

SUMMARY OF U.S DEPARTMENT OF TREASURY EMERGENCY RENTAL ASSISTANCE FAQ

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Key Takeaways

- Treasury established specific documentation requirements to demonstrate applicants meet each of the conditions of eligibility and related program requirements, and in specific instances, signed attestations may be used to document eligibility.
- Treasury identified examples 'other expenses' that are allowable in addition to rent and utilities: they include relocation expenses, rental fees, reasonable accrued late fees, and internet service expenses.
- ERA funding for administrative costs and housing stability services is capped at 10%. Housing stability services are those that allow households to maintain or obtain housing, including housing counseling, fair housing counseling, case management related to housing stability, housing related services for survivors of domestic abuse or human trafficking, attorney's fees related to eviction proceedings, and specialized services for individuals with disabilities or seniors that supports their ability to access or maintain housing.
- Payments under ERA are provided to help households meet housing costs that they are unable to meet because of the COVID-19 pandemic; there is no tenure requirement for allowable expenses and prospective rent may be paid regardless of whether the applicant has past due rent.
- Grantees may administer ERA programs by using contractors, subrecipients, or intergovernmental agreements.

Questions #1-4

Conditions of Eligibility:

- i. 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;
- ii. One or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
- iii. The household has a household income at or below 80% of area median income.

Documentation:

- i. For Condition of Eligibility (i), grantees may rely on:
 - a. a written attestation signed by the applicant or other relevant documentation regarding the household member's qualification for unemployment benefits, or
 - b. obtain a written attestation signed by the applicant that one or more members of the household "experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak."
- ii. For Condition of Eligibility (ii), documentation may include (1) a past due utility or rent notice or eviction notice, (2) unsafe or unhealthy living conditions, or (3) any other evidence of risk, as determined by the grantee, consistent with the grantee's adopted policies and procedures.
- iii. For Condition of Eligibility (iii),
 - a. Grantees may choose between the HUD definition of "annual income" and IRS Form 1040 adjusted gross income. Income eligibility may be based on either (i) the household's total income for calendar year 2020, or (ii) the household's monthly income at the time of application, extrapolated to a 12-month period and redetermined every 3 months for the duration of assistance.

- b. Documentation of Income Determinations generally requires a written attestation from the applicant as to household income and 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. 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 but must still make and document the determination.
- c. Categorical Eligibility: In another local, state, or federal government assistance program has already determined the applicant's household income at or below 80 percent AMI on or after January 1, 2020, the grantee may rely on a determination letter from the government agency that made the determination.
- d. Written Attestations without further documentation: If a household's income 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 regarding household income from the applicant or a caseworker or other professional with knowledge of a household's circumstances. Grantee must reassess household income every three months if using this approach.
- iv. All applications must include an attestation from the applicant that all information is correct and complete.
- v. Grantees must document their policies and procedures for determining a household's eligibility including the prioritization of households and the circumstances under which they will accept written attestations, and validation or fraud-prevention procedures to prevent abuse.
- vi. Grantees must maintain records of their determinations.

Question #5

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 must be obtained. If not available, the grantee may use 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.

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>.

Question #6

Utilities and home energy costs are separately stated charges and include electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil. 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.

Question #7

ERA funds may be used for "other expenses related to housing incurred due, directly or indirectly, to" the COVID-19 outbreak. These expenses include relocation expenses and rental fees (if a household has been temporarily or permanently displaced due to the COVID-19 outbreak); reasonable accrued late fees (if not included in rental or utility arrears and if incurred due to COVID-19); and Internet service provided to the rental unit. 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.

Question #8

Rental arrears are not a requirement of the program. The grantee may not make commitments for prospective rent payments unless it has also provided assistance to reduce the rental arrears.

Question #9

Rental assistance may be provided for accruals prior to the enactment of this statute but not prior to March 13, 2020.

Question #10

Financial assistance for prospective rent payments is limited to three months based on any application by or on behalf of the household, but may receive 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 provided that the total months of assistance provided to the household do not exceed 12 months (plus an additional three months if necessary, to ensure housing stability for the household).

Question #11

The full payment of arrears is allowed up to the 12-month limit established by the statute. However, Grantees are not obligated to structure their program in this way. Grantees may provide assistance for an additional three months if the grantee determines that further assistance is necessary to ensure housing stability. A grantee may structure a program to provide less than full coverage of arrears.

Question #12

Grantees must make payments directly to the landlord or utility providers unless the provider does not accept payments from the ERA program. 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 14 calendar days after mailing; (ii) the grantee has made at least three attempts by phone, text, or e-mail over a 10 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.

Question #13

There is no requirement regarding the length of tenure in the current unit to qualify for ERA funds.

Question #14

Specific data to comply with Treasury's reporting and recordkeeping requirements :

- 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 to be able to report to Treasury the acceptance rate of applicants for assistance.

Question #15

ERA payments may not be duplicative of any other source of assistance provided to an eligible household. However, this does restrict households receiving other federal funding if that funding does duplicate funding from the ERA. 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 receive ERA assistance for the tenant-owed portion of rent or utilities that is not subsidized.

Grantees may rely on an attestation from the applicant regarding non-duplication with other government assistance in providing assistance to a household.

Questions #16 + 17

A Tribe or Tribally Designated Housing Entity (TDHE) may provide assistance to Tribal members living outside Tribal lands and to non-Tribal members living on Tribal lands provided they are not already receiving assistance.

Question #18

A grantee may provide assistance to households for which the grantee is the landlord provided that they meet all provisions of the Act and no preference beyond those outlined in the Act are given to households that reside in those properties.

Question #19

The program can extend assistance for energy and utility payments without needing to extend rental assistance.

Question #20

Mortgage assistance is not available under the ERA.

Question #21

Grantees may use contractors, subrecipients, or intergovernmental cooperation agreements to administer ERA programs on behalf of the grantees consistent with monitoring and management requirements (set forth in 2 CFR 200.331-200.333) as well as procurement standards (set forth in 2 CFR 200.317-200.327).

Question #22

A preference system for applicants should be established for 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.

Question #23

Ten percent of the funds received by a grantee may be used for housing stability services that enable eligible households to maintain or obtain housing. These services include housing counseling, fair housing counseling, case management related to housing stability, housing related services for survivors of domestic abuse or human trafficking, attorney's fees related to eviction proceedings, 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.

Question #24

Grantees are not required to remit earned interest on ERA funds.

Question #25

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