

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

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The [emergency COVID-19 relief bill](#) passed by Congress in December 2020 established a \$25 billion emergency rental assistance (ERA) program administered by the U.S. Department of the Treasury. The ERA program was created by Congress to distribute critically needed emergency rental assistance to millions of households at risk of losing their homes.

The Treasury Department released in February a [Frequently Asked Questions \(FAQ\)](#) document that directly addresses the significant [flaws](#) in the previous guidance issued by the Trump administration. Treasury released [revised FAQs](#) on March 16 and March 26 that made changes in line with [recommendations](#) made by NLIHC and the NLIHC-led Disaster Housing Recovery Coalition (DHRC) for further guidance that ensures critical rent relief resources reach households with the greatest needs. NLIHC expects Treasury to release further guidance in the coming weeks.

HOW WILL THE DEPARTMENT OF TREASURY DISTRIBUTE THE FUNDING?

ERA payments will be made directly to states (including the District of Columbia), U.S. territories (Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa), local governments with more than 200,000 residents, the Department of Hawaiian Home Landlords, and Indian tribes or the tribally designated housing entity of an Indian tribe.

For your state or locality to get its share of emergency rental assistance funds, they were required to submit completed payment information and a signed acceptance of award terms by 11:59 pm ET on January 12, 2021. See Treasury's website for a list of [payments to states and eligible units of local government](#) and details on the [data and methodology](#) used to determine allocations. Details on the data and methodology and [payments for tribal communities](#) may also be found online. See [NLIHC's fact sheet](#) on state and territory allocations for more information.

WHAT TYPES OF ASSISTANCE CAN ELIGIBLE HOUSEHOLDS RECEIVE?

Financial Assistance: At least 90% of the funds must be used to provide financial assistance, including back and forward rent and utility payments and other housing expenses that were incurred due, directly or indirectly, to the pandemic.

According to [Treasury's FAQ](#), "other expenses" can include relocation expenses, including rental security deposits, and rental fees, which may include application or screening fees; reasonable accrued late fees; and Internet service. While the Trump administration's guidance excluded Internet service as an eligible cost, the revised FAQ states that Internet is a vital service needed for distance learning, telework, telehealth, and obtaining government services, helping to keep families connected to school, work, and healthcare.

Assistance can be provided for up to 12 months, plus an additional three months if the grantee determines the extra months are needed to ensure housing stability and funds are available. When providing forward rent, assistance can only be given for 3 months, though households can subsequently reapply for additional assistance. Assistance must be provided to reduce a household's rental arrears before the household may receive assistance for future rent payments.

The COVID-19 relief legislation does not include resources for foreclosure prevention.

Supportive Services: Recipients can use up to 10% of funds for housing stability services related to the COVID-19 pandemic. According to the FAQ, housing stability services may include housing counseling, fair housing counseling, case management, attorney's fees related to eviction proceedings, housing-related services for survivors of domestic violence or human trafficking, and specialized services for seniors or

individuals with disabilities that supports their ability to access or maintain housing.

Administrative Fees: The legislation states that up to 10% of the amount paid to grantees may be used for administrative costs, and that 10% of the remaining amount can be used for housing stability services. While Treasury initially misinterpreted the statutory language to suggest that 10% of funds are to be used for **both** housing stability services and administrative fees, [revised guidance](#) from Treasury clarifies these are two separate allocations.

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 can attest in writing that he or she has experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the pandemic; (2) can demonstrate a risk of experiencing homelessness or housing instability; and (3) has a household income below 80% 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. Treasury's guidance states that grantees should establish a preference system, document the preference system, and inform all applicants about available preferences.

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

Treasury's most recent FAQ clarifies that 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.

WHAT FORMS OF DOCUMENTATION WILL APPLICANTS BE REQUIRED TO SUBMIT WHEN APPLYING FOR ERA?

The law states that 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. Additionally, applicants must demonstrate a risk of experiencing homelessness or housing instability. This risk can be demonstrated through a past due utility or rent notice or eviction notice; unsafe or unhealthy living conditions; or any other evidence of such risk, as determined by the eligible grantee involved.

The Trump administration's FAQ imposed additional, unnecessary documentation requirements in direct conflict with the statute by stating that grantees must require applicants to document hardship beyond self-attestation. Under Treasury's [revised guidance](#), renters may self-attest to meeting most eligibility criteria, including income, housing stability, and the amount of back rent owed, provided that certain

safeguards are met. Grantees should 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.

The updated 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.

HOW WILL GRANTEE DOCUMENT AND VERIFY 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. Under Treasury's [guidance](#), grantees can provide waivers or exceptions to this documentation requirement to accommodate a variety of circumstances. If a household's income is not verifiable due to the impact of COVID-19 or has been received in cash, or if the household has no qualifying income, grantees can accept a written attestation without further documentation. In these instances, grantees must reassess household income every three months.

If an applicant's household income has been verified to be at or below 80% AMI in connection with another local, state, or federal assistance program, grantees can rely on a determination letter from a government agency that verified the applicant's household income, provided that determination was made on or after January 1, 2020.

The now-rescinded Trump administration's FAQ imposed burdensome documentation requirements for income determination. Rather than allowing self-certification by the household of their monthly income, the FAQ document directed households to provide "source documentation" to verify two months of income. This requirement went beyond the federal statute and would have made it more difficult for renters in need to receive assistance. The revised guidance from Treasury does not include this requirement, which will help states and communities quickly distribute ERA funds.

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.

WHO WILL ADMINISTER RENTAL ASSISTANCE PROGRAMS? HOW WILL RENTERS OR LANDLORDS APPLY FOR OR RECEIVE ASSISTANCE?

Renters will apply for assistance with entities that state and local grantees select to administer the program. States and localities can make payments directly to landlords or utility companies on behalf of renters.

The Trump administration's FAQ would have required grantees to wait a full 21 days after conducting outreach to the landlord or utility provider before providing assistance directly to the renter. Under Treasury's updated [guidance](#), this timeframe is shortened from 21 days to as little as 10 days before assistance can be provided directly to tenants in cases where their landlord refuses to participate in the program. If a landlord refuses to accept the rental assistance within 14 calendar days of the grantee sending a request in writing by mail, or after the grantee has made at least three attempts by phone, text, or email over a 10 calendar day period, the administering entity can provide assistance directly to the renter, who can then make payments to the landlord or utility provider. This shorter timeframe will help ensure housing stability and avoid unnecessary evictions during the pandemic.

Landlords can directly apply for rental assistance under the program but are required to notify the tenant that assistance is being provided on their behalf and obtain the tenant's consent.

HOW WILL THE EMERGENCY RENTAL ASSISTANCE PROGRAM WORK WITH "DUPLICATION OF BENEFITS?"

The legislation states that "to the extent feasible," grantees should ensure that any rental assistance provided to an eligible household is not duplicative of other federally-funded rental assistance. Treasury's [FAQ](#) clarifies that 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. Renters may self-attest that they are not receiving duplicative government assistance, including federal, state, or local assistance provided for the same costs.

DID CONGRESS PROVIDE ADDITIONAL HOUSING AND HOMELESSNESS RESOURCES IN THE LAST COVID RELIEF PACKAGE?

Congress passed and President Biden signed into law on March 11 the "American Rescue Plan Act" a \$1.9 trillion coronavirus relief package that includes nearly [\\$50 billion](#) in housing and homelessness resources, including \$27.4 billion for emergency rental and utility assistance and \$5 billion to assist people who are homeless with immediate and longer-term needs, among other vital provisions. These investments will help prevent millions of low-income people from [losing their homes](#) during the pandemic and will provide cities and states with the resources they need to help people experiencing homelessness be [safely housed during and after the pandemic](#).

WHY IS A STRENGTHENED AND ENFORCED EVICTION MORATORIUM STILL NEEDED?

Both emergency rental assistance and a strengthened and enforced eviction moratorium are needed to help keep renters stably housed during the pandemic. An improved eviction moratorium can help keep renters housed while state and local governments work to distribute aid to households in need.

The federal eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) has kept millions of people who otherwise would have been evicted stably housed, but it has significant shortcomings that undermine its public health impacts. Under the CDC moratorium, renters are only protected if they know about it and take affirmative steps to be protected. As a result, [corporate and other landlords continue to evict renters](#) before renters know about the moratorium's protections and can make use of its protections. The failure to address issues with the current moratorium has allowed some landlords to wrongfully evict tens of thousands of renters without consequence.

The Biden administration [announced](#) on March 29 an extension of the [federal eviction moratorium](#) through June 30, 2021, and greater enforcement of the moratorium's protections - two measures that will help keep millions of renters stably housed during the pandemic and prevent further spread of and deaths from COVID-19. The announcement comes after NLIHC and more than [2,300 national, state, and local organizations and elected officials](#) urged the Biden administration to take action.

Unfortunately, the administration did not act on the clear evidence and need to also strengthen the order to address the flaws that undermine its public health purpose. The Biden administration must strengthen the order and close the loopholes that some landlords have exploited to continue evicting renters from their homes and must ensure the moratorium's protections are automatic and universal throughout the duration of the pandemic. The administration must also continue to work to ensure that emergency rental assistance quickly reaches the lowest-income and most marginalized renters who face the greatest risk of eviction.

