

U.S. Department of the Treasury
Emergency Rental Assistance
Frequently Asked Questions

January 19, 2021

The Department of the Treasury (Treasury) is providing these Frequently Asked Questions (FAQ) as guidance regarding the requirements of the Emergency Rental Assistance (ERA) program established by section 501 of Division N of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (Dec. 27, 2020) (the “Act”). These FAQ will be supplemented by additional guidance and FAQ on a rolling basis.

1. The statute provides that ERA funds may be used for “utilities and home energy costs.” How are those terms defined?

Utilities and home energy costs are separately-stated charges related to the occupancy of rental property. Accordingly, utilities include separately-stated electricity, gas, water and sewer, trash removal and energy costs, such as fuel oil. Telecommunication services (telephone, cable, Internet) delivered to the rental dwelling are not considered to be utilities. Utilities that are covered by the landlord within rent will be treated as rent.

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

No. The statute does not prohibit the enrollment of households for only prospective benefits. Section 501(c)(2)(B)(iii) of Division N of the Act does provide that assistance to reduce rental arrears, if any, must be provided before prospective rental benefits may be provided. The statute also provides a limitation on prospective benefits of three months at one time.

3. 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 12-month limit established by the statute if the arrears can be shown to be due to COVID-19. (Grantees may provide assistance for an additional three months if necessary to ensure housing stability for a household.) However, a grantee may structure a program to provide less than full coverage of arrears. When structuring their program, grantees should consider how to best minimize any incentives for the non-payment of rent or utilities by potential beneficiaries of the program.

4. What outreach must 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?

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 a request for participation is sent in writing, by certified mail, to the landlord or utility provider, and the addressee does not respond to the request within 21 calendar days after mailing; or, if the grantee has made at least three attempts by phone or email over a 21 calendar-day period to request the landlord or utility provider’s participation. All efforts must be documented. The cost of the mailing would be an eligible administrative cost.

5. The statute limits eligibility to households with income that does not exceed 80 percent of area median income as defined by the Department of Housing and Urban Development (HUD) but does not provide a definition of household income. How is household income defined for purposes of the ERA program? How will income be documented and verified?

The statute provides that grantees may determine income eligibility by reference to either (i) household 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).

With respect to each household applying for assistance, grantees may choose between using the definition of "annual income" as provided by HUD in 24 CFR 5.609 and using adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

For determining annual income, grantees should obtain at the time of application source documents evidencing annual income (*e.g.*, wage statement, interest statement, unemployment compensation statement), or a copy of Form 1040 as filed with the IRS for the household.

For determining monthly income, grantees must obtain income source documentation, as listed above, for at least the two months prior to the submission of the application for assistance. If an applicant qualifies based on monthly income, the grantee must redetermine the household income eligibility every three months for the duration of assistance.

6. In addition to providing an attestation in writing, must applicants document that they have experienced a reduction in income, incurred significant costs, or experienced other financial hardship due to the COVID-19 outbreak?

Yes, to the extent administratively feasible, grantees must require applicants to document that they have (i) qualified for unemployment benefits or (ii) experienced a reduction in income, incurred significant costs, or experienced other financial hardship due directly or indirectly to COVID-19 that threaten the household's ability to pay the costs of the rental property when due.

Grantees must also require applicants to demonstrate a risk of experiencing homelessness or housing instability, which may include past due rent and utility notices and eviction notices, if any, as part of the application process.

7. 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. However, payments under ERA are to be provided to households to meet housing costs that they are unable to meet as a result of the COVID-19 outbreak. There is no statutory requirement for the length of tenure in the current unit.

8. What data should a grantee collect regarding households to which it provides rental assistance in order to comply with Treasury 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 quarterly reporting requirements under section 501(g) of Division N of the Act 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,
- Name, address, social security number, tax identification number or DUNS number, as applicable, for landlord and utility provider,
- 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 (*i.e.*, rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears) provided to each household,
- 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 for 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.¹ Treasury will provide additional information regarding reporting to Treasury at a future date. Grantees will need to comply with the requirement in section 501(g)(4) of Division N of the Act to establish data privacy and security requirements for information they collect.

9. The statute requires that ERA 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 ERA?

An eligible household that occupies a federally-subsidized residential or mixed-use property may receive ERA assistance, provided that ERA funds are not applied to costs that have been or will be reimbursed under any other federal assistance.

If an eligible household receives a monthly federal subsidy (*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 not receive ERA assistance.

If a household receives rental assistance other than the ERA, the ERA assistance may only be used to pay for costs, such as the tenant-paid portion of rent and utility costs, that are not paid for by the other rental assistance. Pursuant to section 501(k)(3)(B) of Subdivision N of the Act and 2 CFR 200.403, when providing ERA assistance, the grantee must review the household's income and sources of assistance to confirm that the ERA assistance does not duplicate any other assistance, including federal, state, and local assistance provided for the same costs.

¹ Note that this FAQ is not intended to address all reporting requirements that will apply to the ERA program but rather to note for grantees information that they should anticipate needing to collect from households with respect to the provision of rental assistance.

10. 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 and this guidance and that no preferences beyond those outlined in the statute are given to households that reside in the grantee's own properties.

11. 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).

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

Yes. A grantee does not need to provide assistance with respect to rent in order to provide assistance with respect to utility or energy costs. The limitations in section 501(c)(2)(B) of Division N of the Act limiting assistance for prospective rent payments do not apply to the provision of utilities or home energy costs.

13. May a grantee provide ERA assistance to homeowners to cover their mortgage payment, utilities, or energy costs?

No. The statute requires that ERA assistance be provided only to eligible households, which is defined to include only households that are obligated to pay rent on a residential dwelling.

14. The statute provides that ERA funds may be used for “other expenses” as related to housing incurred due, directly or indirectly, to COVID-19, as defined by the Secretary. What are some examples of these “other expenses”?

The Secretary has not made such a determination at this time.