Administration of the Federal Emergency Rental Assistance Program: Considerations for State Agencies [1.22.21]

<u>Overview</u>

The National Council of State Housing Agencies (NCSHA) engaged Abt Associates to assist in its efforts to advise state housing finance agencies and other state agencies that will administer the federal [Emergency Rental Assistance Program](#). The program was enacted in December 2020 under Title V, Subtitle A, Section 501(a) of the Consolidated Appropriations Act, 2021.

This document describes key considerations state administrators must make in designing and delivering assistance under the federal law and administrative guidance.

While the considerations presented draw from state experience administering emergency rental assistance with other resources, they do not reflect a formal evaluation or endorsement of any specific program or approach. All the material is presented as advisory. In addition, the analysis and considerations in this document reflect guidance on program rules from the U.S. Treasury Department as of January 22, 2021. Future revisions of this document will reflect any new and revised Treasury guidance, as well as feedback from state administrators.

Finally, while this document was developed for state administrators, it may also be useful to local and tribal agencies administering the ERA program in their jurisdictions. Their input on future revisions is welcome as well.

<u>Introduction</u>

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 for 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 inform the development of this guidance, NCSHA contracted with Abt to research emergency rental assistance programs launched in 2020 as a response to the COVID-19 pandemic in eight states: Arizona, Florida, Idaho, Illinois, Maine, Minnesota, New Jersey, and Virginia. These state programs represent a variety of program models and structures in different parts of the country and that serve different populations. Abt reviewed guidelines from each state's 2020 emergency rental assistance program and conducted an interview with staff from each program. Abt also participated in webinars hosted by NCSHA to understand states' concerns about the Emergency Rental Assistance Program. This guidance is informed by those activities, as well as by 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. Coordinating 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. Keeping records, reporting, and securing data

1. Coordinating 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. Additionally, states may elect to administer an ERA program entirely within a centralized office or to coordinate program elements among subgrantees or partner organizations.

Key considerations

There are several reasons for states to consider coordinating ERA programs within a state, including the following:
- Ensuring that 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, including Illinois, were highly centralized, with nearly all program components managed by a single agency. Others, including Florida, relied on a network of support organizations to reach applicants across the state and to process applications. Each of these models is

discussed below, along with Minnesota's model, which incorporated a mix of centralized and diffuse program elements.

Illinois's emergency rental assistance program was managed by the Illinois Housing Development Authority and was highly centralized, with almost all aspects of the program overseen by the agency. The state initially considered 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 that they would not accept other assistance for the same tenant. Illinois designed its program to be managed in-house, out of concern that it would be challenging to move quickly in assisting households if the program were delegated to a range of other organizations. Additionally, the agency had concerns about (1) the capacity of community action agencies to review applications and (2) whether reviews would be consistent. It also lacked an IT system that would 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 developed an infrastructure to process applications. It relied on 62 community and outreach assistance organizations to conduct outreach across the state and to provide language and application assistance. The agency credits its successful disbursement of $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.

By contrast, Florida decided to allocate the funding available for emergency rental assistance to its State Housing Initiatives Partnership (SHIP) offices, which at the time were responsible for administering programs in their jurisdictions. SHIP offices, which are located in each of Florida's 67 counties and in cities entitled to community development block grants (CDBGs), work to meet the housing needs of low- and moderate-income households across the state. They also 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—the lead state grantee of the Coronavirus Relief Fund (CRF) money used to finance the emergency rental assistance—developed overarching program guidelines for local emergency rental assistance programs, then signed subrecipient agreements with and distributed funds to SHIP offices. To the extent allowed by the program guidelines, SHIP offices had flexibility to tailor their own assistance programs—by, for example, opting to provide assistance for utility payments or setting an area median income (AMI) threshold for eligibility lower than the maximum permitted by the state. Each SHIP office 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 own programs). Florida disbursed roughly $125 million in CRF funds for emergency rental assistance in 2020 and expects to use the same model—with a few modifications—for its 2021 emergency rental assistance program.

Minnesota's 2020 emergency rental assistance program represents a hybrid approach, combining unitary program guidelines and a centralized application portal developed by the state housing finance agency, Minnesota Housing, with a network of 52 grant administrators to manage the intake and application review processes. Grant administrators were selected from the Family Homeless Prevention and Assistance Program, tribal nations, and local governments (including public housing agencies (PHAs) and housing and redevelopment authorities (HRAs), as well as from community-based organizations that the state felt could assist in the administration of rental assistance. Minnesota Housing also worked with

United Way's 211 service to conduct eligibility screenings for households in need of assistance and to refer potentially eligible households to a local grant administrator. The agency required grant administrators to follow state guidelines for the program; thus, administrators could not use different eligibility criteria or prioritize applicants in a manner different from that used by 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, while its network of grant administrators was beneficial in providing customer service to applicants and in assisting households that were unable to apply online, using and managing such a large network presented some challenges. Some grant administrators lacked the capacity to process the expected number of applications and to update that information in the agency's common household application system, which led to delays in processing 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. In 2021, Minnesota Housing expects to reduce the number of grant administrators it works with (relying on them primarily for outreach and for 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 those demands. Some coordination options are described below.

Service areas

At a minimum, the state and other ERA programs within it 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, considering factors such as the number of renters, housing costs, and household incomes (for more information on determining need for rental assistance, see the section "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 "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 are serving the balance of state plus some, but not all, jurisdictions with rental assistance programs (likely those with higher demonstrated need), or providing 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 emergency rental assistance programs within the state on messaging to potential applicants through, for example, a shared website or call center that directs applicants to the designated grantee according to the applicant's address. By having a centralized entry point, grantees can 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 worked with United Way to use its statewide 211 service, which served as the initial point of intake for applicants and provided information about available rental assistance.

Common application, required documentation, or application portal

While individual emergency rental assistance 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 documentation from landlords. Grantees may want to consider coordinating to develop a common application or agreeing on required documentation before program launch, which can streamline review of those materials and reduce confusion for landlords who work in different jurisdictions. Grantees may also want to consider collaborating on the development of a single application portal to collect application materials and route them to the appropriate jurisdiction. And though a common portal could reduce confusion and administrative costs, there are 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 a common application.

Shared intake support or application review

Many emergency rental assistance programs will offer web-based and telephone support to applicants, often in multiple languages. Coordinating these support services across numerous programs within a state could reduce the time that individual programs would otherwise have to spend to hire and train staff for those roles, or reduce costs by having a single vendor provide such services for multiple programs. Similarly, program administrators may want to consider sharing responsibility for reviewing applications, or even certain application components. One benefit to such an approach is that common reviewers can specialize in the review of program requirements that can be difficult for some to learn, such as how to accurately determine a household's income. Another benefit of sharing application review is expanded capacity: for example, one grantee with a large number of applications to review 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. The US Treasury Department has not provided guidance on exactly how this must be done; however, avoiding duplicative assistance will in general require confirmation that any rental unit that is the subject of an application for assistance has not already received assistance from other federal sources for the months for which assistance is requested. In states where residents are eligible to apply for multiple emergency rental assistance programs—for example, 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, from other providers of federal assistance) can be submitted and automatically checked for duplication of assistance. Alternatively, if it is not

possible to quickly build such a centralized and automated portal, states and other program administrators can agree 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. In addition, it may be beneficial to secure the cooperation of entities that do not manage an ERA program but have data on households that receive federal assistance, such as PHAs and state Section 8 contract administrators.

Shared payment processing

Staff of several emergency rental assistance programs deployed in 2020 noted that their program's intake and application portals were not linked to its 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 advantages, states could benefit from access to shared payment information. In turn, such information could enable a state to determine if a local program is providing rental assistance quickly enough, or to decide to expand state program eligibility to residents of a given area. Additionally, 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 the 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 healthy living conditions; or
  (III) any other evidence of such risk, as determined by the eligible grantee"

Key considerations

States will want to ensure they assist only eligible households and that they 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 even discourage households applying. Allowing multiple, flexible ways for applicants to document eligibility may help ensure that assistance is provided to as many households in need as possible and that funds are expended in a timely manner.

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. Program administrators may base the determination of income on either of the following:

"(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."

This determination must be made before any assistance is provided. Treasury's January 19, 2021, FAQs clarify how states must document annual or monthly income:

> *For determining annual income, grantees should obtain at the time of application source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement), or a copy of Form 1040 as filed with the IRS for the household.*
>
> *For determining monthly income, grantees must obtain income source documentation, as listed above, for at least the two months prior to the submission of the application for assistance.*

In addition, if the program administrator bases the determination of income on the second prong—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."

According to those states providing rental assistance under earlier funding vehicles, documenting and verifying income can be a time-consuming process. Applicants can have difficulty providing required documentation in some cases, such as when a previous employer's business has closed or when an individual works in informal or gig jobs that do not provide standard paystubs. The Emergency Rental Assistance Program requires program administrators to document income for the entire household, rather than just from an individual applicant, which complicates the process.

Treasury's January 19, 2021, FAQs do not provide guidance on how states should proceed in the event that the documentation needed to verify income is unavailable. As some program administrators have observed, it can be difficult to prove a negative—for example, that an individual simply has no current income. In light of this challenge, NCSHA is urging Treasury to reconsider its strict requirement for source documentation to determine income eligibility and allow grantees to accept an applicant's signed attestation of eligibility when source documentation is not readily available. States may want to consider proof of participation in income-qualifying programs like SNAP or TANF in addition to standard sources, such as tax records and wage statements in determining income eligibility.

If Treasury issues revised guidance allowing self-certification of income for eligibility purposes, states should consider this if income source documentation is not available. Several states, including Arizona,

Florida, and Illinois, accepted self-certification for income under certain circumstances in their 2020 emergency rental assistance programs. Additionally, the US Department of Housing and Urban Development (HUD) accepts self-certification in some circumstances for the [CDBG program](#) and, during the pandemic, for its multifamily rental assistance [programs.](#) See page 26 of the Federal Housing Administration's "[Questions and Answers for Office of Multifamily Housing Stakeholders](#)" for a description of HUD's policy regarding self-certification of lost income during the pandemic.

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

Tax returns and tax forms

As noted above, program administrators have the option of measuring household income using total household income for 2020 or using the current monthly income. In cases where the household has already prepared and submitted a 2020 federal tax return, Treasury's January 19, 2021, Q&A confirms that the Form 1040 tax return may be used as documentation of household income for 2020. If desired, program administrators can request both the return and the tax forms used to establish the household's income for tax purposes, such as its W2 statement(s) and any 1099 forms. In cases where a tax return is not available, these same tax forms may provide documentation of annual income.

The aforementioned approaches have the advantage of utilizing official forms authorized by the Treasury Department for purposes of calculating income tax. While certain forms of income—such as welfare payments—are not considered taxable income and will not be reported on a tax form, the receipt of such payment may itself be considered a way to verify income, as such benefits are typically provided only to households with incomes below the maximum eligibility limits for the Emergency Rental Assistance Program.

Commonly used sources to determine and document income

In administering emergency rental assistance programs in 2020, states and localities relied on a range of sources to determine and document income. States may find these sources useful in establishing income verification policies under the Emergency Rental Assistance Program as well:
- Paystubs or other documentation of wages or salary
- Documentation of income from the operation of a business or profession, including direct payments for services or self-employment including for self-employed individuals
- Bank statements
- 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

In addition to reviewing documentation of individual components of household income, another option to consider is accepting as proof of income documentation of receipt of income-qualifying assistance, such as that from programs including SNAP, TANF, SSI, WIC, Head Start, EITC, and Medicaid that are limited to households with incomes below 80 percent of AMI (or a comparable poverty threshold). States may want to consider accepting documentation from additional means-tested federal, state, or local programs.

One state with a 2020 emergency rental assistance program noted that gig jobs, such as driving for Lyft or DoorDash, do not provide paystubs. Thus, this state accepts photos of payment information within those apps as proof 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 emergency rental assistance programs emphasized the importance of self-certification to facilitate efficient processing of payments and to enable programs to serve households with little or no income. 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.

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

In addition to determining an applicant's income, program administrators will need to ensure that assistance is provided only to households at or below 80 percent of AMI. The Emergency Rental Assistance Program statute does not specify how "area median income" is to be calculated, except to defer to HUD's calculations. As explained in this description of its AMI methodology, HUD generally calculates area median income separately for households of different sizes within each metropolitan area and for each non-metropolitan county, while also applying a floor based on the median income for all non-metropolitan counties in the state. This approach has the advantage of taking into account variations in income across different parts of a state. As explained here, HUD has provided tools to enable web-based systems to query HUD's database and automatically retrieve the current area AMI limits for a particular metropolitan area or non-metropolitan county. A query tool to manually look up HUD's income limits may be found here.

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 which states that '''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." While HUD generally uses the term "area median income" to mean incomes for metropolitan areas and non-metropolitan counties, it does calculate state-level income limits, which can be accessed here.

If a state were to determine that a state-wide income limit is legally permissible under the statute, the use of a single set of statewide income limits would be easier to administer. However, in states where there is significant variation in incomes 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 partly on the basis 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 who 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 AMI and cannot afford their share of the rent, but a second adult has an income above 80 percent 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 who 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 AMI. In cases in which a household's current income is below its 2020 income—for example, if a household member lost their job—focusing on monthly income at the time of application may provide a more accurate picture of household need.

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.

If a program administrator determines eligibility for assistance using a household's monthly income, it must redetermine the eligibility of that household after each three-month period in which assistance is provided. As noted above, it is unclear if this applies in all circumstances or only when the household seeks additional assistance. Unless further guidance is provided on this subject by the Treasury Department, states will want to specify how they interpret this provision.

To the extent states determine that they need to re-certify income after three months only when households are requesting subsequent assistance, it may make sense to consider maximizing the assistance provided at the time of initial application in order to avoid the need for the household to re-apply three months later.

B. Determining and documenting that a household is a renter

To verify that a household is a renter, program administrators can rely on a lease agreement provided by the tenant or landlord. Several states and localities that administered emergency rental assistance in 2020 required applicants to submit current leases. Some program staff noted, however, 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 emergency rental assistance programs in 2020 encountered other scenarios that states may want to anticipate, so they can determine whether to provide rental assistance in similar situations 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 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 from assistance. For example, New Jersey excluded households that had recently been evicted from a unit, properties that were a seasonal or vacation rental property, or units for which the rent charged was greater than a predetermined threshold based on rent levels that would be affordable to a household making 80 percent of area median income. Other states would not provide assistance to households renting from a family member, with an ownership interest in the property, or 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, receiving rental assistance from USDA Rural Development, or 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 its ability to expend its 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 either have "qualified for unemployment benefits" *or* have "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. To reduce administrative costs and burden, program administrators would ideally coordinate with state unemployment agencies to verify an applicant's receipt of unemployment benefits. But receipt is not required, only eligibility for receipt; not all individuals who qualify for unemployment benefits apply for or receive them. Thus, 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.

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 for documenting income discussed above, 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. It has, however, clarified in its January 19, 2021, Q&A that in addition to obtaining an attestation in writing from applicants, states must "to the extent administratively feasible . . . require applicants to document that they have . . . experienced a reduction in income, incurred significant costs, or experienced other financial hardship due directly or indirectly to COVID-19 that threaten the household's ability to pay the costs of the rental property when due."

One way to operationalize the "to the extent administratively feasible" standard would be to request documentation of hardship from all applicants, and to require the production of such documents as a program administrator may be reasonably able to provide, but to allow a sworn statement attesting to the household's hardship to be used as a backup in cases when standard sources of hardship documentation are not available. Under this approach, a state would take reasonable steps to first

secure hardship documentation from standard sources. In the event there is reason to believe that such documents are unavailable, a state could then determine it is not "administratively feasible" to require documentation in that instance and accept a sworn statement attesting to current hardship as adequate documentation.

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

- Healthcare costs, including care at home for individuals with COVID-19
- Purchase of 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

These costs can be verified 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. As with income, states may want to consider whether to accept self-certification of significant costs or financial hardship from applicants in instances in which other documentation cannot be provided or when it is otherwise administratively infeasible to obtain it.

E. Determining and documenting a risk of homelessness or household 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."

To date, Treasury has not provided much guidance on how to determine when an individual is at risk of experiencing homelessness or housing instability, but the statute is clear that the conditions specified— a past due utility or rent notice or eviction notice, and unsafe or unhealthy living conditions—are meant to be illustrative examples, rather than the only permissible evidence for making this determination.

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

- An eviction notice
- A past due utility or rent notice
- Living in unsafe or unhealthy living conditions, such as conditions that increase the risk of exposure to COVID-19 because of 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 the 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 their 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 section 8 below on data security and privacy.

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

The statute requires program administrators to use no less than 90 percent of the 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. To date, Treasury has not provided guidance regarding allowable housing-related expenses that can be assisted.

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 re-applies and the program administrator has funds remaining.

Additionally, guidance provided by Treasury 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. 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 to 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.

This section provides considerations and recommendations for several decisions states will need to make in designing their emergency rental assistance programs:

A. Identifying household needs and rental and utility arrears
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 rents versus rental arrears
E. Understanding 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

A. Identifying household needs and rental and utility arrears

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 account for the fact 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 on the basis of 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 on typical rents across the state and on the number of households that may be at risk of eviction. One key source of information is HUD's database of Fair Market Rents (FMRs) 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 statewide variation of rents could help states determine the average rents that the assistance will need to cover. It could also help states determine (1) whether to set a single, statewide flat cap on monthly rental assistance for households needing assistance (e.g., $1,000), or (2) whether the statewide variation in rents means that payments should be higher in some areas and lower in others. States will ultimately want to make the determination that renders the assistance most effective in preventing evictions, and that incentivizes the most applicants and landlords to participate.

States may also find information from the US Census Bureau's Household Pulse Survey useful in their consideration of 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 should remember that, according to past experience, 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 to determine rental assistance needs. 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, or 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 need to consider if and how to target assistance according to 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 an effort 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 questions that need to be answered 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 on the basis of actual rents, or on the basis of 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 on the basis of specific household needs. 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 for some households may not be enough assistance (because the flat payment does not cover the full amount or as many months of rent in higher-cost areas) and for others 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 made 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 on a dollar of rent owed, for up to one year, would be 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 of time has passed.

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 payment 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 administrator's 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 re-applies, 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 needs 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 with needs for 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 becoming 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 their 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 recipient households maintain residential stability. That determination may depend, in part, on whether

landlords are willing to postpone eviction for a certain period of time in exchange for receipt of the back rent. If so, such a 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. Understanding 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. On the one hand, a single payment is a faster, more efficient method of getting funds to landlords or tenants. On the other hand, a single payment addresses a household's need at only one point in time and therefore may not be enough to help that household remain stably housed over the long term. Multiple payments are more administratively burdensome but may better serve the long-term needs of households. In addition, when they are relatively small (because they cover only a short time span), multiple payments 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 3 months of prospective rent, which may be sufficient to address the needs of most households and reduce the number of households that re-apply; payments for households that re-apply could be determined on the basis of 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 proving rental and utility arrears. As with documentation of other program elements, it important to balance the need to efficiently and quickly provide assistance to eligible households with the need to mitigate the risk that funds will not be used as intended. At one end of the spectrum, states may consider accepting self-certification of arrearages; at the other, states may require applicants to provide third-party verifiable 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 from an applicant via a past due bill, an eviction notice, a PDF or screenshot of 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 an image of an online payment portal. Many landlords may be able to easily provide rent rolls with detailed information across multiple units. Small landlords may have less formal systems to record rent payments, in which case states may want to consider accepting a verbal or written certification of arrears and payment amounts from landlords. Maine took such an approach in its 2020 emergency rental assistance program.

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

Treasury [guidance](#) 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 include separately-stated electricity, gas, water and sewer, trash removal and energy costs, such as fuel oil. Telecommunication services (telephone, cable, internet) delivered to the rental dwelling are *not* considered to be utilities. Utilities that are covered by the landlord within rent will be treated as rent"

(emphasis added). Additionally, the guidance notes that assistance for utility arrears and home energy costs can be provided to a household that is not receiving assistance for rent.

In deciding whether to provide assistance for utilities, states may want to consider several factors. Because 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.

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 payments. 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, a notice of service cutoff, or a PDF or screenshot of 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 provision of utility assistance, states might consider coordinating with or sub-granting 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 section on intake processes.

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) household income does not exceed 50 percent of AMI, and (2) those 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 does not specify, however, how states should prioritize applications from these populations. 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."

Key considerations

- Prioritizing applications can help ensure that the households and landlords that most need assistance receive it.
- Including additional priority 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 of a need to identify additional priorities. But to the extent a state anticipates being able to serve only a modest fraction of the total need, and decides it makes sense to focus on serving fewer households with deeper levels of assistance in an effort 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 AMI required by the statute, such as households at or below 30 percent AMI, an income category prioritized for deep federal rental subsidies because of its high level of housing need. Minnesota prioritized serving 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 have experienced high rates of COVID-19. Illinois, for example, set aside $100 million in rental assistance in 2020 for households that lived in disproportionately impacted areas, regions designated by the state as significantly impacted by COVID-19.
- **Households already receiving other income-tested assistance**. States could prioritize households that have already qualified for and are receiving income-tested assistance, such as households with children or that are participating in programs such as TANF or Medicaid. Those households' documentation of qualification for such programs could serve as documentation of income, potentially reducing any additional burden related to collecting further income documentation.

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 provides no guidance on how to do this. The following are a number of options to consider.

1. **Opening the application process early for prioritized households**. One approach is to open the application process early for certain priority households, to ensure they receive assistance. This would provide additional time for households in priority categories to apply, helping to alleviate difficulties for households that may not have regular access to the internet or that may not be technologically savvy. This early application process would ensure that prioritized households

would have their applications reviewed early and that ample resources would be available to assist them. However, such an approach would potentially delay assistance for other eligible households, as their applications would be reviewed separately at a later date.

2. **Moving applications to the top of the queue for priority households**. Another approach would be to accept applications from all households at the same time. Applications from priority households would be funded immediately after receipt and verification, whereas other households would have to wait for a set period of time to see if enough assistance remains after serving the prioritized households. Idaho moved households with lower incomes to the top of its application list. This approach ensures that priority households receive assistance quickly but involves more management and oversight from program staff.

3. **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 approach would provide designated resources for the neediest households while not delaying assistance to other eligible households. Depending on the amount of assistance set aside, however, the needs of all priority households might not be covered.

4. **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 (compared with a strategy that provided all households 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 embed the state or locally determined preferences within the federal preferences. For example:

1. First priority
    a. Households with incomes below 30 percent of AMI
    b. Households in which one or more individuals is unemployed at the time of application and has been unemployed for at least 90 days
    c. Households with incomes below 50 percent of AMI and 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 example, all households within the first and second categories are eligible for the federal preference, but local preferences are applied to 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 approach is not specifically prohibited by the statute, but could be determined

by Treasury to be impermissible.

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 to use a lottery to rank the applications of all households that apply within a certain window of time. A first-come, first-served policy 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 such a first-come, first-serve policy for prioritization. This approach can be strengthened when combined with outreach efforts to special populations, as it can help ensure that people who need 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, lacking internet access, or from marginalized populations) may not receive assistance.

A lottery approach, as is sometimes used to prioritize applicants for Housing Choice vouchers, can be useful when large numbers of households are expected to apply within a relatively short window of time. It can also be useful when there are fairness concerns about basing the award of a large amount of assistance on the fact that some households were more aware of the assistance than others and applied a few hours or days before them. Last, a lottery approach can be helpful for making a final decision about how to ration available assistance because 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 these 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 the landlords or utility providers refuse to accept them. The more eligible parties for assistance that a state includes in its program, the more complex and potentially time-consuming it may be to receive and process applications and distribute assistance. 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

There are several factors for states to consider in determining whether to offer payments directly to households. To make payments to households, states will need to design a process for documenting landlord non-cooperation to justify the payments to households, as well as design a process for making payments to households.

Making payments to households adds complexity and, potentially, administrative costs to the program. But limiting payments to only 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 some landlords did not agree to participate in their programs for several reasons, including a desire to evict a tenant seeking assistance, dissatisfaction with the payment amount, or 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 not ultimately used 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 reduces the risk of fraud, it also increases the complexity of the program and staff time required to obtain information from assisted households. It is also not clear what action states would take in response to lack of documentation of proper use of the funds, such as recapturing the funds. At the same time, staff of some local ERA programs report 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 and receive payments for multiple units at one time.

States may also want to consider using automatic payment methods to improve efficiency rather than printing checks for individual landlords. Several 2020 ERA programs collected ACH (Automated Clearing House) 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. The process streamlines the payment process because payments for all assisted households for the 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.

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; staff of some 2020 ERA programs found themselves calling customer service lines to arrange payment, occasionally remaining on hold for an extended length of time. Staff of one 2020 program noted that it was more difficult to get buy-in from smaller utility providers; thus, it may be necessary to take extra effort to engage small utilities.

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 they wish to take steps to verify that assistance a tenant receives is applied to rent or utility payments by, for example, requiring a receipt, copy of a check, or updated statement reflecting updated rent or utility account balances.

Process for securing the participation of landlords and utility providers

Although some program staff that administered 2020 ERA programs reported that such a response 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 the program. The state has also 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 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 by, for example, 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 that agree to accept payments (discussed more below) could help to 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 landlord cooperation by coordinating the application process and participation requirements across jurisdictions. Large landlords are likely to own properties in multiple locations, so a

similar process and 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 unresponsive landlords or utility providers

States including a track to make payments directly to households will need to determine when to consider landlords or utility providers to be unresponsive and, therefore, when direct household payments are justified. Guidance issued by [Treasury](#) provides program administrators two means of documenting unresponsiveness:

"Outreach will be considered complete if a request for participation is sent in writing, by certified mail, to the landlord or utility provider, and the addressee does not respond to the request within 21 calendar days after mailing; or, if the state has made at least three attempts by phone or email over a 21 calendar-day period to request the landlord or utility provider's participation. All efforts must be documented."

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 and provided a copy of the terms of the assistance to the tenants so they were aware of, for example, a condition that they could not be evicted for non-payment 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 that 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 period and forgive any residual rental balance, or the state could require landlords 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 non-payment of rent during the period in which assistance is applied may 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 because of the below-market payments received in exchange for forgoing 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

For states to expend funds in a timely manner, it will be important to conduct outreach to potential applicants to ensure they know where and how to apply, and 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 or checking for duplication of assistance. Ideally, an applicant will be able to request multiple types of assistance that an ERA program makes available through a single intake process, 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 that assistance. In states with multiple ERA programs, or with 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 would provide users with a hyperlink to access information about the right program, depending on their zip code.

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

- Virginia required subrecipients of its 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 211.

Developing intake processes

All states will, at minimum, 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

Informed by the experiences of 2020 program administrators who 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 disbursals, or to report problems with payments. By providing sufficient information online, states may reduce the need for applicants to call or email with questions and/or reduce the number of applicants who 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 W9.
- States that elect to provide utility assistance to eligible households should 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 to 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 included several alternate means for households to submit applications for emergency rental assistance. Consider the following examples:

- 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 applicant-selected grant administrators, including local governments, tribal communities, Family Homeless Prevention and Assistance Program administrators, and 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 and had the option for package pickup. 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 W9, 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 tenants 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 arears 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 a certain population in their jurisdiction is disproportionately affected by COVID-19 impacts, such as loss of income, or may have high levels of need, it will be important 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 include cooperating with community-based organizations and service providers that 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 local churches in areas where heard-to-reach populations live.

For its 2020 ERA program, Maine engaged high-level public officials, including the governor, to promote the program. Because these officials receive consistent press coverage, the program has received widespread press dissemination. It will take time to develop a plan and marketing materials; thus, it may be beneficial to hire staff with expertise in marketing and promotion. Idaho hired temporary marketing staff to conduct a mass marketing blast to announce the state's 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 prior to accepting applications, or by ensuring the application process stays open for a significant period of time after the initial marketing blitz, states can help increase the likelihood that special populations have equal access in applying for rental assistance.

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 assistance.

For people with limited English proficiency (LEP), consider translating all documents in languages frequently spoken in the community, as well as providing access to translators. Minnesota required all grant administrators charged with distributing assistance to provide meaningful access to their rental assistance program for their LEP applicants through the use of bilingual staff and a separate telephone line. New Jersey offered interpretation services for 10 additional 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 those households impacted by COVID-19.

The table below lists specific methods 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	- Advertise on TV, in newspapers, on public transportation, and in 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. - 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 through utility or tax bills.
Have limited English proficiency	- Translate all materials into 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	- Provide information about the program to Centers for 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, and speak a range of languages, to increase the possibility of effective communication and trust between 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 IDs.

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 answers 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. For example, the state of Minnesota worked with United Way to accept applications through its 211 system, which could be reached by phone, via text, or online. The state of 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 can provide an opportunity to connect people with other resources. Program administrators might consider compiling and sharing a list of available resources with applicants 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. 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 on their own.

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."

Guidance from Treasury provides additional information about how to determine duplication with respect to different types of federal rental assistance:

> *An eligible household that occupies a federally-subsidized residential or mixed-use property may receive ERA assistance, provided that ERA funds are not applied to costs that have been or will be reimbursed under any other federal assistance.*
>
> *If an eligible household receives a monthly federal subsidy (e.g., a Housing Choice Voucher, Public Housing, or Project-Based Rental Assistance) and the tenant rent is adjusted according to changes in income, the renter household may not receive ERA assistance.*
>
> *If a household receives rental assistance other than the ERA, the ERA assistance may only be used to pay for costs, such as the tenant-paid portion of rent and utility costs, that are not paid for by the other rental assistance. . . . [T]he grantee must review the household's income and sources of assistance to confirm that the ERA assistance does not duplicate any other assistance, including federal, state, and local assistance provided for the same costs.*

Key considerations

Verifying and documenting other federal rental assistance that may have been provided to a household will likely be challenging for ERA programs. The Treasury guidance indicates that states will need to check for duplication of assistance not only from federal sources of rental assistance, but from all sources, which could include state or local assistance. It is unclear whether Treasury's requirement for verifying non-duplication of rental assistance applies to non-government assistance, such as a payment from a charitable organization. States should consider options to automate or expedite the process to the extent possible, especially as it relates to assistance that may have been provided from federal sources. There may also be a useful role for self-certification by landlords or tenants that the unit has not received duplicative assistance.

The Treasury guidance helpfully clarifies that a household living in a Low-Income Housing Tax Credit unit or another form of housing supported by federal funding in which rent does *not* vary according to the household's income may receive ERA. The ERA benefit, however, may extend only to the portion of the rent or utilities the tenant is required to pay.

Some questions remain regarding eligibility of households with Housing Choice Voucher, public housing, project-based Section 8, or other forms of assistance that include provisions for adjusting the household's rent payments according to its income level. On the one hand, the second paragraph of the answer suggests that such households are ineligible for ERA—perhaps because they can seek a reduction in their rent on the basis of a reduction in their income. On the other hand, the third paragraph seems to suggest that households receiving rental assistance other than ERA can obtain ERA benefits related to the tenant-paid portion of their rent and utility costs. NCSHA has requested further guidance from Treasury on this issue.

Methods to avoid duplication of assistance

The following are some potential methods for verifying whether a household (or landlord applying on behalf of a household) has received rental assistance from other sources:

1. **Develop an automated system**. States, especially those with multiple ERA programs, may want to develop an automated system through which program administrators can input ERA program application information that will be checked against other records for exact or close matches (such as the head of household's social security number or individual taxpayer identification number, addresses, applicant's and landlord's 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 sources of rental assistance, including rental assistance programs funded under the CARES Act and other federally assisted housing programs such as the Housing Choice Voucher Program or public housing. Additionally, as noted in the section on coordination among ERA programs in a given state, a de-duplication system of this nature could be integrated into a coordinated payment processing system.

2. **Use or create databases documenting pre-existing rental assistance**. States might consider searching existing records for possible duplication of assistance, such as the National Housing Preservation Database, which is free for government and non-profit users. Additionally, states could coordinate with state agencies, PHAs, and local governments that administer ERA or other rental assistance programs to compile a database of units that are receiving or have recently received federal, state, or local rental or utility assistance. That database could then be made available to ERA programs. For example, in administering its 2020 CRF-funded rental assistance program, the state of New Jersey grantee established a shared online drive with other agencies and was able to run tests to determine if applicants were already receiving assistance.

3. **Develop ad hoc approaches with key agencies that administer or oversee the administration of rental assistance**. As an alternative to an automated system or the creation of a database, ad hoc approaches could be developed with other agencies that administer rental assistance. Among the agencies to consider including in such outreach efforts are other ERA programs; public housing agencies administering the Housing Choice Voucher and public housing programs; and state contract administrators who oversee implementation of federal project-based assistance programs, including project-based Section 8.

4. **Allow self-certification**. During the application process, states could request a self-certification or attestation indicating that the applicant either is not receiving other federally funded rental assistance or is not receiving assistance that applies to the same month's rent. As households may not always be aware of or understand the types of assistance they may have received, states may want to require landlords—or both the household and landlord—to complete the self-certification. In their application, states may want to specify the forms of assistance that may most commonly present the possibility of duplication of assistance, and to ask applicants to certify that they are not receiving assistance from any of those sources over the period of time for which they are currently requesting assistance. Self-certification typically includes legal language that explains penalties associated with misrepresenting assistance a household has

received and states that assistance may be required to be returned to the ERA program should duplicative assistance be identified.

8. Keeping records , reporting, and securing security

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

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*
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 requirements 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*
- *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 shall be maintained [by the grantee and accessible to Treasury] for a period of five (5) years after all funds have been expended or returned to Treasury." Costs associated with reporting and recordkeeping 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 those parties understand and implement processes to safeguard program data and records and can accurately meet Treasury's reporting requirements.

Recordkeeping

On January 19, 2021, Treasury provided [initial guidance](#) on records that ERA program administrators should anticipate collecting and storing, which include the following:

- "Address of the rental unit,
- Name, address, social security number, tax identification number or DUNS number, as applicable, for landlord and utility provider,
- Amount and percentage of monthly rent covered by ERA assistance,
- Amount and percentage of separately-stated utility and home energy costs covered by ERA assistance,
- Total amount of each type of assistance (i.e., rent, rental arrears, utilities and home energy costs, utilities and home energy costs arrears) provided to each household,
- Amount of outstanding rental arrears for each household,
- Number of months of rental payments and number of months of utility or home energy cost payments for which ERA assistance is provided,
- Household income and number of individuals in the household,
- [Number of applications received, and]
- Gender, race, and ethnicity for the primary applicant for assistance."

The guidance 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 to date, in keeping with standard practices for rental assistance programs, states (or their designees) may wish to consider retaining records pertaining to the following in order 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;
- Determinations of household eligibility, including household income at or below 80 percent AMI, unemployment, documentation of a household's reduction in income, incurrence of significant costs, or financial hardship due to COVID-19, and a household's risk of experiencing homelessness or housing instability; and
- Documentation that
  o At least 90 percent of the state's grant is used to provide financial assistance to eligible households and
  o 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 statements, financial and tax records, or personal details provided about living arrangements or housing instability. Grantees will likely want to consult with its IT staff or vendor to determine the appropriate processes and protections to establish, which could potentially include the following:

- Developing a data security plan, including how data will flow through the lifecycle of the program, who will have access to categories of data, secure tools for protecting data, a list of team members/subcontractors/subrecipients, data sharing agreements and protocols if applicable, how team members will be trained, and how security incidents will be handled;
- Selecting data sharing tools, such as encrypted cloud solutions for team collaboration, FTP for large transfers, or secure email;
- Implementing storage options, including secure local and cloud-based options, and restrictions for laptops and mobile devices with access to storage;
- Establishing 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; and
- Destroying data after they are 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 what specific data to collect. Given the statute's requirement that the Secretary of the Treasury produce quarterly reports to include the race, ethnicity, and gender[1] of applicants, however, 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 Am., Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, another Hispanic, Latino, or Spanish origin (for example, Salvadoran, Dominican, Guatemalan, Spaniard, Ecuadorian, etc.)

3. *What is the applicant's race?*
- White

---

[1] 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.

- Black or African American
- American Indian or Alaska Native
- Asian (There are individual checkboxes for Asian people who identify as one or more of the following.)

    - Chinese
    - Filipino
    - Asian Indian
    - Vietnamese
    - Korean
    - Japanese
    - Other Asian (for example, Pakistani, Cambodian, or Hmong)

- Native Hawaiian or Pacific Islander (There are individual checkboxes for Native Hawaiians and Pacific Islanders who identify as one or more of the following.)

    - Native Hawaiian
    - Samoan
    - Chamorro
    - Other Pacific Islander (for example, Tongan, Fijian, or Marshallese)

- Some Other Race: If you do not identify with any of the provided race categories, you may enter your detailed identity in the Some Other Race write-in area. _____