversight

responsibilities, grantees should anticipate the need to collect from households and retain records on the following:

- Address of the rental unit;
- For landlords and utility providers, the name, address, and Social Security number, tax identification number or DUNS number;
- Amount and percentage of monthly rent covered by ERA assistance;
- Amount and percentage of separately stated utility and home energy costs covered by ERA assistance;
- 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);
- Amount of outstanding rental arrears for each household;
- Number of months of rental payments and number of months of utility or home energy cost payments for which ERA assistance is provided;
- Household income and number of individuals in the household; and
- Gender, race, and ethnicity of the primary applicant for assistance.

Grantees should also collect information as to the number of applications received in order to be able to report to Treasury the acceptance rate of applicants for assistance.

Treasury's Office of Inspector General may require the collection of additional information in order to fulfill its oversight and monitoring requirements.<sup>13</sup> Treasury will provide additional information regarding reporting to Treasury at a future date. Grantees under ERA1 must comply with the requirement in section 501(g)(4) of Division N of the Consolidated Appropriations Act, 2021, to establish data privacy and security requirements for information they collect; grantees under ERA2 are also encouraged to comply with those requirements.<sup>14</sup>

The assistance listing number assigned to the ERA is 21.023.

**15. The statute establishing ERA1 requires that payments not be duplicative of any other federally funded rental assistance provided to an eligible household. Are tenants of federally subsidized housing, e.g., Low Income Housing Credit, Public Housing, or Indian Housing Block Grant-assisted properties, eligible for the ERA?**

An eligible household that occupies a federally subsidized residential or mixed-use property or receives federal rental assistance may receive assistance in the ERA, provided that ERA1 funds are not applied to costs that have been or will be reimbursed under any other federal assistance. Grantees are required to comply with Title VI of the Civil Rights Act and should evaluate whether their policies and practices regarding assistance to households that occupy federally subsidized residential or mixed-use properties or receive federal rental assistance comply with Title VI. With respect to ERA2, grantees must not refuse to provide assistance to households on the basis that they occupy such properties or receive such assistance, due to the disproportionate

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<sup>13</sup> Note that this FAQ is not intended to address all reporting requirements that will apply to the ERA but rather to note for grantees information that they should anticipate needing to collect from households with respect to the provision of rental assistance.

<sup>14</sup> Specifically, the statute establishing ERA1 requires grantees to establish data privacy and security requirements for certain information regarding applicants that (i) include appropriate measures to ensure that the privacy of the individuals and households is protected; (ii) provide that the information, including any personally identifiable information, is collected and used only for the purpose of submitting reports to Treasury; and (iii) provide confidentiality protections for data collected about any individuals who are survivors of intimate partner violence, sexual assault, or stalking.

effect such a refusal could have on populations intended to receive assistance under the ERA and the potential for such a practice to violate applicable law, including Title VI.

If an eligible household participates in a HUD-assisted rental program or lives in certain federally assisted properties (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 ERA1 assistance for the tenant-owed portion of rent or utilities that is not subsidized. Grantees are encouraged to confirm that the participant has already reported any income loss or financial hardship to the Public Housing Authority or property manager and completed an interim re-examination before assistance is provided.

Treasury encourages grantees to enter into partnerships with owners of federally subsidized housing to implement methods of meeting the statutory requirement to prioritize assistance to households with income that does not exceed 50 percent of the area median income for the household, or where 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.

Pursuant to section 501(k)(3)(B) of Subdivision N of the Consolidated Appropriations Act, 2021, and 2 CFR 200.403, when providing ERA1 assistance, the grantee must review the household's income and sources of assistance to confirm that the ERA1 assistance does not duplicate any other assistance, including federal, state, or local assistance provided for the same costs. Grantees may rely on an attestation from the applicant regarding non-duplication with other government assistance in providing assistance to a household. Grantees with overlapping or contiguous jurisdictions are particularly encouraged to coordinate and participate in joint administrative solutions to meet this requirement. The requirement described in this paragraph does not apply to ERA2; however, to maximize program efficacy, Treasury encourages grantees to minimize the provision of duplicative assistance.

**16. In ERA1, may a Tribe or Tribally Designated Housing Entity (TDHE) provide assistance to Tribal members living outside Tribal lands?**

Yes. Tribal members living outside Tribal lands may receive ERA1 funds from their Tribe or TDHE, provided they are not already receiving ERA assistance from another Tribe or TDHE, state, or local government.

**17. In ERA1, may a Tribe or TDHE provide assistance to non-Tribal members living on Tribal lands?**

Yes. A Tribe or TDHE may provide ERA1 funds to non-Tribal members living on Tribal lands, provided these individuals are not already receiving ERA assistance from another Tribe or TDHE, state, or local government.

**18. May a grantee provide assistance to households for which the grantee is the landlord?**

Yes. A grantee may provide assistance to households for which the grantee is the landlord, provided that the grantee complies with the all provisions of the statute establishing ERA1 or ERA2, as applicable, the award terms, and applicable ERA guidance issued by Treasury, and (for purposes of ERA1) that no preferences beyond those outlined in the Consolidated Appropriations

Act, 2021, are given to households that reside in the grantee's own properties.

**19. May a grantee provide assistance to a renter household with respect to utility or energy costs without also covering rent?**

Yes. A grantee is not required to provide assistance with respect to rent in order to provide assistance with respect to utility or energy costs. For ERA1, the limitations in section 501(c)(2)(B) of Division N of the Consolidated Appropriations Act, 2021, limiting assistance for prospective rent payments do not apply to the provision of utilities or home energy costs.

**20. May a grantee provide ERA assistance to homeowners to cover their mortgage, utility, or energy costs?**

No. ERA assistance may be provided only to eligible households, which is defined by statute to include only households that are obligated to pay rent on a residential dwelling. However, homeowners may be eligible for assistance under programs using funds under the Homeowner Assistance Fund, which was established by Treasury under the American Rescue Plan Act of 2021.

**21. May grantees administer ERA programs by using contractors, subrecipients, or intergovernmental cooperation agreements?**

Yes. Grantees may use ERA payments to make subawards to other entities, including non-profit organizations and local governments, to administer ERA programs on behalf of the grantees. The subrecipient monitoring and management requirements set forth in 2 CFR 200.331-333 will apply to such entities. Grantees may also enter into contracts using ERA payments for goods or services to implement ERA programs. Grantees must comply with the procurement standards set forth in 2 CFR 200.317-327 in entering into such contracts. Grantees are encouraged to achieve administrative efficiency and fiduciary responsibility by collaborating with other grantees in joint administrative solutions to deploying ERA resources.

**22. ERA requires a prioritization of assistance for households with incomes less than 50% of area median income or households with one or more individuals that have not been employed for the 90-day period preceding the date of application. How should grantees prioritize assistance?**

Grantees should establish a preference system for assistance that prioritizes assistance to households with incomes less than 50% area median income and to households with one or more members that have been unemployed for at least 90 days. Grantees should document the preference system they plan to use and should inform all applicants about available preferences. Treasury will require grantees to report to Treasury on the methods they have established to implement this prioritization of assistance and to publicly post a description of their prioritization methods, including on their program web page if one exists, by July 15, 2021.

**23. ERA1 and ERA2 both allow for up to 10 percent of the funds received by a grantee to be used for certain housing stability services. What are some examples of these services?**

ERA1 and ERA2 have different requirements for housing stability services. Under ERA1, these funds may be used to provide eligible households with case management and

other services related to the COVID-19 outbreak, as defined by the Secretary, intended to help keep households stably housed.

Under ERA2, these services do not have to be related to the COVID-19 outbreak. For purposes of ERA1 and ERA2, housing stability services 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, legal services or attorney's fees related to eviction proceedings and maintaining housing stability, and specialized services for individuals with disabilities or seniors that supports their ability to access or maintain housing. Grantees using ERA funds for housing stability services must maintain records regarding such services and the amount of funds provided to them.

#### **24. Are grantees required to remit interest earned on ERA payments made by Treasury?**

No. ERA payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 to remit interest to Treasury. ERA payments made by Treasury to local governments, Tribes, and TDHEs are not subject to the requirement of 2 CFR 200.305(b)(8)–(9) to maintain balances in an interest-bearing account and remit payments to Treasury.

#### **25. When may Treasury recoup ERA funds from a grantee?**

Treasury may recoup ERA funds from a grantee if the grantee does not comply with the applicable limitations on the use of those funds.

#### **26. May rental assistance be provided to temporarily displaced households living in hotels or motels?**

Yes. The cost of a hotel or motel room occupied by an eligible household may be covered using ERA assistance within the category of certain "other expenses related to housing" (as described in FAQ 7) provided that:

- i. the household has been temporarily or permanently displaced from its primary residence or does not have a permanent residence elsewhere;
- ii. the total months of assistance provided to the household do not exceed the applicable time limit described in FAQ 10; and
- iii. documentation of the hotel or motel stay is provided and the other applicable requirements provided in the statute and these FAQs are met.

The cost of the hotel or motel stay would not include expenses incidental to the charge for the room.

Grantees covering the cost of such stays must develop policies and procedures detailing under what circumstances they would provide assistance to cover such stays. In doing so, grantees should consider the cost effectiveness of offering assistance for this purpose as compared to other uses. If a 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 Emergency Solutions Grant program or FEMA Public Assistance, grantees should utilize such programs

prior to providing similar assistance under the ERA program.

### **27. May a renter subject to a “rent-to-own” agreement with a landlord be eligible for ERA assistance?**

A grantee may provide financial assistance to households that are renting their residence under a “rent-to-own” agreement, 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:

- i. is not a signor or co-signor to the mortgage on the property;
- ii. does not hold the deed or title to the property; and
- iii. has not exercised the option to purchase.

Homeowners may be eligible for assistance under programs using funds under the Homeowner Assistance Fund, which was established by Treasury under the American Rescue Plan Act of 2021.

### **28. Under what circumstances may households living in manufactured housing (mobile homes) receive assistance?**

Rental payments for either the manufactured home and/or the parcel of land the manufactured home occupies are eligible for financial assistance under ERA programs. 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, as detailed in FAQ 7 above. This principle also applies to mooring fees for water-based dwellings (houseboats).

### **29. What are the applicable limitations on administrative expenses?**

Under ERA1, not more than 10 percent of the amount paid to a grantee may be used for administrative costs attributable to providing financial assistance and housing stability services to eligible households. Under ERA2, not more than 15 percent of the amount paid to a grantee may be used for administrative costs attributable to providing financial assistance, housing stability services, and other affordable rental housing and eviction prevention activities. The revised award term for ERA1 issued by Treasury permits recipients to use funds provided to cover both direct and indirect costs. A grantee may permit a subrecipient to incur more than 10 or 15 percent, as applicable, of the amount of the subaward issued to that subrecipient as long as the total of all administrative costs incurred by the grantee and all subrecipients, whether as direct or indirect costs, does not exceed 10 or 15 percent, as applicable, of the total amount of the award provided to the grantee from Treasury.)

Further, the revised award term for ERA1 no longer requires grantees to deduct administrative costs charged to the award from the amount available for housing stability services. Rather, any direct and indirect administrative costs in ERA1 or ERA2 must be allocated by the grantee to either the provision of financial assistance or the provision of housing stability services. As required by the applicable statutes, not more than 10 percent of funds received by a grantee may be used to provide eligible households with housing stability services (discussed in FAQ 23). To the extent administrative costs are not readily allocable to one or the other of these categories, the grantee may assume an allocation of the relevant costs of 90 percent to financial assistance and 10 percent to housing stability services.

Grantees may apply their negotiated indirect cost rate to the award, but only to the extent that the total of the amount charged pursuant to that rate and the amount of direct costs charged to the award does not exceed 10 percent of the amount of the award.

**30. Should grantees provide tenants the option to apply directly for ERA assistance, rather than only accepting applications for assistance from landlords and owners of dwellings?**

For ERA1, Treasury strongly encourages grantees to provide an option for tenants to apply directly for funding, rather than only accepting applications for assistance from landlords and owners of dwellings. For ERA2, grantees are required to allow tenants to apply directly for assistance, even if the landlord or owner chooses not to participate, consistent with the statutory requirement for the funds to be used to provide financial assistance to eligible households. See FAQ 12 for additional information on grantees providing assistance to landlords and tenants.

**31. How should grantees ensure that recipients use ERA funds only for permissible purposes?**

Grantees should require recipients of funds under ERA programs, including tenants and landlords, to commit in writing to use ERA assistance only for the intended purpose before issuing a payment. Grantees are not required to obtain documentation evidencing the use of ERA program funds by tenants and landlords. Grantees are expected to apply reasonable fraud prevention procedures and to investigate and address potential instances of fraud or the misuse of funds that they become aware of.

**32. Can grantees prohibit landlords from pursuing eviction for nonpayment of rent for some period after receiving ERA assistance?**

With respect to landlords that receive funds under an ERA program for prospective rent, the grantee must prohibit the landlord from evicting the tenant for nonpayment of rent during the period covered by the assistance.

In addition, with respect to landlords that receive funds for rental arrears, to promote the purpose of the program the grantee is encouraged to prohibit the landlord from evicting the tenant for nonpayment of rent for some period of time, consistent with applicable law.

In all cases, Treasury strongly encourages grantees to require landlords that receive funds under the ERA, as a condition of receiving the funds, not to evict tenants for nonpayment of rent for 30 to 90 days longer than the period covered by the rental assistance.

**33. How can grantees work with other grantees to make their ERA programs consistent?**

Treasury encourages different grantees to collaborate to develop consistent terms of their ERA programs, in order to reduce burdens for entities including landlords with properties in multiple jurisdictions.

**34. Should a grantee require that a landlord initiate an eviction proceeding in order to apply for assistance under an ERA program?**

No.

**35. How can ERA assistance be used to support an eligible household moving to a new home?**

ERA funds may be used to provide assistance to eligible households to cover prospective relocation assistance, rent, and utility or home energy costs, including after an eviction. Treasury encourages grantees to provide prospective support to help ensure housing stability. See FAQ 7 (regarding qualifying relocation expenses) and FAQ 10 (regarding time limits on assistance).