

EMERGENCY RENTAL ASSISTANCE

SIDE-BY-SIDE COMPARISON OF ERA STATUTES AND GUIDANCE

OCTOBER 2021

	<u>Consolidated Appropriations Act</u> (December 2020)	<u>American Rescue Plan Act</u> (March 2021)
Appropriations	\$25 billion	\$21.55 billion
Small State Minimum	\$200 million	\$152 million
High-Need Appropriation		\$2.5 billion
Eligible Grantees	50 States, localities with populations above 200,000, territories, tribal nations	50 States, localities with populations above 200,000, territories
Uses of Funds	Not less than 90% for financial assistance; No more than 10% for housing stability services; Not more than 10% for administrative costs	Financial assistance; Not more than 10% for housing stability services; Not more than 15% for administrative costs
Housing Stability Services	Must be related to COVID-19.	Do not have to be related to COVID-19.
“Other Expenses”	Must be related to housing and incurred due, directly or indirectly, to COVID-19.	Must be related to housing but do not need to be due to COVID-19.
Length of Assistance	12 months, plus an additional 3 months only if necessary to ensure housing stability for a household	18 months
Future Rent	3 months at a time, households must reapply	Not mentioned
Rent Arrears	Grantees cannot make future rent payments unless they have also reduced rent arrears	Per Treasury guidance (FAQ #8), grantees may use ERA2 to provide future rent payments without covering arrears.
Payments	Made directly to the landlord or utility provider on behalf of the eligible household, unless the landlord refuses to accept assistance. Treasury guidance (FAQ #38) says ERA grantees can make bulk payments to a landlord or utility provider.	
Prioritization	Households with incomes below 50% AMI; households with individuals who have been unemployed for 90 days	Same as previous bill

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Treatment of Assistance	Not regarded as income for purposes of determining the eligibility of the household or any member of the household for federal benefits or assistance	
Household Eligibility	A household with 1 member who (1) qualified for unemployment benefits or experienced a reduction of income, incurred significant costs, or experienced financial hardship due, directly or indirectly, to COVID-19 (2) can demonstrate a risk of homelessness or housing insecurity and (3) has an income at or below 80% of AMI	A household with 1 member who (1) qualified for unemployment benefits or experienced a reduction of income, incurred significant costs, or experienced financial hardship during or due, directly or indirectly, to COVID-19 (2) can demonstrate a risk of homelessness or housing insecurity and (3) is low-income (Housing Act of 1937)
COVID-19 Hardship	Due, directly or indirectly, to COVID-19	During or due, directly or indirectly, to COVID-19
Documenting Eligibility	Treasury guidance urges ERA1 and ERA2 grantees to rely on self-attestations to satisfy each eligibility requirement, including COVID-related hardship , income , housing stability , and rental arrears .	
Landlord Applications	Either tenants or landlords may initiate the application. Landlords may submit applications on behalf of tenants. Landlords must obtain the signature of the tenant, documentation shall be provided to the tenant, and any payments must be used to satisfy tenant's obligations. Treasury strongly encourages ERA1 grantees to allow tenants to apply directly for funding.	Treasury guidance (FAQ #30) requires ERA2 grantees to allow tenants to apply directly for assistance, even if the landlord chooses not to participate.
Landlord Outreach (FAQ #12)	Grantees must seek the cooperation of the landlord or utility provider before providing direct-to-tenant assistance.	Grantees may offer direct-to-tenant assistance first and immediately – not requiring programs to conduct landlord outreach first.
Direct-to-Tenant Assistance (FAQ #30)	Grantees may offer direct-to-tenant assistance when landlords refuse to participate.	Grantees must offer direct-to-tenant assistance when landlords refuse to participate.
Federally Assisted Households (FAQ #15)	ERA1 grantees are required to comply with Title VI of the Civil Rights Act and should evaluate whether their policies and practices regarding assistance to federally assisted households comply with Title VI.	ERA2 grantees are prohibited from denying assistance to eligible residents solely because they live in federally assisted housing. Treasury guidance notes that failure to do so may violate civil rights laws.
Eviction Protections (FAQ #32)	Treasury guidance prohibits landlords from evicting tenants for nonpayment of rent during the period covered by ERA assistance. Treasury strongly encourages grantees to require landlords receiving ERA not to evict tenants for 30 to 90 days longer than period covered by the assistance.	

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Other Uses of Funds	None	On October 1, 2022, any unobligated funds may be used for other affordable housing and eviction prevention purposes serving VLI households; only applies to grantees that have obligated no less than 75% of their allocation.
Recapture and Reallocation	Beginning on September 30, Treasury "shall recapture excess funds" as determined by the Secretary and reallocate and repay such amounts to eligible grantees who, at the time of such reallocation, have obligated at least 65% of the amount originally allocated. See Treasury's ERA1 reallocation guidance .	Beginning March 31, 2022, Treasury shall reallocate funds not yet paid. Eligible grantees must have obligated at least 50% of its allocation.
Final Expenditure Deadlines	September 30, 2022 (ARPA changed the date from December 31, 2021 in the original bill)	September 30, 2025
Extension of Deadline	Grantees may request a 90-day extension of the final deadline for reallocated funds	
Inspector General	The IG shall conduct monitoring and oversight of the receipt, disbursement, and use of funds	
Recoupment	If the Inspector General determines that grantee has failed to comply, the amount equal to the amount of funds used in violation shall repaid to the Federal Government.	

