

Administration of the Federal Emergency Rental Assistance Program: Considerations for State Agencies

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Through Title V, Subtitle A, Section 501(a) of the Consolidated Appropriations Act, 2021, Congress appropriated \$25 billion to the US Department of the Treasury for the Emergency Rental Assistance Program. The program grants funds to states, territories, tribal communities, and localities to provide time-limited assistance with rent and utilities to households that have lost income or experienced other financial hardship because of the COVID-19 pandemic.

To help states design Emergency Rental Assistance programs and deploy the available funds, NCSHA worked with Abt Associates to develop this guidance document. To inform the development of this guidance, NCSHA contracted with Abt to research emergency rental assistance programs launched in 2020 in eight states in response to the COVID-19 pandemic: Arizona, Florida, Idaho, Illinois, Maine, Minnesota, New Jersey, and Virginia. These state programs represent a variety of program models and structures in states in different parts of the country serving different populations. Abt reviewed program guidelines from each state's 2020 emergency rental assistance program and interviewed staff from each program. Abt additionally participated in recent webinars hosted by NCSHA to learn about states' concerns about the federal Emergency Rental Assistance Program. This guidance is informed by those activities as well as Abt's previous experience analyzing rental assistance programs administered by local governments.

This guidance is intended to help states understand the range of options available to them as they design new programs or modify programs established in 2020. The time-sensitive nature of the Emergency Rental Assistance Program will require states to move quickly to launch programs. To that end, this guidance aims to help states design efficient programs that also are able to effectively assist households at risk of housing instability as a result of the pandemic.

The guidance covers the following topics:

1. Coordination among grantees and service providers in a state
2. Determining and documenting eligibility for program assistance
3. Determining and documenting the amount and types of assistance to be provided per tenant household
4. Prioritizing eligible households
5. Determining and documenting the payee and any related requirements
6. Designing an outreach and intake process
7. Avoiding duplication of assistance provided to households
8. Record keeping, reporting, and data security

1. Coordination among grantees and service providers in a state

Under the Emergency Rental Assistance Program, multiple entities in a single state may receive funds to administer an emergency rental assistance (ERA) program, including the state; cities and counties with populations greater than 200,000; and tribal communities. The law does not mandate any specific type of coordination among different grantees within a state. Nor does it prevent programs from serving the same or overlapping jurisdictions, such as a state and city program both serving residents of that city.

However, Treasury’s Frequently Asked Questions ([FAQ](#))¹ published on February 22, 2021, encourage states and other grantees to “achieve administrative efficiency and fiduciary responsibility by collaborating with other grantees in joint administrative solutions to deploying ERA resources.”

States may elect to administer an ERA program entirely within a centralized office or coordinate program elements among subgrantees or partner organizations. Treasury’s FAQ notes that states may elect to administer their program by making subawards to “other entities, including nonprofit organizations and local governments,” and may contract for goods or services using ERA funds to implement the program. The FAQ specifies that states should monitor and manage any subrecipients according to [2 CFR 200.331–200.333](#) and follow the requirements in [2 CFR 200.317–200.327](#) for procurement of goods or services.

Key considerations

There are several reasons for states to consider coordinating ERA programs within the state. They include the following:

- Ensuring applicants statewide can easily understand where and how to apply for assistance, and that different ERA programs in a state are able to adequately address the needs of households in their respective service areas
- Predetermining which ERA program administrators and service providers will receive and process applications from households of any specific location
- Enabling landlords with properties in multiple jurisdictions to have standard application requirements and processes across different ERA programs
- Offloading application intake and review processes in periods of high demand to ERA program administrators or service providers with greater capacity
- Creating efficiencies and reducing administrative costs

Careful planning is needed to ensure that any such coordination helps rather than hinders the implementation of separate programs in a state.

Types of coordination among 2020 emergency rental assistance programs

The states consulted for this report structured their 2020 emergency rental assistance programs in different ways. Several states—like Illinois—were highly centralized, with nearly all program components managed by a single agency; others—like Florida—relied on a network of support organizations to reach applicants across the state and process applications. These two models are discussed below, along with Minnesota’s model, which incorporated a mix of centralized and diffuse program elements.

Illinois. Illinois’s ERA program was managed by the Illinois Housing Development Authority and was highly centralized, with nearly all program elements managed within the agency. The state initially explored coordinating its program with the City of Chicago and Cook County, each of which eventually established its own rental assistance program, but ultimately decided not to; the state’s program did not exclude residents of Chicago or Cook County from receiving assistance but required landlords to certify

¹ All references to Treasury’s FAQ in this document are to the FAQ published February 22, 2021, unless otherwise noted.

that they would not accept other assistance for the same tenant. Illinois designed its program to be managed in house due to concerns that it would be challenging to move quickly in assisting households if the program was delegated to a range of other organizations. Additionally, the agency had concerns about the capacity of community action agencies to review applications and whether reviews would be consistent. It also did not have an IT system in place to allow close coordination with outside organizations and had concerns about data control and software licensing. The agency, which had no experience with client-facing services, quickly hired temporary workers and put infrastructure in place to process applications. It did rely on 62 community and outreach assistance organizations to conduct outreach across the state and to help with language and application assistance. The agency credits its success at disbursing \$220 million in rental assistance to its decision to manage the program in house, which necessitated an efficient program design and contributed to agency decisions to simplify the application process and provide a flat amount of assistance to all recipients.

Florida. Florida by contrast decided to allocate the funding it had available for emergency rental assistance to its State Housing Initiatives Partnership (SHIP) offices, which were then responsible for administering programs in their jurisdictions. SHIP offices are located in each of Florida's 67 counties as well as its Community Development Block Grant entitlement cities. SHIP offices work to meet the housing needs of low- and moderate-income households across the state and have experience managing other emergency grant programs, such as disaster recovery programs. Florida thus had a network and infrastructure in place to establish local rental assistance programs. The Florida Housing Finance Corporation was the lead state grantee of the Coronavirus Relief Fund (CRF), the mechanism for financing the emergency rental assistance, and developed overarching program guidelines for local emergency rental assistance programs; it then signed subrecipient agreements with and distributed funds to SHIP offices. SHIP offices, to the extent allowed by the program guidelines, had flexibility to tailor their assistance programs, such as by opting to provide assistance for utility payments or setting a lower area median income (AMI) threshold for eligibility than the maximum the state permitted. Each SHIP developed its own application forms for assistance and has maintained a portal for accepting applications online (the state provides templates that the SHIP offices may modify for their programs). Florida disbursed roughly \$125 million in CRF funds for emergency rental assistance in 2020 and expects to continue to use its model with few modifications for the 2021 Emergency Rental Assistance program.

Minnesota. Minnesota's 2020 emergency rental assistance program represents a hybrid approach. The state housing finance agency, Minnesota Housing, developed unitary program guidelines and a centralized application portal but delegated the intake and application review processes to a network of 52 grant administrators. The grant administrators were selected from among those Family Homeless Prevention and Assistance Programs, tribal nations, local governments (including Public Housing Authorities and Housing and Redevelopment Authorities), and community-based organizations that the state felt were capable of administering rental assistance. Minnesota Housing also worked with United Way to use its 211 service to screen households for initial eligibility and refer potentially eligible households to a grant administrator serving the area in which the household is located. Minnesota Housing required grant administrators to follow state guidelines for the program and did not allow administrators to use different eligibility criteria or prioritize applicants differently from other administrators in the state. Additionally, all administrators used the state's common household application system to track and process applications.

A staff member of Minnesota Housing noted that its large network of grant administrators was beneficial in providing customer service to applicants and assisting households unable to apply online, but that using and managing a large network also presented some challenges. Some grant

administrators did not have the capacity to process as many applications as Minnesota Housing anticipated or update information in the common household application system, which led to delays in processing of payments to grant administrators and confusion regarding the overall pipeline of applications. The agency was able to address the lack of capacity of some administrators by asking tribal nations, which had excess capacity to process applications, to expand the geographic areas they served. Minnesota Housing expects to reduce the number of grant administrators it coordinates with in 2021; it will primarily rely on them for outreach and completing applications for some households, while centralizing application and payment processing at the state level.

Potential types of coordination for states to consider

As states design their ERA programs, they will face several competing demands, including the need to assist a large number of households, expend their allocated funds, and keep administrative costs under the required 10 percent threshold. States may want to consider opportunities to coordinate with other rental assistance programs in the state to efficiently meet these needs. Some coordination options are described below.

Service areas. At a minimum, states and other ERA programs should coordinate efforts to determine their respective service areas for assistance, including whether the state grantee will provide assistance to applicants residing in jurisdictions with separate ERA programs. In making this decision, it may be helpful to assess the capacity of other grant programs in the state to serve the likely needs of households in their respective service areas. Factors to consider include the number of renters, housing costs, and household incomes (for more information on determining need for rental assistance, see Part 3, Determining and documenting the amount and types of assistance to be provided per tenant household). A state may elect to offer assistance only to households in the “balance of state” areas not served by a city, county, or tribal program, which could help ensure that households in those areas receive their fair share of assistance. If a state elects to serve only the balance of state, however, it may struggle to obligate or expend all of its funds in a timely manner. Serving applicants from the entire state also allows states to help households served by programs in other jurisdictions that cannot quickly or fully meet their constituents’ needs. Other approaches a state might consider would be to serve the balance of the state plus some, but not all, jurisdictions with rental assistance programs (likely those with higher demonstrated need) or to provide assistance in any jurisdiction after a certain point in time or if another rental assistance program runs out of funds before the state does.

Outreach and marketing. The state may want to coordinate with other ERA programs within the state on messaging to potential applicants, such as by creating a shared website or call center that directs applicants to the designated grantee according to the applicant’s address. A centralized entry point allows grantees to more easily coordinate on developing and minimizing costs for outreach materials and campaigns, such as radio ads or door hangers, and help potential applicants more quickly and clearly understand how to apply. As noted above, Minnesota Housing worked with United Way to use its 211 service as the initial point of intake for applicants and to provide information about available rental assistance.

Common application, required documentation, or application portal. While individual ERA programs may differ in their specific policies and priorities, they may be able to agree on common requirements for applicants, such as lease documentation or other required documentation from landlords. Grantees may want to coordinate before program launch to develop a common application or agree on what documentation to require, which can streamline review of those materials and reduce confusion for

landlords that work in different jurisdictions. Grantees may also want to collaborate on the development of a single application portal to collect application materials and route the applications to the appropriate jurisdiction. A common portal can reduce confusion and administrative costs, although it also introduces challenges associated with coordination across jurisdictions. The creation of a common application and/or portal would not preclude individual grantees from having unique program requirements above and beyond those included in the common application.

Shared intake support or application review. Many ERA programs offer web-based and telephone support to applicants, including in multiple languages. Coordinating these supports across multiple programs within a state can reduce staff time, which individual programs would otherwise have to spend to hire and train staff for these roles, or reduce costs by having a single vendor provide these services for multiple programs. Similarly, program administrators may want to consider sharing responsibility for reviewing applications or certain application components. One benefit is that reviewers can specialize in reviewing program requirements that can be difficult for some to learn, such as how to accurately determine a household's income. Another benefit is that a grantee with a large number of applications in the review stage in a particular week or month could seek assistance from another grantee with available capacity at that time.

Duplication of assistance determination. All grantees will need to take steps to avoid providing assistance to any household that is duplicative of other federal rental assistance. Treasury has not provided guidance on exactly how this must be done; however, in general, it appears that grantees will be required to verify that any rental unit for which assistance has been requested has not already received assistance from other federal sources for the months in question. In states where residents are eligible to apply for multiple ERA programs—such as both a city and a state program—it may save staff time over the long term to develop a shared, secure portal through which payment information from grantees (and potentially other providers of federal assistance) can be submitted and automatically checked for duplication of assistance. Alternately, if a centralized and automated portal cannot be quickly built, states and other program administrators may develop agreements on how to share information about assistance provided to households in overlapping areas and build a database that ERA programs across the state can use to manually check for duplication of assistance. Additionally, states may want to secure the cooperation of entities that will not manage an ERA program but have data on households that receive federal assistance, such as Public Housing Authorities and state Section 8 contract administrators.

Shared payment processing. Staff of several 2020 ERA programs noted that their intake and application portals were not linked to their payment processing system, which created inefficiencies in processing checks. As program administrators set up their 2021 programs, they may want to consider centralizing or coordinating payment processing to reduce costs. Among other benefits, access to shared payment information might enable the state to determine that a local rental assistance program is not providing assistance quickly enough and decide to expand eligibility for the state's program to residents of that area. A coordinated payment process could also help separate program administrators identify assisted households to check for duplication of assistance.

2. Determining and documenting eligibility for program assistance

For a household to be eligible for assistance under an ERA program, it must be a renter household earning no more than 80 percent of AMI and meet BOTH of the following conditions, as determined by the program administrator:

- Has either “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 novel coronavirus disease (COVID–19) outbreak, which the applicant shall attest in writing,” and
- Can “demonstrate a risk of experiencing homelessness or housing instability, which may include:
 - (I) a past due utility or rent notice or eviction notice,
 - (II) unsafe or unhealthy living conditions, or
 - (III) any other evidence of such risk, as determined by the eligible grantee.”

According to Treasury’s FAQ, “there is no requirement regarding the length of tenure in the current unit,” indicating that renter households can receive assistance at their current residence even if they have only lived there for a short period of time, assuming they meet all other eligibility criteria.

Key considerations

States will want to ensure they only assist eligible households and can adequately document applicants’ eligibility. Different documentation decisions will affect how easily applications can be accepted and processed and, thus, how quickly assistance is disbursed. In addition, overly restrictive eligibility requirements may prevent households from receiving assistance they are entitled to or discourage households from applying. It may be useful to allow multiple and flexible ways for applicants to document eligibility to ensure assistance is provided to as many households in need as possible and that funds are expended in a timely manner.

Treasury’s FAQ encourages states to assist eligible households “without imposing undue documentation burdens.” For purposes of determining eligibility, states “may be flexible as to the particular form of documentation they require, including by permitting photocopies or digital photographs of documents, e-mails, or attestations from employers, landlords, caseworkers, or others with knowledge of the household’s circumstances.” Treasury also expects states to take steps to prevent fraud and abuse. States must:

1. “require all applications for assistance to include an attestation from the applicant that all information included is correct and complete;
2. “document their policies and procedures for determining a household’s eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations;
3. “have controls in place to ensure compliance with their policies and procedures and prevent fraud; [and]
4. “specify in their policies and procedures under what circumstances they will accept written attestations from the applicant without further documentation to determine any aspect of eligibility or the amount of assistance, and in such cases, grantees must have in place reasonable validation or fraud-prevention procedures to prevent abuse” [numbering added].

Guidance is provided below on five aspects of determining program eligibility:

- A. Determining and documenting household income
- B. Determining and documenting that a household is a renter
- C. Determining and documenting qualification for unemployment benefits
- D. Determining and documenting a loss of income or significant costs or financial hardship due to COVID-19
- E. Determining and documenting a risk of homelessness or household instability

A. Determining and documenting household income

The statute requires administrators of an ERA program to determine that an applicant household's annual or monthly income does not exceed 80 percent of AMI.

Definition of household income

Program administrators may base their determination of household income on either: "(I) the household's total income for calendar year 2020, or "(II) . . . the household's monthly income at the time of application for such assistance."

The determination of the applicant's household income must be made before any assistance is provided. If the program administrator bases the determination of income on the household's monthly income at the time of application, the administrator "must redetermine the household income eligibility every three months for the duration of assistance."

In defining household income, program administrators "may choose between using [the US Department of Housing and Urban Development's (HUD)] definition of 'annual income' in 24 CFR 5.609² and using adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 series for individual federal annual income tax purposes" (Treasury's FAQ).

Documenting the income determination

Per the FAQ, Treasury requires that program administrations "have a reasonable basis under the circumstances for determining income." As a general rule, this means that program administrators obtain BOTH "a written attestation from the applicant as to household income and also documentation available to the applicant to support the determination of income. . . ." In "limited circumstances," however, a program administrator may "rely on a written attestation from the applicant without further documentation of household income." (As described more fully below, program administrators also have limited discretion to provide waivers or exceptions to the documentation requirements.)

The guidance below on documenting income is informed by Treasury's FAQ on preferred forms of documentation, plus the experience of states that relied in part of self-certification of income in their previous rental assistance programs. As with other documentation requirements, allowing for some level of flexibility to document income will help to advance the goals of broadly serving households in need and reducing applicant frustration.

² See https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=24:1.1.1.1.5#se24.1.5_1609.

Income documentation sources specifically cited by Treasury

In cases where the household has already prepared and submitted a 2020 federal tax return, Treasury's FAQ confirms that this tax filing can be used as documentation of household income for 2020. Program administrators also may rely on tax forms documenting 2020 income, such as a W2 form and/or any 1099 forms.

In addition to tax filings and tax forms, Treasury's FAQ mentions the following as examples of documentation that can be used to document income: "paystubs, bank statements demonstrating regular income, or an attestation from an employer." These could presumably be used to document either 2020 income or current monthly income.

Other commonly used sources to determine and document income

In administering ERA programs in 2020, states and localities relied on a range of additional sources to determine and document income, beyond those listed above. States may find these sources to be useful in establishing income verification policies under the Emergency Rental Assistance Program as well:

- Documentation of income from the operation of a business or profession, including direct payments for services or self-employment, including for self-employed individuals
- Documentation of unemployment benefits
- Letter from employer indicating reduced pay
- Documentation of Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts
- Documentation of public assistance benefits
- Documentation of child support, alimony, or foster care payments

Alternate options to determine income, loss of income, or no income

As an alternative to reviewing documentation of individual components of household income, program administrators may rely on determinations of income made by other government agencies in connection with the receipt of means-tested programs, such as SNAP, TANF, SSI, WIC, Head Start, EITC, or Medicaid. (A [list](#) of additional means-tested federal programs is available on the US Department of Health and Human Services website.) Per Treasury's FAQ, "If an applicant's household income has been verified to be at or below 80 percent of the area median income in connection with another local, state, or federal government assistance program, grantees are permitted to rely on a determination letter from the government agency that verified the applicant's household income, provided that the determination for such program was made on or after January 1, 2020."

One state with a 2020 ERA program noted that gig jobs, such as driving for Lyft or DoorDash, do not provide pay stubs, and it therefore accepts photos of payment information within those apps as proof of income.

Self-certification of income

Finally, affidavits or self-certification options can serve as an efficient option for cases in which other documents are not available. Several states with 2020 ERA programs emphasized the importance of self-certification to facilitate efficient processing of payments and enable programs to serve households with

little or no income, and the states of Arizona, Florida, Idaho, Minnesota, and Virginia allowed applicants to self-certify a loss of income or zero income when other documentation was not available. Typically, an income self-certification form (1) includes a list of common categories of income for applicants to declare they have or have not received, (2) asks households to list their overall income over a certain time period, (3) provides language explaining penalties for misrepresentation of reported income, and (4) requires the applicant's signature.

Treasury's FAQ specifies that a written attestation of income without further documentation is acceptable in limited circumstances: "To the extent that a household's income, or a portion thereof, 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 from the applicant regarding household income. If such a written attestation without further documentation is relied on, the grantee must reassess household income for such household every three months. In appropriate cases, grantees may rely on an attestation from a caseworker or other professional with knowledge of a household's circumstances to certify that an applicant's household income qualifies for assistance."

Waiving (or providing exceptions to) documentation requirements

Per Treasury's FAQ, program administrators "have discretion to provide waivers or exceptions to [the] documentation requirement to accommodate disabilities, extenuating circumstances related to the pandemic, or a lack of technological access. In these cases, the grantee is still responsible for making the required determination regarding the applicant's household income and documenting that determination."

Program administrators that expect to use this waiver or exception authority should specify in their program guidelines that waivers of or exceptions to the documentation requirements may be requested, and indicate the criteria that will be used to grant those waivers or exceptions.

Determining whether an applicant's income is at or below 80 percent of AMI

In addition to determining an applicant's income, program administrators will need to ensure that assistance is provided to only those households at or below 80 percent of AMI. The Emergency Rental Assistance Program statute does not specify how AMI is to be calculated, except to defer to HUD's calculations. In the FAQ, Treasury states, "The area median income for a household is the same as the income limits for families published in accordance with 42 U.S.C. 1437a(b)(2), available under the heading for 'Access Individual Median Family Income Areas' at <https://www.huduser.gov/portal/datasets/il.html>." Specifically, 80 percent of area median income is the same as 'low income' . . . and 50 percent of the area median income for the household is the same as the 'very low-income limit' for the area in question."

As HUD explains in this [description](#) of its AMI methodology, HUD generally calculates AMI separately for households of different size within each metropolitan area and for each nonmetropolitan county, while also applying a floor based on the median income for all nonmetropolitan counties in the state. This approach has the advantage of taking into account variations in income across different parts of a state. HUD provides [tools](#) to enable web-based systems to query HUD's database and automatically retrieve the current AMI limits for a particular metropolitan area or nonmetropolitan county. HUD also provides a [query tool](#) to manually look up HUD's income limits.

Some states have inquired about using a single set of statewide income limits or using the higher of a statewide income limit or HUD’s metro-area or county median income limit. States interested in taking such an approach will want to consider whether it can be reconciled with the statutory definition that states, “‘area median income’ means, with respect to a household, the median income for the area in which the household is located, as determined by the Secretary of Housing and Urban Development.” HUD generally uses the term “area median income” to mean incomes for metropolitan areas and nonmetropolitan counties; however, it does calculate [state-level income limits](#) as well.

If a state were to determine that a state-wide income limit is legally permissible under the statute and Treasury guidance, the use of a single set of statewide income limits would be easier to administer. However, in states where incomes vary significantly across counties or between urban and rural areas, a statewide AMI threshold could leave out many otherwise-eligible households in areas characterized by relatively higher incomes and identify as eligible many households in areas with comparatively lower incomes that may have less need for assistance. This could make it more difficult for states to fully expend available resources.

HUD calculates AMI based in part of the number of individuals in a household. A household applying for emergency rental assistance may be a family that shares all expenses, or it may comprise unrelated adults who may or may not share expenses but live in the same household. Program administrators will want to consider how to determine eligibility for a household in which, for example, two adults are on a lease and one adult has an income below 80 percent of AMI and cannot afford her share of the rent, but a second adult has an income above 80 percent of AMI. Another common example that program administrators may want to consider is a household in which only one person is listed on a lease and applies for assistance, but the household includes additional unrelated adults that do or do not contribute to the rent.

Using monthly income to determine eligibility

Program administrators have the option of using monthly or 2020 annual income to determine whether an applicant’s income is at or below 80 percent of AMI. In cases in which a household’s current income is below its 2020 income—for example, if the applicant lost their job—focusing on monthly income at the time of application may provide a more accurate picture of household need.

Per Treasury’s FAQ, “If a grantee uses a household’s monthly income to determine eligibility, the grantee should review the monthly income information provided at the time of application and extrapolate over a 12-month period to determine whether household income exceeds 80 percent of area median income. For example, if the applicant provides income information for two months, the grantee should multiply it by six to determine the annual amount.”

In 2020, Minnesota documented monthly income in the following way:

Documentation of income for the prior four weeks includes:

- If employed, obtain pay stubs for the prior four weeks. Pay stubs should be the most recent and just prior to the date the household is seeking assistance. If a household has inconsistent income, for example, they work varied hours, obtaining additional pay stubs is recommended. If a household is unable to

provide pay stubs, third party verification from the employer is acceptable and should be clearly documented in the household file.

- Documentation of cash assistance such as Social Security income or public assistance
- Documentation of child support, alimony, or foster care payments
- Documentation of any income received for self-employment
- If a household is without income, obtaining a self-certification of zero income

Program administrators taking a similar approach would then calculate an annual income based on four weeks or one month of income and determine if that amount is at or below 80 percent of AMI.

As specified in Treasury’s FAQ, if “a household qualifies based on monthly income, the grantee must redetermine the household income eligibility every three months for the duration of assistance.” (Annual income for 2020 doesn’t need to be reexamined every three months unless it was established by self-attestation.)

B. Determining and documenting that a household is a renter

According to Treasury’s FAQ, to verify that a household is a renter, program administrators must “obtain, if available, a current lease, signed by the applicant and the landlord or sublessor that identifies the unit where the applicant resides.” If such a lease is not available, “documentation of residence may include 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.” States will want to develop policies and procedures for determining what documentation they will accept to determine residency when a current and signed lease is not available, and steps they will take to minimize fraud.

Due to the length of the pandemic, many standard one-year leases may have expired and households may currently be renting on a month-to-month basis. To avoid payment delays or discouraging households without current leases from applying for assistance, states may want to allow for alternate documentation of tenancy during the application process. For example, as part of an online application process, a state might allow applicant households to attest that they are renting on a month-to-month basis from a landlord and have that information automatically included as information for the landlord to confirm when agreeing to accept assistance payments.

Several states and localities that administered emergency rental assistance in 2020 required applicants to submit current leases. Some program staff noted that some households have informal arrangements with landlords and may not have a standard lease or previously had a lease but now rent on a month-to-month basis without a lease. In such cases, program administrators may want to offer an alternative method to document that a renter household actively resides in and rents a unit. New Jersey, for example, required households without a current lease to sign a certification that they still resided in the rental unit for which a landlord was applying for assistance.

States and localities administering ERA programs in 2020 encountered other scenarios that states may want to anticipate so they can determine whether to provide rental assistance in these scenarios and how to document that such households are renters:

- Renting a motel or hotel room
- Residing in a mobile home park. Maine provided rental assistance to households that owned a mobile home but rented a space in a park; assistance was limited to the space rental and did not cover other park fees.
- Unrelated adults renting a single unit, including cases in which one or more tenants is not listed on the lease or sublets from another, and thus does not have a direct relationship with a landlord. Idaho allowed for payments to individuals in a shared unit but faced challenges confirming that information about an individual tenant was coming from the landlord and not a roommate or sublessor.

Some states and localities administering emergency rental assistance in 2020 excluded certain types of households or units. For example, New Jersey excluded households that had recently been evicted from a unit, properties that were seasonal or vacation rentals, or units for which the rent charged was greater than a predetermined threshold based on rent levels that would be affordable for a household making 80 percent of AMI. Other states excluded households renting from a family member, those with an ownership interest in the property, and those in lease-to-own contracts. Three states excluded households residing in federally subsidized housing:

- Maine excluded households with a Section 8 Voucher or residing in Section 8 apartments, those receiving rental assistance from US Department of Agriculture Rural Development, and those residing in public housing.
- Minnesota excluded households receiving income adjusted assistance.
- Idaho excluded households in “subsidized housing or using a Housing Choice Voucher or equivalent.”

While excluding certain households may be reasonable, or even necessary to avoid duplication of assistance, states might want to consider whether unnecessarily excluding certain households will hinder their ability to expend program funds, especially in light of the larger amount of available funding under the Emergency Rental Assistance Program relative to CARES Act funding in 2020.

C. Determining and documenting qualification for unemployment benefits

To qualify for assistance, a household must have either “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 novel coronavirus disease (COVID–19) outbreak, which the applicant shall attest in writing.”

Program administrators will need to consider how applicants will document qualification for unemployment benefits. Treasury’s FAQ indicates that states may rely on either “a written attestation signed by the applicant or other relevant documentation regarding the household member’s qualification for unemployment benefits.”

One source of relevant documentation would be proof of receipt of unemployment benefits, which could be provided either by the applicant or directly by the state unemployment agency. To reduce administrative costs and burden, program administrators would ideally coordinate with state unemployment agencies to verify an applicant’s receipt of unemployment benefits.

Note, however, that receipt of unemployment benefits is not required, only *eligibility* for receipt; not all individuals that qualify for unemployment benefits [apply for](#) or [receive](#) them. For those applicants, program administrators may want to include a determination of eligibility for unemployment benefits in the application process that does not exclude individuals who have not received assistance. Such determination could be made using a state’s eligibility requirements for unemployment benefits, in which case “relevant documentation” might mirror that required by the state for eligibility for unemployment assistance.

Similarly, if a state relies on written attestation, such as in instances when documentation is unavailable or would impose “undue documentation burdens,” it may want to include the state’s eligibility criteria for unemployment benefits in the attestation and have applicants confirm that they meet each criterion.

Treasury’s FAQ notes that states should develop standard policies and procedures for making a determination that an applicant has qualified for unemployment benefits, including under what circumstances written attestation will be allowed, and document the determination. Additionally, states “must also have controls in place to ensure compliance with their policies and procedures and prevent fraud,” and for states that accept written attestation, they “must have in place reasonable validation or fraud- prevention procedures to prevent abuse.”

D. Determining and documenting a loss of income or significant costs or financial hardship due to COVID-19

As an alternative to documenting qualification for unemployment benefits, program administrators may document that a household has “experienced a reduction in household income, incurred significant costs, or experienced other financial hardship” due directly or indirectly to COVID-19. Loss of income should be documented using the approaches discussed above for documenting income, though states will also need to verify that the loss of income is related directly, or indirectly, to COVID-19. The statute does not specify how much of a reduction in income would be needed to qualify for assistance. Program guidelines should specify whether a simple reduction is sufficient or whether a reduction of a particular size is needed to qualify for assistance under this prong.

The balance of this section focuses on options for program administrators to document significant costs or financial hardship related to COVID-19. In general, a flexible approach to determining COVID-related costs and hardship may be advisable, so long as program administrators document and verify information provided by applicants to the extent feasible.

Significant costs and financial hardship

To date, Treasury has not issued guidance on what constitutes “significant costs” or “financial hardship” due directly or indirectly to COVID-19. Treasury’s FAQ reiterates that states basing the award of emergency assistance on a household having “incurred significant costs, or experienced other financial hardship” due directly or indirectly to COVID-19 are required to “to obtain a written attestation signed by the applicant that one or more members of the household meets this condition.” States will want to develop policies and procedures for determining and documenting under what circumstances to accept the attestation and what constitutes significant costs or financial hardship. Additionally, per the FAQ, states “must have in place reasonable validation or fraud-prevention procedures to prevent abuse.”

Potential expenses states may want to consider counting toward significant costs, and that may contribute to financial hardship, include the following:

- Healthcare costs, including care at home for individuals with COVID-19
- Purchase of personal protective equipment (PPE)
- Penalties, fees, and legal costs associated with rental or utility arrears
- Payments for rent or utilities made by credit card to avoid homelessness or housing instability
- Moving costs for households that moved to avoid homelessness or housing instability
- Childcare costs
- Internet access and computer equipment required to work or attend school remotely
- Alternative transportation for households unable to use public transportation during the pandemic

As part of its fraud-prevention procedures, states may opt to verify these costs with receipts, payment statements, bank or credit card statements, or other documentation. A form describing the hardship and how it ties to COVID-19, signed by the applicant, may be helpful for documenting the connection of the hardship to COVID-19. Alternately, a state may rely on attestations from employers, landlords, caseworkers, or others with knowledge of the household's circumstances.

E. Determining and documenting a risk of homelessness or housing instability

A final requirement for eligibility is that “1 or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability, which may include: (I) a past due utility or rent notice or eviction notice; (II) unsafe or unhealthy living conditions; or (III) any other evidence of such risk.”

The inclusion of the phrase “or . . . any other evidence of such risk” in the statute implies that the conditions specified—a past due utility or rental notice or eviction notice and unsafe or unhealthy living conditions—are meant to be illustrative examples, rather than the only permissible evidence for making a determination that a household is at risk of homelessness or housing instability. While the statute gives states some discretion to determine how this criterion can be satisfied, it will be important for program administrators to develop and document specific procedures “addressing how they will determine the presence of unsafe or unhealthy living conditions and what evidence of risk to accept in order to support their determination that a household satisfies this requirement” (Treasury’s FAQ). In instances in which a program administrator determines that an applicant is at risk of “unsafe or unhealthy living conditions,” it may make sense to provide assistance only if the applicant is moving to a new and safer residence, or if the safety or health risk is otherwise mitigated.

While some indicators of risk may be relatively easy to obtain, such as an eviction notice or notice of utility arrears, other will necessarily have to rely on self-certification of applicants. Examples of potential indicators of risks include the following:

- An eviction notice
- A past due utility or rental notice
- Living in unsafe or unhealthy living conditions, such as conditions that increase the risk of exposure to COVID-19 due to overcrowding
- A housing cost burden that makes it difficult for renters to afford their housing costs
- Informal rental arrangements with little or no legal protection

- History of or potential for exposure to intimate partner violence, sexual assault, or stalking
- Evidence the household is forgoing or delaying the purchase of essential goods or services in order to pay rent or utilities, such as food, prescription drugs, childcare, transportation, or equipment needed for remote work or school
- Harassment or verbal threats of eviction by a landlord
- Evidence that household is relying on credit cards, payday lenders, or other high-cost debt products, or depleting savings, to pay for rent or utilities, rather than wages or other income

States may want to include a checklist of these and other indicators of risk of homelessness and housing instability in its application for assistance and allow applicants to describe and certify the risks they face. Care should be taken to protect the privacy of sensitive information shared by applicants. For more information, see Part 8 on data security and privacy.

3. Determining and documenting the amount and types of assistance to be provided per tenant household

The statute requires administrators to use no less than 90 percent of their program’s allocation to provide financial assistance for households in one or more of five areas: (1) rent, (2) rental arrears, (3) utilities and home energy costs, (4) utilities and home energy costs arrears, and (5) other housing-related expenses incurred, due directly or indirectly, to the pandemic, as defined by the Secretary of the Treasury.

The statute places three limitations on the amount and types of assistance that can be provided:

- Assistance can be provided for a total of up to 12 months (or 15 months when necessary to ensure housing stability, subject to funding availability).
- For renters with rental arrears, assistance with prospective rent cannot be provided unless assistance is also provided to reduce rental arrears.
- Prospective payments to cover future rent obligations cannot exceed 3 months, unless the applicant reapplies and the program administrator has funds remaining. In addition, the total months of assistance to the applicant (including both prospective and retrospective assistance) may not exceed 12 months (or 15 months when necessary to ensure housing stability, subject to funding availability).

Treasury’s FAQ indicates that households may apply for assistance for prospective rent even if they do not have rental arrears.

Key considerations

It appears that states have a great deal of flexibility to determine the type and amount of financial assistance to provide to applicants, including which types of assistance to provide, the length of time that assistance will cover, and any caps on assistance, such as a monthly maximum. Treasury’s FAQ notes that while “full payment of arrears is allowed up to the 12-month limit,” states may choose to “provide less than full coverage of [rental and utility] arrears.” States may provide assistance for arrearages that have accrued since March 13, 2020, the date of the COVID-19 emergency declaration.

Assuming that demand for assistance outstrips available funds, states will need to determine whether they wish to provide deeper assistance to fewer individuals and households or provide shallower levels of assistance to more individuals and households, while ensuring that funds are used as intended and efficiently deployed in a timely manner.

The following sections provide considerations and recommendations for several decisions states will need to make in designing their emergency rental assistance programs:

- A. Identifying household needs for rental assistance
- B. Determining whether to provide deeper assistance to a smaller number of households or shallower assistance to a larger number of households
- C. Making key decisions about the amount of assistance to be provided
- D. Balancing assistance for prospective rent versus rental arrears
- E. Implications for providing single versus multiple payments for one household
- F. Determining and documenting rental arrears and payment amounts
- G. Determining whether to assist with utility arrears and documenting assistance
- H. Determining and documenting housing stability services
- I. Determining and documenting other housing-related expenses due to the pandemic, including internet service

A. Identifying household needs for rental assistance

In determining the amount of rental assistance to provide, it may be useful for states to first develop an estimate of the number of households at risk of eviction and the needs of households that are likely to qualify for assistance in different parts of the state. Once discounted to reflect that not all needy households are likely to apply, this estimate of need can be compared to the total available funding to provide a rough indication of the extent to which the state will need to ration assistance.

States that administered emergency rental assistance programs in 2020 can draw on their experience to help determine whether payment amounts may need to be adjusted in 2021, based on feedback from landlords and tenants, the extent of landlord cooperation with the program, and data on the number of households assisted, including those that sought assistance more than once.

States without this experience could consider consulting sources of information about typical rents across the state and the number of households who may be at risk of eviction. One key source of information is the HUD database of [Fair Market Rents](#) (FMR) across the state. The FMR is typically calculated as the 40th percentile of gross rents of recent movers in a local housing market and is used to set payment standards for the Housing Choice Voucher program. Looking at the variation of rents across the state can help states determine average rents the assistance may need to cover. It can also help states determine whether to set a single flat cap on monthly rental assistance for households needing assistance across the entire state (e.g., \$1,000) or whether the variation in rents across the state means that payments should be higher in some areas and lower in others to make the assistance more meaningful in preventing evictions and sufficient to incentivize applicants and landlords to participate.

States may also find information from the US Census Bureau's [Household Pulse Survey](#) to be useful in considering the amount of assistance to provide. Data are available for all states and a limited number of metro areas and provide information on households' self-reports on housing cost burden, housing insecurity, and likelihood of eviction or foreclosure. States in which a relatively high share of households

face these conditions may want to consider providing shallower assistance to more households; states where the need is not as widespread may be able to provide deeper assistance to fewer households. In considering these data, however, states are advised to remember that experience suggests not all eligible households will apply for assistance.

Another potential source of information to help determine household need for rental assistance is unemployment benefits data, as seen in this [analysis of unemployment insurance in New York](#). States may want to examine how unemployment claims and receipt of benefits vary across counties or metro areas, how trends may have changed over time, and whether certain populations are more likely to be unable to meet rental obligations—and then tailor ERA program assistance accordingly.

B. Determining whether to provide deeper assistance to a smaller number of households or shallower assistance to a larger number of households

In states where the expected demand for assistance will exceed available funds, program administrators will have to consider if and how to target assistance based on household needs. Some states might choose to prioritize larger payments to fewer households. This targeting strategy could ensure that those most in need are given ample help to cover any rental arrears as well as current plus prospective rent, providing them with a greater degree of stability than would be possible with smaller levels of assistance. The risk with this approach is that a state depletes its funds without assisting all households in need, leading some eligible households to receive no assistance at all.

Other states might choose to provide a lower level of assistance to each household in order to reach as many households as possible. With this approach, states may ensure that all, or nearly all, households in need get at least some assistance, broadening the reach of the state program and its benefits. However, the level of assistance provided may be insufficient for some households, and they may continue to face housing instability.

C. Making key decisions about the amount of assistance to be provided

The following are some of the key decisions that need to be made in determining how much assistance to provide to each household:

- For how many months of assistance can a household apply?
- What is the maximum amount of assistance that a household may receive for any given month?
- Should assistance be provided based on actual rents, or based on a flat payment level for each household?
- Will assistance be provided for prospective needs, or just to meet past needs?
- Will assistance be limited to rent or also cover utilities or other housing-related expenses?

The considerations reviewed above—the aggregate estimated amount of need versus the total level of assistance available, and the variation in rent levels across the state—may help states determine the number of months of assistance to allow applicants to apply for and whether to set a single maximum amount of monthly assistance for the entire state or to vary it by region. States administering emergency rental assistance in 2020 took different approaches to determining whether to base assistance on actual rent levels or to provide a flat level of assistance. Some states, such as Arizona, paid actual amounts of past-due and prospective rents based on the needs of the specific households. Others

paid a flat amount to landlords for each tenant in need of assistance. Illinois, for example, made payments of \$5,000 to landlords to cover rental arrears and current rent.

Payments based on specific household needs are more likely to avoid over- or under-assisting households, but the approach is more administratively intensive. Flat payments help ensure that assistance is provided quickly, but some households may not receive enough assistance (because the flat payment does not cover the full amount or as many months of rent in higher-cost areas) and for other households the assistance may be more generous than needed to avoid eviction.

Maximum assistance levels are important for ensuring that funds are available for as many households as possible. But caps that are too low may fail to provide households with the stability they need. Low caps may also complicate efforts to obtain broad participation. Some 2020 ERA programs ran into problems when low caps below actual rent levels led landlords to decide not to apply. While this risk will also be present with the new Emergency Rental Assistance Program, the total amount of available funds is larger and assistance can be provided for up to 12 months (or 15 months in certain situations). One key question that states will need to consider is whether the payment of a discounted level of assistance, such as 75 cents per dollar of rent owed, for up to one year, is a sufficiently large incentive to encourage landlords to agree to accept the payments and forgive the remaining charges. This approach carries the risk that landlords will not agree and the household will remain vulnerable to eviction. But if landlords were to agree to the terms, it could be a way to stretch scarce dollars further to assist more households. While administratively more complex, a related approach might be to pay a discounted level at first, followed by a second payment later if funds remain after a certain window has closed.

The sections below discuss the issues of prospective versus past needs and whether to cover utility expenses and arrears, as well as the related issue of whether to make a single or multiple payments.

D. Balancing assistance for prospective rents versus rental arrears

The statute requires that assistance to a household be directed first to reduce rental arrears if there are any. Then, at the program administrators' discretion, assistance can be used to assist with up to 3 months of prospective rent. Additional assistance for prospective rent may be provided if an applicant reapplies, provided funds still remain. The total assistance provided to a household may not exceed 12 months (or 15 months if necessary to ensure housing stability).

In states where demand is expected to exceed the available funds, the decision of whether to make payments for prospective rent, or just past arrears, is closely tied to the overall determination of whether to provide more assistance to fewer households, or to spread assistance to more households more thinly. Also relevant is a determination of how to balance assistance between households with greater need and those with perhaps less urgent needs for assistance.

Households that do not currently have any rental arrears but are in need of assistance with prospective rent could be argued to have less pressing needs than households that need assistance with both past and future rent. Depending on the state's eviction timeline, it may be that even with no ability to pay future rent, a household with no rental arrears could have several months before eviction becomes likely. During that time, household circumstances could change. For example, with vaccine distribution more widespread, the service sector jobs that usually employ many Americans could return. In comparison, for households that are already several months behind on rent, eviction may be imminent, and there will likely be far less time for circumstances to improve. In addition, these households may

have amassed a budget deficit that will be difficult if not impossible to recover from, even if circumstances do improve.

States that anticipate having enough funding to assist with rental arrears but not enough to provide prospective assistance will need to consider whether this level of assistance will be sufficient to help the households maintain residential stability. It may depend, in part, on whether landlords are willing to agree to postpone eviction for a certain period of time in exchange for receipt of the back rent. If so, this solution may be a way to promote stability for as many people as possible with limited funds. But if not, states may want to consider providing both past and prospective assistance to help ensure that assisted households are stabilized, even if the state is not able to help everyone in need.

E. Implications for providing single versus multiple payments for one household

The decision to provide single or multiple payments also requires states to weigh several factors. A single payment is a faster, more efficient method of getting funds to landlords or tenants. On the other hand, a single payment only addresses a household's need at one point in time and may not be enough to help a household remain stably housed over the long term. Allowing for multiple payments is more administratively burdensome but may better serve the long-term needs of households and, when the payments are relatively small because they cover a short time span, may help states stretch their funds. A state might consider a hybrid approach that includes an initial relatively large payment to address rental arrears and three months of prospective rent, which may be sufficient to address the needs of most households and reduce the number of households that reapply; payments for households that reapply could be determined based on funding availability.

F. Determining and documenting rental arrears and payment amounts

States will need to develop a policy for determining what documentation is acceptable for documenting rental arrears. As with documentation of other program elements, it is important to balance the need for efficiency and quickly providing assistance to eligible households with the need to mitigate the risk that funds will not be used as intended. According to Treasury's FAQ, states must obtain, if available, a current lease "that identifies the unit where the applicant resides and establishes the rental payment amount."

In the absence of such a lease, program administrators can develop an alternate approach to establish the amount of rent owed each month. The Treasury FAQ indicates that grantees may rely on documentation such as "bank statements, check stubs, or other documentation that reasonably establishes a pattern of paying rent, a written attestation by a landlord who can be verified as the legitimate owner or management agent of the unit, or other reasonable documentation as defined by the grantee in its policies and procedures." To verify ownership or management of a unit, states might rely on the W-9 forms supplied by landlords, property tax records, mortgage or insurance documentation, or a management agreement, among other documentation.

Recognizing that some tenants may have informal rental arrangements, and that landlords vary in terms of the sophistication of their bookkeeping processes, states may want to accept a wide range of documentation of rental arrears and current and prospective rents. Information about arrears may be provided by an applicant via a past-due bill, an eviction notice, a PDF or screenshot from an online payment portal, or a letter or email from a landlord to a tenant. Current and prospective rent amounts

may be provided in a lease or bill or online payment portal. Some landlords may be able to provide rent rolls with detailed information across multiple units.

In cases in which an applicant household is able to document residency but not the rental amount, program administrators “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 unit is located. Fair market and small area fair market rents are established by HUD and available at www.huduser.gov/portal/datasets/fmr.html. In such cases, to avoid duplication of assistance, the applicant should also attest that “the household has not received, and does not anticipate receiving, another source of public or private subsidy or assistance for the rental costs that are the subject of the attestation.” Households may only receive three months of rental assistance under the scenario described in this paragraph; to receive additional assistance, a program administrator must obtain new evidence of rent owed, such as through the means described in the preceding paragraphs in this section. This limitation is intended “to provide the most vulnerable households the opportunity to gather additional documentation or negotiate with landlords in order to avoid eviction,” and Treasury “expects that in most cases the household would be able to provide documentation of the amount of the rental obligation in any applications for further assistance.”

G. Determining whether to assist with utility arrears and home energy costs and documenting assistance

Treasury’s FAQ regulates what utilities can be assisted by ERA programs: “Utilities and home energy costs are separately stated charges related to the occupancy of rental property. Accordingly, utilities and home energy costs include separately stated electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil. . . . Utilities and home energy costs that are covered by the landlord will be treated as rent.” Payments may be made to public utilities. Additionally, the FAQ notes that assistance for utility arrears and home energy costs can be provided to a household that is not receiving assistance for rent.

In the FAQ dated January 19, 2021, Treasury indicated that telephone, cable, and internet services are not utilities and thus are ineligible for assistance. Treasury’s February 22 guidance does allow for payments for internet service within the category of “other expenses related to housing incurred due, directly or indirectly, to” the pandemic. See Section I below for more information on payment for internet service.

It is unclear whether a state could provide utility assistance for a different period from the period used to provide rental assistance in cases where the payments together would span more than 12 (or 15) months. Assuming utilities were not provided for more than 12 (or 15) months, and rental assistance also did not span more than 12 (or 15) months, a program administrator could argue that the state had complied with the limits on duration of assistance. On the other hand, there is some risk that Treasury could determine the state was *not* in compliance with the limit on duration of assistance if some form of assistance was provided to cover expenses across more than 12 (or 15) months.

In deciding whether to provide assistance for utilities, states may want to consider several factors. Since payments must be made directly to landlords and utilities unless they refuse to accept them, providing assistance for utilities will likely increase the complexity of the program as well as administrative costs. It may also lead to separate applications from some households—for example, if a landlord applies on behalf of a tenant for rent and the tenant applies on their own behalf to cover their utility costs. States

that provide utility assistance will likely want to consider caps on assistance to avoid paying legitimate but exorbitant utility arrears, which sometimes occur in certain states during weather emergencies.

Some states and localities with ERA programs in 2020 opted not to make payments to utility providers. Recognizing that renters need utilities as well as the unit itself, other programs provided funding for utility payments. One 2020 ERA program provided assistance for utilities only if they were part of the lease and billed by the landlord. Other households needing assistance with utilities were referred to a separate program specifically for utilities. In 2020, Florida only paid utility payments that were past due, while other states paid both past due and current utility bills. Minnesota, for example, paid for heating fuel that is typically purchased in advance, such as oil, propane, and wood.

States may be able to document utility arrears through a past-due statement, notice of service cutoff, or PDF or screenshot from an online payment portal. Given that some utility providers may serve a large number of potential program applicants, states should consider coordinating with utility providers to efficiently verify arrears and process payments. Additionally, to facilitate the provisions of utility assistance, states might consider coordinating with or subgranting to state programs or agencies that have experience working closely with or regulating utility providers, such as [LIHEAP programs](#) or [utility commissions](#). For more information, refer to the intake process section of Part 6 below.

H. Determining and documenting housing stability services

The Emergency Rental Assistance Program allows states to use up to 10 percent of their program funds for housing stability services to eligible households (see Part 2, Determining and documenting eligibility for program assistance, for eligibility requirements). According to Treasury’s FAQ, stability services should be “related to the COVID-19 outbreak” and help households “maintain or obtain housing.” The guidance indicates that stability services may include but are not limited to the following categories:

- Housing and fair housing counseling
- Case management related to housing stability
- Housing-related services for survivors of domestic abuse or human trafficking
- Attorney fees related to eviction proceedings
- Specialized services for people with disabilities or seniors that help them access or maintain housing

States that elect to provide stability services should consider establishing a process for determining under what circumstances services will be provided and by whom, and whether to place a cap on the amount of stability services the state will fund through the Emergency Rental Assistance Program. States might also consider how to identify households in need of stability services, such as by incorporating questions about the need for available services into its intake process.

Treasury’s FAQ additionally require states to document the stability services provided and the amount of program funds used for these services. States will want to document that stability services are provided only to eligible households, while taking care to protect the privacy of vulnerable recipients of services, such as survivors of domestic abuse. For more information, see Part 8, Record keeping, reporting, and data security.

I. Determining and documenting other housing-related expenses due to the pandemic, including internet service

The Emergency Rental Assistance Program enables states to assist eligible households with “other expenses related to housing incurred due, directly or indirectly, to the novel coronavirus disease (COVID-19) outbreak, as defined by the Secretary.” Treasury’s FAQ clarifies that assistance for other expenses may include, but are not limited to:

- “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.”

As with other ERA program components, states that assist households with “other expenses” should take care to develop policies and procedures to determine allowable expenses, how much assistance may be provided and under what circumstances, and how the state will document assistance provided. States will also want to consider how assisting with other expenses may limit their ability to provide rental or utility assistance. All expenses “must be supported by documentary evidence such as a bill, invoice, or evidence of payment to the provider of the service.”

The following are some of the expenses states may wish to consider reimbursing eligible households for:

- Rental fees associated with displacement due to COVID-19, such as application fees, security deposits, renter’s insurance, utility hookups, or move-in/move-out fees
- Moving costs for households displaced due to COVID-19, such as temporary storage, supplies, or transportation expenses
- Purchase of PPE
- Penalties, fees, and legal costs associated with rental or utility arrears (accrued late fees are an allowable expense when incurred due to COVID-19 and not included in rental or utility arrears)
- Payments for rent or utilities made by credit card to avoid homelessness or housing instability
- Internet access and computer equipment required to work or attend school remotely

Treasury’s FAQ notes the importance of internet service for renter households, but they also that providing assistance for internet service will reduce the funds available for rental assistance. For this reason, the FAQ states that program administrators “should adopt policies that govern in what circumstances that they will determine that covering this cost would be appropriate.” States may want to limit assistance for internet service to applicant households that attest it is necessary, for example, for work, school, or access to health or government services. States should also consider how assistance may be provided for internet service and for how long (potentially including costs incurred in the past if the service was essential for the household, such as a household that added internet service during the pandemic for a child to attend school). To receive assistance, applicant households will need to provide a “bill, invoice, or evidence of payment to the provider of the service.” As internet service is often bundled with phone or cable service, states that elect to assist with internet service will need to develop a policy for determining how much assistance to provide when the cost of the service is not clear, such as by providing a flat payment amount based on [typical costs for service](#) in an area. States might also consider referring households in need of assistance with internet service expenses to other programs, such as the Federal Communications Commission’s forthcoming [Emergency Broadband Benefit](#).

4. Prioritizing eligible households

The Emergency Rental Assistance Program requires states to prioritize applications from households that meet one or both of two criteria: (1) eligible households in which the household income does not exceed 50 percent of AMI, and (2) households in which one or more individuals is unemployed as of the date of application for assistance and has not been employed for at least the past 90 days. The statute also notes that further prioritization is allowed, such as for “eligible households in which 1 or more individuals within the household were unable to reach their place of employment or their place of employment was closed because of a public health order imposed as a direct result of the COVID-19 public health emergency.”

Neither the statute, nor Treasury’s FAQ, specifies how states should prioritize applications from these populations. States apparently have wide latitude to develop a system of prioritization. Treasury does indicate that states “should document the preference system they plan to use and should inform all applicants about available preferences.” Presumably, this also means that states have flexibility to adapt priorities over time, so long as they update their policies and procedures and explain the new policies to applicants.

Key considerations

- Prioritizing applications can help ensure that the households and landlords that most need assistance receive it.
- Including additional prioritization categories may require collecting additional documentation or other information from applicants and generate additional work for the program administrator and partner organization staff.

Additional priority categories

Adding additional priority categories can help states better target certain populations, including those with the greatest need for assistance or other special populations. Adding additional prioritization requirements can complicate the application and determination processes, however, thus potentially slowing the total distribution of funds. The relative importance of further prioritization may depend on the extent to which the state anticipates demand for rental assistance that exceeds available funds. To the extent the state anticipates being able to serve all or nearly all of the demand, there is less need to identify additional priorities. But if a state anticipates being able to serve only a modest fraction of the total need and decides to focus on serving fewer households with deeper levels of assistance to promote housing stability, prioritization becomes a critical issue.

The following are potential additional priority categories of households to consider:

- **Households currently facing eviction proceedings or lacking eviction protections.** States might consider prioritizing households with an existing writ of eviction already filed in court, or with no federal eviction or foreclosure deferral protections for rental assistance, as Virginia did for its 2020 program.
- **Households with extremely low or no income.** States might consider prioritizing households with incomes well below the 50 percent of AMI required by the statute, such as households at or below 30 percent of AMI, an income category prioritized for deep federal rental subsidies

due their high level of housing need. Minnesota prioritized households at or below 200 percent of the federal poverty rate; states may also consider prioritizing households with no income.

- **Households in areas or regions hard hit by COVID-19.** Another approach would be to prioritize households living in geographic areas that experienced high rates of COVID-19. Illinois, for example, set aside \$100 million in rental assistance in 2020 for households in Disproportionately Impacted Areas, the state's designation for regions hard hit by COVID-19.
- **Households already receiving other income-tested assistance.** States could prioritize households that have already qualified for and receive income-tested assistance, such as households with children, or are participating in programs, such as Temporary Assistance for Needy Families or Medicaid. Proof of qualification for these programs could serve as documentation of their income, potentially reducing the burden of collecting additional information.

Strategies for prioritizing applicants

Whether for the two populations that grantees must prioritize under the Emergency Rental Assistance program statute, or for additional layers of prioritization, states will need to determine how to prioritize assistance. The statute does not provide guidance on how to do this. The following are a number of options to consider.

- **Opening the application process early for prioritized households.** One approach is to open the application process for certain priority households first to ensure they receive assistance. Giving these households additional time to apply would help them overcome obstacles such as a lack of regular access to the internet or technological know-how. An early application process would ensure that the applications of prioritized households would be reviewed early and ample resources would be available to assist them. However, this approach would potentially delay assistance for other eligible households, as their applications would be reviewed separately at a later date.
- **Moving priority households' applications to the top of the queue.** Another approach would be to accept applications for all households at the same time, but to fund applications from priority households immediately (once received and verified) and wait to serve other households for some defined period of time to see if enough assistance remains after serving the prioritized households. Idaho moved households with lower incomes to the top of their application list to ensure that this population received assistance quickly. This approach ensures that priority households receive assistance quickly but involves more management and oversight from program staff.
- **Reserving a predetermined share of overall funding for a group of priority applicants.** A third potential approach would be to designate a portion of a state's rental assistance as reserved for priority applicants, allowing all applicants (including any priority applicants not able to be served through the set-aside) to compete for the remaining funds. This would provide designated resources for the neediest households but not delay assistance to other eligible households. Depending on the amount of the set-aside, however, it might not be enough to cover the needs of all priority households.
- **Covering a greater share of rent payments for priority applicants.** Another strategy would be to provide a higher amount of rental and/or utility assistance for priority applicants. This would ensure that priority households receive more rental assistance but would potentially result in a smaller number of households receiving assistance overall as compared with a strategy that provided all households with a similar level of assistance.

The statute does not address the question of how to integrate the statutory preferences with additional preferences set by program administrators. One approach would be to apply the state or locally determined preferences within the federal preferences. Here are three examples:

1. First priority:
 - a. Households with incomes below 30 percent of AMI
 - b. Households that are unemployed at the time of application and have been unemployed for at least 90 days
 - c. Households with incomes below 50 percent of AMI who are veterans or elderly
2. Second priority:
 - a. All other households with incomes below 50 percent of AMI
3. Third priority:
 - a. All households that do not qualify for first or second priority

In this approach, all households within the first and second categories are eligible for the federal preference, but local preferences prioritize certain households within the federal preference categories above others.

An alternative approach would be to give local preferences equal weight to the federal preference categories, even if the households identified by the local preferences are not a subset of those granted federal preference. This method is not specifically prohibited by the statute, but it runs the risk that Treasury could determine that it is not permissible.

Among individuals within each preference category, and for the pool of applicants overall, states will need to decide whether to use a first-come, first-served approach, or instead to use a lottery to rank the applications of all households that apply within a certain window of time. A first-come, first-served basis allows applications for assistance to be processed in a timely manner and for households to receive assistance quickly. It is also a straightforward way to manage the application process. Illinois used this first-come, first-serve approach for prioritization. This approach can be strengthened when combined with outreach efforts to special populations, as it can help ensure that people needing extra assistance with the application process receive it in a timely fashion. Without any extra assistance, a first-come, first-served approach could mean that people with barriers to applying (e.g., households with limited English proficiency [LEP], lacking internet access, or from marginalized populations) may not receive assistance.

A lottery approach, such as is sometimes used to prioritize applicants for Housing Choice Vouchers. This method can be a useful when large numbers of households are expected to apply within a relatively short window of time, and when basing awards on households' relative awareness of the assistance and quicker application raises fairness concerns. A lottery approach can also be helpful for making a final decision about how to ration available assistance since it allows the state to definitively determine the demand for assistance. A lottery left open for too long, however, can delay assistance to people who may need help right away to avoid eviction.

States could conceivably combine the approaches by serving people within very specific categories of high need right away, in the order in which their applications were received, while distributing remaining assistance by lottery after a designated window of time has passed.

5. Determining and documenting the payee and any related requirements

Under the Emergency Rental Assistance Program, payments for rent and rental arrears must be made to landlords and utilities and home energy costs and arrears must be made to utility providers, except in instances when the landlord or utility provider does not agree to accept a payment on behalf of a household. In those cases, payments can be made directly to a household. ERA programs must document all payments.

Key considerations

ERA programs must develop processes for making payments to landlords. If they choose to fund utility arrears or costs, they must also develop processes for making payments to utility providers. States may also choose to permit payments directly to families in cases in which a landlord or utility provider refuses to accept them. The more eligible parties for assistance that a state includes in its program, the more complex and potentially time-consuming the process of receiving and processing applications and distributing assistance may be. Limiting assistance only to applicant landlords, however, may result in some eligible households not receiving needed assistance. One advantage to allowing payments directly to eligible households is that it ensures a vehicle for making payment on every application reviewed and accepted as eligible by the state.

Determining whether to make direct payments to households

States should consider several factors when determining whether to offer payments directly to households. To make payments to households, states will need to design a process for documenting landlord noncooperation to justify the payments to households as well as a process for making payments to households.

Making payments to households adds complexity to the program and, potentially, administrative costs. But limiting payments only to landlords and utilities means that emergency rental assistance may not be accessible to some households at risk of becoming homeless, simply because their landlords are unresponsive or uncooperative. Staff in several of the states with 2020 ERA programs reported that landlords gave several reasons for not participating, including a desire to evict a tenant seeking assistance, dissatisfaction with the payment amount, and an unwillingness to share required information with the program. In some states, landlords publicly complained about caps on monthly rental assistance amounts as justification for not participating.

States may also be concerned that payments to tenants are ultimately used not for rent payments but for some other purpose. To address this concern, states may want to consider requiring tenants to document that the funds were used to pay rent. Although this requirement would reduce the risk of fraud, it would also increase the complexity of the program and staff time needed to obtain information from assisted households. Another question to consider is what action states would take in response to lack of documentation of proper use of the funds, such as recapturing the funds. Despite these concerns, staff of some local emergency rental assistance programs reported a high degree of satisfaction with programs that sent payments directly to families.

Establishing a process for making payments

States have wide latitude to design a process for making payments to landlords and, if part of its program, utility providers and households.

Payments to landlords

Payments made to landlords may be made on a tenant-by-tenant basis or, to speed the process and improve efficiency, states may take a “batch” approach in which program administrators cut checks to landlords that cover multiple tenants. One state that administered 2020 emergency rental assistance described including the list of tenants covered by payments in the comment line of the check. A batch payment approach works best when it is tied to the application: landlords both apply for and receive payments for multiple units at one time.

To improve efficiency, states may also want to consider using automatic payment methods rather than printing checks. Several 2020 ERA programs collected bank-routing information from landlords during the application process to make direct transfers. For larger landlords with multiple properties and multiple operating accounts, Virginia set up profiles in a landlord portal with the landlord’s central clearing account information. This system streamlines the payment process because payments for all assisted households under a particular landlord go to one account, regardless of the specific property, and are disbursed by the landlord from the central clearing account to the appropriate operating account.

Treasury’s FAQ confirms that states can assist households residing in properties for which the state is the landlord, so long as the state “complies with all provisions of the Act, the award terms, and this guidance and that no preferences beyond those outlined in the Act are given to households that reside in the grantee’s own properties.”

Payments to utility providers

States that opt to make payments to utility providers should consider ways to increase the efficiency of the payment process. There are far fewer utility providers than landlords, which means a single utility may have hundreds of customers requesting assistance. As with payments to large landlords, rather than making separate payments for each applicant, states could create a system for batch processing of payments for multiple households at once. Involving and coordinating with utilities during the design phase of the program is likely to improve participation and result in a processing system that is efficient and fair for both assisted households and utilities. Coordinating the process with high-level managers at utilities is also important; some 2020 ERA programs found themselves calling customer service lines to arrange payment, and at times remaining on hold for an extensive length of time. Staff of one 2020 program noted that it was more difficult to get cooperation from smaller utility providers; extra effort to engage small utilities may be necessary.

Payments to households

By their nature, payments made to households must be made on a tenant-by-tenant basis, so there are few options for increasing efficiency. States that elect to make direct payments to tenants when landlords or utility providers do not agree to accept payments should consider whether to take steps to verify that assistance a tenant receives is applied to rent or utility payments, such as a receipt, copy of a

check, or updated statement reflecting updated rent or utility account balances. If administratively reasonable, states that elect to provide assistance for other expenses incurred due to the pandemic, such as internet service for telework, might similarly aim to verify that payments are appropriately applied.

Process for securing the participation of landlords and utility providers

Although some of the program staff that administered 2020 emergency rental assistance reported that it was uncommon, some landlords and utility providers may refuse to accept payments on behalf of eligible households. States may improve cooperation by involving stakeholders in the design process and communicating with them for the duration of the program. For example, the state of Maine conducted lender focus groups for input into the design of its program and established a governor's working group that meets monthly to discuss the program and ensure it is fair for everyone. Other states communicated with associations of landlords to market and explain the program.

States may also increase the likelihood of landlord participation by increasing the financial incentive. In 2020, Illinois opted to make all payments \$5,000, to be applied first to rental payments in arrears and then, with any funds left over, to future rent payments, with the goal of increasing the likelihood that landlords would consider it worth the effort to apply. To increase the financial incentive and simplify the process for landlords even further, states could consider allowing landlords to submit one application for multiple units with rent in arrears, for example by submitting a rent roll as documentation, and making one corresponding payment, as New Jersey did in 2020.

Limiting restrictions placed on landlords or utility providers who agree to accept payments (discussed more below) could help increase landlord participation and willingness to accept payments. Additionally, streamlining the application as much as possible and minimizing required documentation can encourage landlords and utility providers to participate, especially larger landlords and providers.

States can also improve cooperation from landlords by coordinating the application process and participation requirements across jurisdictions. Large landlords are likely to own properties in multiple areas, so using a similar process with similar requirements across jurisdictions will reduce confusion among landlords, improve efficiency, and encourage landlord participation.

Finally, states can improve the likelihood of participation by providing clear information and assistance with completing applications. Market-rate landlords who are unaccustomed to working with government housing assistance programs, in particular, may need hands-on assistance with correcting or clarifying applications.

Documenting landlord or utility provider unresponsiveness or unwillingness to participate

States including a track to make payments directly to households will need to determine when to deem landlords or utility providers unresponsive or unwilling to participate and, therefore, when direct household payments are justified. Treasury's FAQ provides program administrators three means of documenting unresponsiveness or an unwillingness to participate:

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.

Treasury's FAQ also indicates that outreach efforts are an eligible administrative expense.

Documentation related to payments. The statute states, "For any payments made by an eligible grantee to a lessor or utility provider on behalf of an eligible household, the eligible grantee shall provide documentation of such payments to such household." Some 2020 ERA programs required landlords to acknowledge the terms of the assistance; they also provided a copy of the terms of the assistance to the tenants to make them aware of, for example, a condition that they could not be evicted for nonpayment while receiving rental assistance. In addition to notifying tenants of payments made on their behalf, states may want to provide tenants information on what to do if they believe a landlord or utility provider has not accurately applied a payment to their rental or utility arrears or current rent.

Restrictions and concessions for landlords or utility providers who agree to accept payments. States have the option of asking landlords or utility providers for concessions as a condition of providing assistance. For example, a state could require landlords to accept the payments provided as full compensation for rent owed during a certain time period and forgive any residual rental balance, or to promise not to evict an assisted tenant for a certain period of time after accepting a payment.

A common requirement among 2020 ERA programs was that landlords not evict tenants during the period in which rent obligations were covered by the rental assistance. Some administrators of 2020 ERA programs found that landlords were reluctant to give up the right to evict. Clarifying that landlords could evict for nuisance or criminal behavior but not nonpayment of rent during the period in which assistance is applied might improve landlord acceptance of this requirement.

A key consideration for other types of restrictions, such as requiring landlords to accept a portion of rent as payment in full or to waive fees accrued by tenants, is their impact on landlord participation. In general, 2020 ERA programs minimized such restrictions in order to secure landlord participation; similarly, they did not place restrictions on utility providers that participated in the program. At least one 2020 ERA program found that many landlords were unwilling to participate when below-market payments were coupled with a requirement to forgo the balance of rent from tenants; the state eventually increased the level of assistance offered as full payment of rent to improve landlord participation.

However, requiring a financial contribution from the landlord allows a state's limited rental assistance funding to reach more people. With a higher total amount of assistance available, states may be able to offer a sufficiently high level of assistance to secure landlord concessions. In its 2020 ERA program, Illinois was successful in requiring landlords to waive late fees for assisted tenants because of the relatively high payments of \$5,000, to cover arrears plus up to three months of prospective rent.

6. Designing an outreach and intake process

While payments must be made directly to landlords and utility providers, unless they refuse to accept them, the statute is silent on whether applications must be submitted by tenants directly or may also be

submitted by landlords on behalf of tenants. States will need to develop procedures and processes for accepting applications and for conducting outreach to encourage eligible beneficiaries to apply.

Key considerations

To expend funds in a timely manner, states will need to conduct outreach to potential applicants to ensure they know where and how to apply, and will also need to have user-friendly intake processes to accept applications. The intake process is critical to the success of a state's ERA program. A carefully designed process can help tenants and landlords more easily submit applications and reduce administrative time for program administrators to process applications. The intake process should be designed to accommodate the needs and preferences of a wide range of users, including households without access to the internet, people with disabilities or language barriers, and both small and large landlords. To the extent possible, states should design an intake process that creates efficiencies for program steps that occur after an application is submitted, such as processing payments and checking for duplication of assistance. Ideally, an applicant will be able to use a single intake process to request multiple types of assistance (depending on what an ERA program makes available), such as assistance for rent, utility payments, or related services that can help individuals remain stably housed.

Helping households understand how to apply for assistance

Regardless of the specific intake process it establishes, a state will want to ensure that households understand the assistance that is available and how to apply for it. In states with multiple ERA programs, or multiple administrators of a statewide program, the creation of a single portal for accepting applications could be helpful. If a single portal for multiple programs is too difficult to create, an alternative approach would be to create a simple portal that provides users with a hyperlink to get to the right program, depending on their zip code.

In 2020, states took a range of approaches to conduct outreach:

- Virginia required subrecipients of their state rental assistance program to “provide outreach to and coordination with local court systems, local landlords, local offices of legal aid, organizations serving communities of color, and other applicable entities or organizations to increase awareness” of the program.
- Florida required subrecipients to advertise available assistance “in both a newspaper of general circulation and, where available, periodicals serving racially, ethnically and income diverse neighborhoods, at least 10 days before the beginning of the application period.”
- Minnesota partnered with United Way to offer program information and an intake process through its 211 system.

Developing intake processes

At a minimum, all states will need a process for tenants to apply for assistance, and many will want to allow landlords to apply for assistance on behalf of tenants. Most 2020 ERA programs relied on online portals to accept applications (some exclusively), but some states also accepted applications through call centers and subrecipients or partner organizations. In Minnesota, about 90 percent of applicants applied by computer or smartphone; program staff from other states also noted that applicants are increasingly likely to complete an application entirely via smartphone.

Conducting intake through a web-based portal

Based on the experiences of 2020 program administrators who were able to quickly set up online intake portals to receive applications, states may want to consider the following options for their web portals for Emergency Rental Assistance:

- Include an optional eligibility screening tool that prospective applicants can use to determine if they may be eligible, but be careful not to deter applicants with an overly strict or complicated tool. Potential applicants may not understand how household income is accurately determined, for example.
- Provide basic information about the application process, such as how much assistance is available, what information and documentation are required to apply, how long the process to apply and receive assistance may take, and how program staff will communicate with applicants after an application is submitted.
- Allow applicants to submit documentation in multiple formats and in different ways, such as by completing a web-based form via smartphone or online, uploading documents from a computer, or submitting a photo of required documents with a smartphone.
- To reduce time spent emailing or calling applicants, enable messaging within the portal and communicate to online applicants that all correspondence will be handled through the portal. Applicants should be notified through automated emails or text messages when a new message has been sent to them in the portal.
- Include ways for applicants to check the status of an application or payment disbursements, or report problems with payments. By providing sufficient information online, states may reduce the need for applicants to call or email with questions and reduce the number of applicants that give up and try to submit an application through a separate program.
- Consider allowing both tenants and landlords to submit information for an application for a household. The program staff who administered 2020 ERA programs noted that landlords may be better able than tenants to quickly submit certain documentation, such as leases or confirmation of rental arrears. It will be important, though, to include a firewall so that landlords and tenants cannot see sensitive information provided by the other, such as a landlord's W-9.
- For states that elect to provide utility assistance to eligible households, consider incorporating information about utility accounts and providers in the portal. A state may be able to reduce processing time for utility payments by, for example, allowing applicants to select from a prepopulated list of large utility providers and enter an account number associated with past-due accounts, then exporting the information for batch processing of payments to providers.

Conducting intake through other means

Unless a state decides to accept applications only from landlords, it will likely need to accept applications from individuals who are unable to complete an online application. In 2020, states offered several alternate means for households to submit applications for emergency rental assistance, including the following:

- Arizona and Maine accepted applications through Community Action Agencies.
- Idaho applicants could submit via a call center.
- Illinois partnered with 62 community and outreach assistance organizations to prepare and submit applications for households unable to directly apply online.

- In Minnesota, applications could be submitted via grant administrators selected by applicants, which could include local governments, tribal communities, Family Homeless Prevention and Assistance Program administrators, or community-based organizations with experience administering rental assistance programs. The grant administrators submitted applications to the state through an online portal.
- Florida sent application packages to households via email or mail or the package could be picked up. Applications could be returned by email or mail.

Landlords applying with or on behalf of tenants

States may choose to accept applications submitted directly by tenants, by landlords on behalf of tenants, or both. In most cases, regardless of which party completes the application, both parties will be involved in the process:

- If a tenant submits the application, the landlord will need to indicate agreement to accept payments from the state and supply required information, such as a W-9, routing information for payments, and certification that assistance is not duplicative of other federal assistance.
- A landlord submitting on behalf of a tenant will need to inform the tenant and obtain their signature for the application, which may be documented electronically.

Given the eligibility, reporting, and privacy requirements in the Emergency Rental Assistance Program statute, states should strongly consider creating an intake process to accept information and documentation separately from both tenants and landlords for a single application.

When a landlord submits an application on behalf of a tenant, the tenant will need to be notified of the application, and any assistance provided to a landlord must be used to satisfy the tenant's rental obligations. States may want to create a standardized process to notify tenants of the status of applications submitted on their behalf and any assistance provided, including how much assistance the landlord is receiving for rental arrears or prospective rent, requirements or restrictions placed on the landlord that tenants should be aware of (such as waiver of late fees accrued before application or a prohibition on evictions for a certain period of time), and information for tenants who believe the assistance was not accurately applied to their rental obligations.

Working with special populations and making the intake process more accessible

In administering emergency rental assistance, states will want to ensure that the intake process is available and accessible to a wide range of people and that eligible households are aware of available assistance. This means taking into consideration the needs of people who may not have access to the internet, may not speak English, may have disabilities, or may not initially trust government programs. In this regard, nothing in the Emergency Rental Assistance Program prohibits states from providing assistance to undocumented residents.

Conducting outreach to diverse and hard-to-reach households

If program administrators know that certain populations in their jurisdiction are disproportionately affected by COVID-19 impacts (such as loss of income) or may have high levels of need, they will need to conduct targeted outreach and marketing to those groups. Such groups may include people and communities of color, refugee populations, immigrants, LGBT populations, and people with disabilities. Targeted outreach may involve reaching out to community-based organizations and service providers

who work with these groups to inform them of the assistance available and the intake process. States may want to consider sharing information via social media and posting informational materials at bus stops, community and healthcare facilities, and at local churches in areas where hard-to-reach populations live.

Developing a plan and marketing materials takes time, so it may be worthwhile to hire staff with expertise in marketing and promotion. Idaho hired temporary marketing staff to conduct a “mass marketing blast” to announce its rental assistance program. States might consider whether to make this type of outreach process part of their program’s prioritization requirements, as Virginia did. While it may cause a modest delay in distributing assistance, this focus on outreach can help ensure that vulnerable populations are aware of the program and know how to apply for needed assistance. By conducting this outreach before accepting applications, or by ensuring the application process stays open for a significant period of time after the initial marketing blitz, states can increase the likelihood that special populations have equal access.

For its 2020 ERA program, Maine engaged high-level public officials, including the governor, to promote the program. Since the press consistently covers these officials and the governor, information on the program was widely disseminated.

Ensuring the intake process is accessible to a wide range of users

Program administrators will encounter applicants who speak different languages, have disabilities, and have different degrees of access to and comfort using technology. Hard-to-reach populations may require special attention to make sure they are aware of the available assistance and know how to apply for it.

For people with limited English proficiency, consider translating all documents in languages frequently spoken in the community, as well as providing access to translators. Minnesota required that the grant administrators charged with distributing assistance provide meaningful access to the rental assistance program for their LEP applicants through the use of bilingual staff and a telephonic language line. New Jersey offered interpretation services for 10 languages, as well as translated materials in those languages. Illinois created a specific rental assistance program, the Welcoming Center Housing and Utility Assistance Project, for immigrants, refugees, and LEP individuals and partnered with 30 community-based organizations to assist households in these categories who were impacted by COVID-19.

The table below lists specific methods that states may want to consider to ensure their intake processes are fully available and accessible.

To reach people who...	Outreach and intake methods
Do not have access to the internet	<ul style="list-style-type: none"> ▪ Advertise on TV, in newspapers, on public transportation, and at other locations people frequent, such as grocery stores, churches, schools, and medical offices. ▪ Make program materials available at community centers and community-based organizations’ offices. ▪ Allow individuals to submit applications through community-based organizations.

	<ul style="list-style-type: none"> ▪ Provide a call-in line to share program information and instructions on how to apply for assistance, such as by referral to a community partner that can assist with applications. ▪ Mail program information directly to households in utility or tax bills.
Have limited English proficiency	<ul style="list-style-type: none"> ▪ Translate all materials to commonly spoken languages. ▪ Advertise in non-English language newspapers. ▪ Provide information to organizations that represent or work with LEP populations, such as refugees and immigrants. ▪ Offer to call people back on a language translation line.
Have disabilities	<ul style="list-style-type: none"> ▪ Provide information about the program to Centers of Independent Living and other service providers working with people with disabilities. ▪ Make online materials 508 compliant so they can be read with a screen reader. ▪ Use TTY lines to accommodate people with hearing impairments.

Creating alternate intake processes for applicants reluctant to provide information to government officials

Some people in need, such as undocumented immigrants, may be reluctant to work with or provide information to government officials. To make the application process easier for such people, states could allow community-based organizations and neighborhood groups engaged with these communities to conduct or assist with the intake process. States can work to ensure that intake workers include people of diverse races and ethnicities, who speak a range of languages, to increase the possibility of effective communication and foster trust with a wide range of populations. States may also want to be flexible regarding documentation that may be hard for some populations to obtain, such as government-issued identification.

Working with partners to conduct outreach and assist with intake

States may want to work with their existing service provision networks to assist with the intake process. Many states have worked with Community Action Agencies and other social service partners to coordinate application intake and referrals. Organizations such as food pantries; legal aid, utility aid, and homeless service providers; housing counseling organizations; and fair housing and other advocacy organizations can help states connect on the local level to people who need assistance. Program administrators can also tap local institutions to distribute information about the availability of assistance. These could include local governments, tribal governments, public housing authorities, courts, medical facilities, utility companies, places of worship, schools, and major employers.

Providing a means for applicants to get answer to questions about the application process

Some 2020 ERA programs created central intake points to provide information on rental assistance resources, explain the intake process, determine eligibility for assistance, and refer people to community-based organizations to apply for assistance. As mentioned elsewhere, Minnesota worked with United Way to accept applications through its 211 system, which could be reached by phone, text, or online. Idaho set up an assistance hotline to help people complete applications for assistance. To

provide a centralized source for information, states can also establish a dedicated website with an intuitive URL and develop and post FAQs.

Linking tenants to other services they may need to remain stably housed

Some tenant households seeking rental assistance may need other types of help as well. The intake process provides an opportunity to connect people with other resources. Program administrators might consider compiling and sharing a list of available resources on the program website or in the outreach or intake process. Additionally, states could include an optional question on the application form asking about other needs the tenant may have. In the question, states could list possible areas of need, such as food assistance or childcare, and ask tenants to describe any special circumstances or needs in those areas or simply to check off applicable areas of need. Then an intake worker could discuss the needs further with the tenant and make any appropriate referrals. This approach may be most practicable for states that use community-based organizations as intermediaries to accept applications. Time permitting, the intake workers for such organizations could make referrals directly on the tenant's behalf, eliminating the need for the tenant to reach out to other programs or services individually.

7. Avoiding duplication of assistance provided to households

The Emergency Rental Assistance Program requires that states “to the extent feasible . . . ensure that any rental assistance provided to an eligible household pursuant to funds made available under this section is not duplicative of any other Federally funded rental assistance provided to such household.”

Treasury's FAQ substantially simplifies the process of documenting that an applicant is not being assisted by another rental assistance program. First, the FAQ makes clear that households living in subsidized or assisted housing are eligible to receive emergency rental assistance for the rent or utilities that they pay:

- “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 receive ERA assistance for the tenant-owned portion of rent or utilities that is not subsidized.”

Second, the FAQ makes clear that an attestation from the applicant is sufficient to verify that the applicant is not receiving any other duplicative form of 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, or local assistance provided for the same costs. Grantees may rely on an attestation from the applicant regarding non-duplication with other government assistance in providing assistance to a household.”

While accepting applicant self-certification as sufficient documentation of nonduplication, the FAQ encourages program administrators to go above and beyond the bare minimum requirements and put administrative systems in place to try to detect duplication of benefits. “Grantees with overlapping or contiguous jurisdictions are particularly encouraged to coordinate and participate in joint administrative solutions to meet this requirement.”

Methods to Avoid Duplication of Assistance

Notwithstanding the provision in Treasury’s FAQ that allows states to rely on applicant certification of nonduplication of benefits, some states may want to exceed this standard and put additional checks in place to reduce duplication. For example, states that previously had rental assistance programs will likely want to check their own records to ensure that they do not provide assistance twice for the same month. In addition, states that serve areas whose residents are also eligible to apply for rental assistance through a local or tribal program may be aware of the potential for more than one program to provide rental assistance to the same household for the same months, which would reduce the assistance available to help other households.

In cases where households are eligible to apply for both state and local or tribal programs, one approach would be to develop an automated system through which program administrators could input ERA program application information; the system could then check that information against other records for exact or close matches, such as the head of household’s Social Security or taxpayer identification number, addresses, applicant and landlords’ names, and timeframes in which assistance has been provided. The information could be input from ERA programs across a state but also from other active or recent sources of emergency rental assistance, such as rental assistance programs funded under the CARES Act. Additionally, as noted in Part 1, Coordination among grantees and service providers in a state, a de-duplication system of this nature could be integrated into a coordinated payment processing system.

As an alternative to an automated system or the creation of a database, ad hoc approaches could be developed with other agencies that administer emergency rental assistance.

8. Record keeping, reporting, and data security

ERA programs are required³ to collect and report to Treasury on a range of data, including:

- A. “the number of eligible households that receive assistance from such payments;
- B. “the acceptance rate of applicants for assistance;
- C. “the type or types of assistance provided to each eligible household;
- D. “the average amount of funding provided per eligible household receiving assistance;
- E. “household income level, with such information disaggregated for households with income that
 - a. does not exceed 30 percent of the AMI for the household;
 - b. exceeds 30 percent but does not exceed 50 percent of the AMI; and
 - c. exceeds 50 percent but does not exceed 80 percent of AMI; and

³ Consolidated Appropriations Act of 2021, Title V, Sec. 501(g)(1)

- F. “the average number of monthly rental or utility payments that were covered by the funding amount that a household received, as applicable.”

For each of the above categories, ERA programs must report disaggregated data for households by the gender, race, and ethnicity of the primary applicant for assistance in such households.

Programs must also establish data privacy and security requirements⁴ that:

- “include appropriate measures to ensure that the privacy of the individuals and households is protected;
- “provide that the information, including any personally identifiable information, is collected and used only for the purpose of submitting reports to Treasury; and
- “provide confidentiality protections for data collected about any individuals who are survivors of intimate partner violence, sexual assault, or stalking.”

Key considerations

States will want an efficient and secure process for collecting and storing data on program activities and applicants, including data to be reported to Treasury, applications for assistance, and documentation associated with applications. According to Treasury’s grantee [award terms](#), “records should be maintained by the grantee and accessible to Treasury for five years after all funds have been expended or returned to the Treasury.” Costs associated with reporting and record keeping fall within a grantee’s 10 percent allowance of its overall allocation for administrative expenses. States that administer ERA programs with subcontractors or partners will need to ensure that those parties understand and implement processes to safeguard program data and records and can accurately meet Treasury’s reporting requirements.

Record keeping

Treasury’s FAQ provides updated guidance on records that ERA program administrators should anticipate collecting and storing. Those records include the following:

- “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;
- “Gender, race, and ethnicity of the primary applicant for assistance.”

⁴ Consolidated Appropriations Act of 2021, Title V, Sec. 501(g)(4)(a)

Treasury’s FAQ adds that “grantees must document their policies and procedures for determining a household’s eligibility to include policies and procedures for determining the prioritization of households in compliance with the statute and maintain records of their determinations.” States should also be prepared to report to Treasury the number of applications received and the acceptance rate of applicants for assistance.

Treasury’s FAQ indicates that Treasury will provide additional information at a later time regarding the information ERA programs must report to Treasury, and how.

While not explicitly required by the statute or included in Treasury guidance issued through February 22, 2021, in keeping with standard practices for rental assistance programs, states (or their designees) may wish to consider retaining records pertaining to the following items to be prepared to respond to any future audits of program expenditures:

- Completed applications, including consent of tenants for landlords that apply on their behalf and documentation of the funding decision
- Documentation that
 - at least 90 percent of the state’s grant was used to provide financial assistance to eligible households, and
 - not more than 10 percent of the state’s allocation was used for “administrative costs attributable to providing financial assistance and housing stability services, . . . including for data collection and reporting requirements related to such funds”

Storing and protecting sensitive data

States should take care to protect sensitive information collected through an ERA program, such as an applicant’s Social Security number, contact information, bank statement, financial and tax records, or personal details about living arrangements or housing instability. Grantees will likely want to consult with their IT staff or vendor to determine the appropriate processes and protections to establish, which could potentially include the following:

- Developing a data security plan that addresses how data will flow through the lifecycle of the program, who will have access to categories of data, how team members will be trained, and how security incidents will be handled, and also identifies secure tools for protecting data, a list of team members/subcontractors/subrecipients, and data sharing agreements and protocols if applicable
- Selecting data sharing tools, such as encrypted cloud solutions for team collaboration, FTP for large transfers, or secure email
- Identifying storage options, including secure local and cloud-based options, and restrictions for laptops and mobile devices with access to storage
- Determining best practices to protect sensitive data, such as assigning a data manager, collecting and sharing the minimum necessary information, encrypting data storage, and deidentifying data as feasible
- Documenting and reporting data security incidents
- Destroying data after it is no longer required for the program or reporting to Treasury

Collecting data on applicants' demographic characteristics

States are required to collect and report the gender, race, and ethnicity of the primary applicant for assistance in each household that applies. To date, Treasury has not provided states additional guidance on which specific data elements to collect. However, given the statute's requirement that the Secretary of the Treasury produce quarterly reports to include the race, ethnicity, and gender⁵ of applicants, states should plan to collect and report consistent data in these areas. The Office of Management and Budget (OMB) defines standard methods for collecting and reporting these data for federal agencies. States may want to adopt the following questions and response categories, which are similar to those included in the 2020 Census and based on the most recent OMB guidance. While OMB does not include the response option "other" in the categories of sex, states may opt to do so to be inclusive and, additionally, may opt to allow applicants to decline to provide a response to any of the demographic questions.

1. What is the applicant's sex?
 - Male
 - Female

2. Is the applicant of Hispanic, Latino, or Spanish origin?
 - No, not of Hispanic, Latino, or Spanish origin
 - Yes, Mexican, Mexican American, Chicano
 - Yes, Puerto Rican
 - Yes, Cuban
 - Yes, another Hispanic, Latino, or Spanish origin (for example, Salvadoran, Dominican, Guatemalan, Spaniard, Ecuadorian)

3. What is the applicant's race?
 - White
 - Black or African American
 - American Indian or Alaska Native
 - Asian (People who identify as one or more of the following may check the corresponding box.)

<ul style="list-style-type: none">○ Chinese○ Filipino○ Asian Indian○ Vietnamese○ Korean	<ul style="list-style-type: none">○ Japanese○ Other Asian (for example, Pakistani, Cambodian, Hmong)
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 - Native Hawaiian and Pacific Islander (People who identify as one or more of the following may check the corresponding box.)

<ul style="list-style-type: none">○ Native Hawaiian○ Samoan○ Chamorro	<ul style="list-style-type: none">○ Other Pacific Islander (for example, Tongan, Fijian, Marshallese)
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 - Some other race (People who do not identify with any of the provided race categories may enter their detailed identity in this write-in area.) _____

⁵ The statute requires ERA programs to report data on gender; the US Census Bureau uses the term *sex* instead and only includes response options for male and female.