

FREQUENTLY ASKED QUESTIONS: TREASURY'S EMERGENCY RENTAL ASSISTANCE (ERA) PROGRAM

OCTOBER 2021

Congress established an [Emergency Rental Assistance \(ERA\) program](#) administered by the U.S. Department of the Treasury to distribute critically needed emergency rent and utility assistance to millions of households at risk of losing their homes. Congress provided more than \$46 billion for emergency rental assistance through the [Consolidated Appropriations Act](#) enacted in December 2020 and the [American Rescue Plan Act](#) enacted in March 2021.

Based on NLIHC's ongoing tracking and analysis of [state and local ERA programs](#), including [nearly 500 programs](#) funded through Treasury's ERA program, NLIHC has continued to identify needed policy changes to ensure ERA is distributed efficiently, effectively, and equitably. The ability of states and localities to distribute ERA was hindered early on by harmful guidance released by the Trump administration on its last day in office. Immediately after President Biden was sworn into office, the administration rescinded the harmful FAQ and released improved guidance to ensure ERA reaches households with the greatest needs, [as recommended by NLIHC](#).

The Biden administration issued revised ERA guidance in [February](#), [March](#), [May](#), [June](#), and [August](#) that directly addressed many of NLIHC's concerns about troubling roadblocks in ERA programs. Treasury's latest [guidance](#) provides further clarity and recommendations to encourage state and local governments to expedite assistance. Most notably, the FAQ provides even more explicit permission for ERA grantees to rely on self-attestations without further documentation. Additionally, Treasury published [ERA1 reallocation guidance](#) on October 4.

WHO IS ELIGIBLE TO RECEIVE EMERGENCY RENTAL ASSISTANCE?

Households are eligible for ERA funds if one or more individuals:

1. has qualified for unemployment benefits or for (a) ERA1, can attest in writing that they have experienced a reduction in household income, incurred significant costs, experienced other financial hardship due, directly or indirectly, to the pandemic, or for (b) ERA2, has experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the pandemic.
2. can demonstrate a risk of experiencing homelessness or housing instability; and
3. for ERA1, has a household income below 80% AMI, or for ERA2 is a low-income family as defined by the United States Housing Act of 1937 (families with a household income below 80% AMI, as determined by the HUD Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80% of AMI).

Funds must be used for households with incomes below 80% of area median income (AMI), and states and localities must prioritize households below 50% of AMI or those who are unemployed and have been unemployed for 90 days. States and localities can provide additional prioritization of funds. Grantees should establish a preference system, document the preference system, and inform all applicants about available preferences. Treasury required grantees to report 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 webpage, by July 15, 2021.

WHAT TYPES OF ASSISTANCE CAN ELIGIBLE HOUSEHOLDS RECEIVE?

Financial Assistance: At least 90% of the program funds must be used to provide financial assistance, including back and forward rent and utility payments and other housing expenses.

ERA1 funds used for “other expenses” must be related to housing and incurred due, directly or indirectly, to the pandemic. In contrast, ERA2 requires that “other expenses” be related to housing, but it does not require that they be incurred due to the pandemic.

“Other expenses” can include relocation expenses, including prospective relocation expenses, such as rental security deposits and rental fees, which may include application or screening fees; reasonable accrued late fees; and Internet service. See FAQ #39 for more information on security deposits. A tenant’s costs associated with obtaining a hearing or appealing an eviction, often referred to as rent bonds, are eligible “other expenses.”

An eligible household cannot receive more than 18 months of assistance under ERA1 and ERA2, combined. ERA1 assistance can be provided for up to 12 months, plus an additional three months if necessary to ensure housing stability and subject to the availability of funds. When providing forward rent, assistance can only be given for 3 months at a time, though households can subsequently reapply for additional assistance. For ERA1, assistance must be provided to reduce a household’s rental arrears before the household may receive assistance for future rent payments. This requirement does not apply to ERA2.

ERA cannot be provided to homeowners to cover their mortgage, utility, or energy costs. The American Rescue Plan provides \$10 billion for a [Homeowner Assistance Fund](#) administered by the Treasury Department.

Housing Stability Services: Recipients can use up to 10% of program funds for housing stability services. Under ERA1, these funds may be used to provide eligible households with services related to the COVID-19 pandemic to help keep households stably housed. Under ERA2, these services do not have to be related to the pandemic. According to Treasury guidance, housing stability services may include, among other things, eviction prevention and eviction diversion programs, mediation between landlords and tenants, housing counseling, fair housing counseling, housing navigators or promotoras that help households access ERA programs or find housing, case management related to housing stability, housing-related services for survivors of domestic violence or human trafficking, legal services or attorney’s fees related to eviction proceedings and maintaining housing stability, and specialized services for seniors or individuals with disabilities that supports their ability to access or maintain housing.

Administrative Fees: Under ERA1, up to 10% of the amount paid to grantees may be used for administrative costs. While Treasury initially misinterpreted the statutory language to suggest that 10% of ERA1 funds are to be used for both housing stability services and administrative fees, Treasury clarified these are two separate allocations. Under ERA2, up to 15% may be used for administrative costs attributable to providing financial assistance, housing stability services, and other affordable rental housing and eviction prevention activities. Any direct or indirect administrative costs in ERA1 must be allocated by the grantee to either the provision of financial assistance or the provision of housing stability services. For ERA2, direct and indirect administrative costs must be allocated for the provision of financial assistance, housing stability services, and other affordable rental housing and eviction prevention activities.

WHEN DO GRANTEES NEED TO SPEND ERA FUNDS BY?

ERA1 funds generally expire on September 30, 2022. The Treasury Department may recapture “excess funds” beginning on September 30, 2021, and re-obligate it to other grantees that have spent at least 65% of their funds. Treasury released [ERA1 reallocation guidance](#) in October. See [NLIHC’s fact sheet](#) on ERA1 reallocation to learn more.

ERA2 funds expire on September 30, 2025.

HOW WILL GRANTEES VERIFY AN APPLICANT'S ELIGIBILITY FOR ERA? WHAT FORMS OF DOCUMENTATION WILL APPLICANTS BE REQUIRED TO SUBMIT WHEN APPLYING FOR ERA?

Treasury explicitly allows renters to self-certify that they meet ERA eligibility criteria, including COVID-related hardships, income, risk of homelessness or housing stability, and the amount of back rent owed. Despite this critical flexibility provided by Treasury, many programs continued to impose additional, unnecessary documentation requirements. Treasury [guidance](#) urges ERA grantees to speed the distribution of aid by eliminating undue documentation burdens and utilizing self-attestation to document each aspect of a household's eligibility for ERA. Treasury has [reiterated](#) its call for state and local programs to rely on self-attestation without further documentation and published examples of [simplified eligibility forms](#). See NLIHC's [fact sheet](#) for more information on self-attestation.

Treasury's guidance allows for various means of documentation requirements to enable grantees to extend these critical resources to vulnerable populations without imposing unnecessary documentation burdens. Grantees can be flexible as to the form of documentation they require, including by allowing photocopies or digital photographs of documents, emails, or attestations from employers, landlords, caseworkers, or others with knowledge of the household's circumstances. In all cases, grantees must require applicants to self-attest that all information is correct and complete.

Financial Hardship or Unemployment: ERA1 applicants must qualify for unemployment benefits or attest in writing that they have experienced a reduction in household income, incurred significant costs, or experienced other financial hardship **due, directly or indirectly**, to the pandemic. For ERA2, applicants must qualify for unemployment benefits or attest in writing that they have experienced a reduction in household income, incurred significant costs, or experienced other financial hardship show financial hardship **during** the pandemic. Treasury strongly encourages grantees to rely on self-attestation to document financial hardship. See FAQ #2.

Risk of Housing Instability or Homelessness: Additionally, applicants must demonstrate a risk of experiencing homelessness or housing instability. Grantees may rely on an applicant's self-certification to document risk of housing instability or homelessness. This risk also can be demonstrated through a past due utility or rent notice or eviction notice; unsafe or unhealthy living conditions (which may include overcrowding); or any other evidence of such risk, as determined by the grantee. See FAQ #3.

Income: Income determination will be based on either the household's total income in 2020, or the monthly income the household is receiving at the time of application. If income determinations are made based on the applicant's monthly income, the state or locality must review the monthly income information provided at the time of application and extrapolate over a 12-month period to determine whether the household's income exceeds 80% AMI. If a household qualifies based on monthly income, the grantee must redetermine eligibility every three months.

To document income determination, renters may self-attest to household income and provide available documentation, such as paystubs, W-2s or other wage statements, tax filings, bank statements demonstrating regular income, or an attestation from an employer. Grantees may rely on written attestation alone to document household income. Additionally, grantees can utilize categorical eligibility or reasonable fact-specific "proxies," such as the average income of the neighborhood in which renters live, to verify an applicant's household income. If self-attestation without further verification is used, the grantee must reassess the household's income every three months by obtaining appropriate documentation or a new self-attestation. Treasury encourages grantees to simplify applications to allow for self-attestation for income eligibility, financial hardship, and risk of homelessness or housing instability. See FAQ #4.

Residency and Rental Obligation: Grantees must obtain, if available, a current lease signed by the landlord or sublessor that identifies where the applicant resides and states the amount of rent or back rent owed. If the household does not have a signed lease, grantees may accept other types of documentation that can be used to prove residency and the amount of back rent owed. See FAQ #5.

ARE PEOPLE EXPERIENCING HOMELESSNESS ELIGIBLE FOR ERA? CAN ERA BE USED TO SUPPORT A HOUSEHOLD MOVING TO A NEW HOME?

Treasury's [guidance](#) reinforces that ERA can help families who have lost, or are at imminent risk of losing, their housing by paying for relocation assistance, prospective rent, security deposits, and temporary hotel accommodations. For families who do not have a current rental obligation - which is a requirement for ERA eligibility - Treasury's 6/24 guidance encourages grantees to provide households with a commitment letter specifying the amount of ERA the grantee will pay a landlord (such as for a security deposit or rent) if the landlord and household enter into a qualifying lease of at least six months. Such documentation may expire after a certain period, such as 60 to 120 after being issued. For reporting purposes, grantees may consider these commitments to be an obligation of funding until their expiration.

"These dollars can be a pathway to people getting housed regardless of whether they have experienced an eviction, they have been living outside, or feel like they are going to have to move because they are under pressure where they are now," said Noel Poyo, deputy assistant secretary for community economic development at the Department of the Treasury, on a [webinar](#) held by NLIHC, the National League of Cities (NLC), and Mayors and CEOs for U.S. Housing Investment. "A person's homeless status - whether they meet a federal homelessness guideline or what have you - is sort of neither here nor there, that is to say, is this an eligible household under the ERA, and do they have a rental obligation? Let's focus on the regulatory space that we have here as opposed to other regulatory spaces, which might be more difficult to prove or require more documentation."

CAN ERA FUNDS BE PROVIDED TO TEMPORARILY DISPLACED HOUSEHOLDS LIVING IN HOTELS OR MOTELS OR HOUSEHOLDS RENTING MANUFACTURED HOMES?

Yes. ERA may be provided to temporarily displaced households living in hotels or motels, as recommended by NLIHC. These expenses fall within the category of "other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak." The cost of the hotel stay does not include expenses incidental to the charge for the room. Grantees covering the costs of hotel and motel stays must develop policies and procedures outlining under what circumstances they would provide such assistance. If a household is eligible for an existing program with narrower eligibility criteria that provides similar assistance for hotel or motel stays, such as HUD's Emergency Solutions Grant program or FEMA Public Assistance, grantees should use those programs before providing aid under the ERA program.

Rental payments for either a manufactured home and/or the parcel of land a manufactured home occupies are eligible for assistance under the ERA program, as recommended by NLIHC. Households renting manufactured homes and/or the parcel of land may also receive assistance for utilities and other expenses related to housing. This also applies to mooring fees for houseboats.

ARE THERE RESTRICTIONS BASED ON IMMIGRATION STATUS FOR THE EMERGENCY RENTAL ASSISTANCE?

The law establishing the emergency rental assistance program does not impose restrictions based on immigration status. In the absence of federal restrictions, state and local governments cannot impose their own immigration status or Social Security Number requirements. This [FAQ](#) from NLIHC, the National Housing Law Project, and the National Immigration Law Center provides information on eligibility for assistance based on immigration status.

"Neither the Consolidated Appropriations Act of 2021, the law that produced ERA1, nor the American Rescue Plan, the law that produced ERA2, speak in the ERA sections to the question of documentation of people's immigration status," said Noel Poyo on NLIHC's [webinar](#). "There are a clear set of requirements for being qualified for this money. There has been a lot of discussion about what documentation is necessary for those qualifications, all laid out very clearly in the Treasury FAQs, and there is nothing in there about immigration status."

HOW CAN RENTERS AND LANDLORDS ACCESS ERA? CAN ASSISTANCE BE PROVIDED DIRECTLY TO TENANTS?

Renters and landlords apply for assistance with entities that state and local grantees select to administer the program. Use [NLIHC's searchable database](#) to find a Treasury ERA program near you. If landlords apply directly for ERA, they are required to notify the tenant that assistance is being provided on their behalf and obtain the tenant's consent.

ERA1 programs must make reasonable efforts to obtain landlords' cooperation. Treasury's revised guidance cuts in half the time to determine whether a landlord elects to participate to 7 days when reaching out to landlords by mail and 5 days when reaching out by phone, text, or email before providing direct-to-tenant assistance.

If a landlord refuses to participate, ERA2 programs **must** offer assistance directly to tenants. Additionally, ERA2 programs can offer direct-to-tenant assistance first and immediately - these programs are not required to go to landlords beforehand. While ERA1 programs are not bound to these same rules, the White House and Treasury have made clear that providing direct-to-tenant assistance when landlords refuse to participate is the preferred policy for ERA1.

"The idea that we could have a program designed to keep people in their homes, the most vulnerable renters, and that some of them could face homelessness because their landlord chose not to participate, and there simply was not even an effort to see if they could go through the tenant, was just unacceptable," stated Gene Sperling, White House American Rescue Plan coordinator and senior advisor to the president, on the [webinar](#) hosted by NLIHC, NLC, and Mayors and CEOs for U.S. Housing Investment. "We found that we did have the authority to require that under ERA2, and so we put that down. We hope that sends a strong message for all of the programs that are funded by ERA." He continued, "Guidance doesn't always say this is a 100% requirement, it strongly encourages. It tells people what the administration's policy is and how money should be used. I think it has been made pretty clear in here that it is the policy of this administration not to close the books if a landlord refuses."

ARE TENANTS OF FEDERALLY SUBSIDIZED HOUSING ELIGIBLE FOR ERA? HOW WILL THE ERA PROGRAM WORK WITH "DUPLICATION OF BENEFITS?"

Treasury's [guidance](#) prohibits denying assistance to eligible households solely because they live in federally assisted housing, and notes that failure to do so many violate civil rights laws. Treasury encourages grantees to partner with owners of federally subsidized housing to ensure their residents are reached.

Eligible households living in federally subsidized housing may receive ERA assistance, provided that the ERA funds are not applied to costs that have been or will be reimbursed under any other federal assistance. ERA1 programs must ensure that assistance does not duplicate any other assistance, including federal, state, or local assistance provided for the same costs. Renters may self-attest that they are not receiving duplicative government assistance. This requirement does not apply to ERA2.

If an eligible household participates in a HUD-assisted rental program or lives in certain federally assisted properties and the tenant's rent is adjusted according to changes in income, the household may receive ERA1 assistance for the tenant-owed portion of rent or utilities that is not subsidized.

ARE LANDLORDS PROHIBITED FROM EVICTING TENANTS WHEN RECEIVING ERA?

Treasury [guidance](#) prohibits the eviction of renters for nonpayment while ERA payments are being made on their behalf. Treasury encourages grantees to require that landlords not evict tenants for at 30 to 90 days longer than the period covered by the ERA as a condition of receiving payment.

DO GRANTEES NEED TO OBTAIN DOCUMENTATION THAT RECIPIENTS USE ERA FUNDS ONLY FOR ELIGIBLE USES?

No. Grantees are not required to obtain documentation demonstrating the use of ERA funds by tenants and landlords. Program administrations should apply reasonable fraud-prevention procedures and investigate and address potential instances of fraud or the misuse of funds they become aware of. If a landlord refuses to accept a payment from a tenant who has received assistance directly from a grantee for the purposes of paying the landlord, the grantee may allow the tenant to use the assistance for other eligible costs.

CAN ERA BE USED TO COVER RENTAL OR UTILITY ARREARS AFTER A TENANT NO LONGER RESIDES IN THE UNIT?

To remove barriers a household may face in accessing new housing, grantees may - at a tenant's request - use ERA to cover rental or utility arrears at the tenant's previous address. As a condition for receiving payment, Treasury strongly encourages grantees to require the landlord or utility provider to agree not to pursue any further collection efforts, ensure that any credit reports confirm the matter's resolution, and notify the tenant that payment has been received and there will be no further collection efforts. See FAQ #40 for more information.

WHAT ADDITIONAL STEPS CAN STATE AND LOCAL GOVERNMENTS TAKE TO PREVENT EVICTIONS?

[Treasury](#) and the [White House](#) strongly encourage grantees to partner with courts to actively prevent evictions and develop eviction diversion programs, as recommended by NLIHC. Grantees should consider, 1) providing information to courts about the availability of assistance under ERA programs and housing stability services, 2) working with eviction courts to provide information about ERA to tenants and landlords as early in the adjudication process as possible, and 3) engaging legal aid and other housing stability service providers to assist households facing eviction. Treasury guidance makes clear ERA and ARPA [State and Local Fiscal Recovery Funds](#) can be used to support a wide range of eviction prevention and housing stability services.

DOES TREASURY'S NEW GUIDANCE APPLY TO BOTH ERA1 AND ERA2 FUNDS?

Treasury and the White House published on May 7 new [guidance](#) and a [summary](#) of major program improvements to ensure these critical resources reach the lowest-income and most marginalized people in need. While many of the improvements in the revised guidance apply specifically to the ERA funds enacted under the American Rescue Plan Act (ERA2), the White House and Treasury make clear what they consider model ERA programs that serve renters most in need and do not violate civil rights laws. Program administrators should apply this guidance to both tranches of ERA funds. See [NLIHC's side-by-side comparison](#) of previous guidance on roadblocks in ERA programs, NLIHC's recommendations on how to overcome these challenges, and how the Biden administration's revised guidance addresses each issue.

TREASURY MADE ADDITIONAL CHANGES TO ITS GUIDANCE TO ACCELERATE AND BROADEN ERA DISTRIBUTION:

- Treasury strongly encourages grantees to provide culturally and linguistically relevant housing stability services and to conduct outreach in multiple languages to reduce unnecessary barriers to access. Grantees who cannot provide such services themselves should be engaging partners with the capacity to do so to ensure equal access to emergency rental assistance for all eligible households. See FAQ #37 for more information.
- Treasury provides a streamlined payment option for utility providers and large landlords to make accessing ERA on behalf of multiple tenants easier. To speed the delivery of assistance, grantees

may provide advance assistance based on reasonable estimates of rental and utility arrears owed by multiple households. FAQ #38 outlines guidelines for providing a portion of estimated bulk payments to landlords and utility providers.

- Treasury encourages grantees providing services to overlapping or neighboring areas to develop consistent or complementary policies to avoid unnecessary confusion or burden for tenants or landlords seeking assistance. See FAQ #33 for more information on grantee coordination.
- Grantees may use ERA funds to pay for an additional rental payment required by a landlord that enters into a lease with tenants facing significant barriers to securing housing, including those who have been evicted, experienced homelessness, aged out of foster care, or were convicted of a criminal offense or released from incarceration in the past year. See FAQ #41 for more information.
- To speed aid to at-risk households, ERA grantees may partner with nonprofit organizations to provide advance assistance to households at risk of eviction while their ERA applications are being processed. The grantee must receive all required application and eligibility documentation within six months. FAQ #42 outlines guidelines for state and local programs to collaborate with nonprofit organizations able and willing to provide advance assistance prior to an application being fully processed.
- On August 4, Treasury updated its [promising practices](#) around [eviction diversion](#), including the addition of a maturity model and [example self-attestation forms](#).

ADDITIONAL RESOURCES

NLIHC State and Local Rental Assistance Look-Up: <https://nlihc.org/rental-assistance>

NLIHC ERA Dashboard: <https://nlihc.org/era-dashboard>

NLIHC ERA Resource Hub: <https://nlihc.org/resource-hub>

Treasury's Emergency Rental Assistance (ERA) webpage: <https://bit.ly/3sOeF4i>

Updates to the ERA guidance can be tracked in Treasury's change log



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