



# PROGRAM GUIDELINES

**For Providing Emergency Rental Assistance Program (ERAP) Funds  
City and County of Denver**

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### **Definitions:**

For purposes of these guidelines, terms are defined as follows:

1. Tenant means the individuals or households who meet criteria set forth in these Program Guidelines, and who have obtained rental housing or rent land on which to park their mobile home from a Property Owner.
2. Landlord or Property Manager means the individual or entity contracted by the Property Owner to manage the rental housing or mobile home park, and which may be the Property Owner. Landlord completes the landlord portion of the application.
3. Property Owner means the individual or entity that is the fee simple or leasehold owner of rental housing used as the primary residence for Tenants or of a mobile home part on which Tenants park a mobile home which is their primary residence.
4. Agency means the organization providing application review and processing services on behalf of the City and County of Denver.

### **Eligibility:**

Current annualized household income for the Tenant must be at or below 80% of the Area Median Income (AMI) for Denver County and for the size of the Tenant household. These guidelines [can be found here](#). Income calculations are described below. Unemployment insurance benefits are included in income calculations. Federal stimulus payments are not included as income, or as a potential duplication of benefit.

Methods for determining household income are described below.

Households currently supported with a housing voucher are eligible. The program may only pay for the tenant portion of the rent for households with housing vouchers.

Immigration status is not a requirement for the Emergency Rental Assistance Program.

### **Duplication of Benefits:**

Applicants (Landlord and/or Tenant) must disclose other local, state, and federal rental assistance received for the property. These benefits will be taken into consideration when determining the amount that will be provided to the applicant for rental assistance.

Applicants (the entity(ies) which received the payments) will be required to repay funds if duplicate benefits are received.

### **Evidence of Financial Hardship:**

Under ERA1 "Financial hardship" means: Tenant must attest that at least one member of the household experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak. Under ERA2 the financial hardship can be experienced during or due, directly or indirectly, to the COVID-19 outbreak.

### **Evidence of Risk of Homelessness or Housing Instability**



One or more individuals within the household must demonstrate a risk of experiencing homelessness or housing instability. This can be demonstrated by one or more of the following:

1. Provision of a past-due electric, gas, or water notice; or
2. Provision of a past-due rent notice, rent ledger showing past-due rent, communication from landlord documenting past due rent; or
3. Provision of an eviction notice, notice of non-payment of rent, or notice to quit; or
4. Income documentation shows income at or below 80% AMI and Tenant attests they do not have the financial resources to make rental payments without leaving them unable to make necessary purchases of goods and services such as food; or
5. Income documentation shows income at or below 50% AMI; or
6. The Tenant attests they currently live in, and must move, due to unsafe or unhealthy living conditions which may include:
  - a. Overcrowding: more than two (2) persons per bedroom, or congregate shelter; or
  - b. Lead hazards and children under six (6) years old; or
  - c. No heat, no electricity, no water, no septic; or
  - d. Fire hazards; or
  - e. Domestic violence.
7. The Tenant attests that, if they do not receive assistance, they will have to move into a situation with unsafe or unhealthy living conditions such as:
  - a. Overcrowding – more than two (2) persons per bedroom, or congregate shelter; or
  - b. Lead hazards and children under six (6) years old; or
  - c. No heat, no electricity, no water, no septic; or
  - d. Fire hazards; or
  - e. Domestic violence.

**Evidence of Tenancy and Primary Residency:**

Tenant and/or Landlord must provide evidence that Tenant resides at, or did reside at, the property for which they are requesting rental assistance during the month(s) for which they are requesting rental assistance.

Tenant must attest that the property is/was their primary residence (question is on the application). Tenant must provide at least one of the following:

1. Executed (signed by BOTH Tenant and landlord/agent) lease that names Tenant as tenant of property; or
2. Other written document that names Tenant as tenant of property (may include hotel/motel occupancy ledger report); or
3. Tenant driver's license or other government-issued ID shows address of property; or
4. Income information (e.g., check stubs, reports) show Tenant name and address of property; or
5. Current utility bill or other official business mail addressed to Tenant at property.

If none of the above is available, Agency may accept a statement from the landlord (and/or agent) that the person lives/lived at that property and pays rent. In this case, Landlord must be the verified owner of the property.

City and County of Denver ERAP funds may only be used to serve residents living in the City and County of Denver. Agencies will verify Tenant's primary residence is in the City and County of Denver using Denver Assessor's Office property records which can be found here: <https://www.denvergov.org/property>

### **Evidence of Rent Due:**

The Tenant must provide information to prove the amount of their rent payment. This may include either:

1. If available, a copy of a lease or other written agreement with the Tenant named, rent amount and due date.
2. If the Tenant is not named in the lease, proof of at least one payment made to the Landlord (and/or agent) or named leaseholder for the month immediately prior to the first month for which assistance is requested. Proof may include:
  - a. Copy of a check; or
  - b. Ledger from Venmo, PayPal, or financial institution (may include hotel/motel occupancy ledger report); or
  - c. Receipt of money order/cashier's check; or
  - d. If paid in cash, receipt, or affidavit from the Landlord; or
  - e. In roommate situations, receipt or affidavit from the person who is named in the lease plus proof of deposit of that payment.
3. Should the Tenant have one or more months of rent past due, documentation may include past-due notices, emails from the landlord (and/or agent), rent ledger from the landlord, or other applicable documents as available. Agency can confirm directly with the Landlord if possible. (Agency should contact Denver Department of Housing Stability (HOST) to discuss other potentially acceptable documentation if not mentioned here).

4. If an applicant is able to provide satisfactory evidence of residence but is unable to present adequate documentation of the amount of the rental obligation, a written attestation from the applicant may be accepted to support the payment of assistance up to a monthly maximum of 100 percent of the greater of the Fair Market Rent or the Small Area Fair Market Rent for the area in which the applicant resides, as most recently determined by HUD and made available at <https://www.huduser.gov/portal/datasets/fmr.html>. In this case, the applicant must also attest that the household has not received, and does not anticipate receiving, another source of public or private subsidy or assistance for the rental costs that are the subject of the attestation.

To protect against fraud, additional attention must be paid if the property owner is related to the Tenant to prove that payment has been made prior to the request for rental assistance. This may include copies of checks, ledger/statement from Venmo, PayPal or financial institution, signed property owner tax documents showing rental income, or receipt of money order/cashier's check. ERAP funds can also be used to pay a tenant's rent increase. As of June 25<sup>th</sup>, 2021, Colorado State law (HB21-1121) requires that in situations where there is no written agreement, landlords may increase the rent only after providing at least 60 days written notice to the tenant. Additionally, a landlord shall not increase rent more than once in a 12-month period of consecutive occupancy by the tenant regardless of whether there is a written rental agreement, the length of tenancy and whether the tenant's rental agreement is for a fixed tenancy, a month-to-month, or an indefinite term.

### **Proof of Income for Qualification:**

To be eligible for this benefit, each Tenant household must provide documentation that the household annualized income is at or below 80% of the AMI based on one of the methods described below.

These [guidelines](#) should be used to determine 80% of AMI for Denver county and for the size of the Tenant's household. HOST allows the following methods to determine whether a household income-qualifies for the benefit. Only one method is required:

1. Determination letter from a Public Housing Authority indicating that the household income was verified using third party sources to be below at or below 80% AMI within the last 12 months; or
2. Submitted 2020 tax filings for all workers in household: or
3. Determination letter made on or after January 1, 2020 indicating eligibility for SNAP, LEAP or TANF when these programs serve households that are below 80% AMI for the household size and county where the applicant lives. These [charts](#) show when these programs can be used to qualify a household's income as below 80% AMI. (If a household is categorically eligible, further income verification is not necessary); or
4. Calculated annual household income based on the month directly prior to the date of application using the HUD Part 5 methodology for Gross Income using the HOME Adjusted Income and Rental Assistance (instructions can be found at <https://www.hudexchange.info/incomecalculator/>), with the following program- specific exceptions:

- a. Calculate gross income without making adjustments/deductions. (Stop at completion of calculation of Gross Income, rather than continuing to calculate the Adjusted Gross Income.)
  - b. Each household member claiming cash income (e.g., odd jobs, baby-sitting, etc.) must fill out the Certification of Cash Income form and provide an acceptable form of identification (listed below). Additional information may be requested by the reviewer.
  - c. Each household member aged 18 and over claiming zero income must fill out the Certification of Zero Income form and provide an acceptable form of identification (listed below). Additional information may be requested by the reviewer.
5. Calculated annual household income based on the month directly prior to the date of application using the Adjusted Gross Income Method.
  6. Fact-Specific Proxy - Written attestation from the applicant as to household income along with determination of living in a “Low Income Community” as defined in [26 USC Section 45D\(e\)](#), can be used to determine income eligibility. Data used to determine “Low Income Community” status comes from the 2020 US Census.
  7. If the applicant confirms in their application or other document that they are unable to provide documentation of their income, income eligibility can be determined on Self-attestation alone. The reviewing agency must reassess the household’s income every three months, by obtaining appropriate documentation or a new self-attestation.

For purposes of determining income, the “date of application” may be interpreted as the date that the Tenant application was originally submitted or the date that the Tenant submits all the documents necessary to approve the application. For example, Tenant may have originally applied in January but did not submit the necessary income documentation. Due to the backlog the processing team tells them in February that they need income documentation. Tenant may submit their most recent month of income documentation.

Income for all household members 18 years old and over must be considered. For unrelated roommates, where Tenant pays another tenant who is the person named in the lease or pays the landlord directly for a portion of the rent, Tenant and his/her dependents/spouse/partner may be considered a separate household for the purpose of household income calculation. A written document or self-certification from the household will suffice as verified information.

Documents to verify income include but are not limited to:

1. Employed: All pay stubs or pay summary received for the entire month directly prior to the date of application OR 2020 submitted tax filings; The 2020 W-2 can be used to calculate monthly income;
2. Benefits: Current year social security, disability letter, retirement, pension, or annuity; letter of benefits must include benefit amount;
3. Other Benefits: SNAP, LEAP, or TANF determination documentation dated on or after January 1, 2020;



4. Unemployed: Unemployment benefits statement;
5. No Income: Self-certification of zero income;
6. Other: Child support benefits documentation, alimony documentation.

**Identification:**

Agency must confirm Tenant identity by requiring Tenant to produce at least one of the following:

1. Valid driver's license or identification card issued from any U.S. State or Territory; or
2. US military or a military dependent identification card; or
3. US Coast Guard Merchant Mariner card; or
4. Native American Tribal Document; or
5. Document issued by any instrumentality of government (US or foreign), or
6. Document issued by an educational institution (US or foreign), or
7. Other photo ID that includes photo and name.

Where Tenant differs from the leaseholder, the identity of the household member named on the lease must also be documented. All household members aged 18 or older who are claiming cash income or zero income must also upload identification documentation.

**Landlord Requirements**

For a landlord to participate in the Emergency Rental Assistance Program, the minimum required documents include:

1. [Completed IRS Form W-9](#)

A Landlord may also be required to provide documents including but not limited to:

1. Tenant lease or other proof they live at your property
2. Tenant rent statement or ledger showing what they owe
3. Documentation showing proof of ownership and/or rights to lease and collect rent for the property at which the tenant is receiving assistance

Landlords may initiate the rental assistance application process by completing the landlord portion of the online application. Once the landlord provides the tenant's contact information through the application, a notification will be sent to the tenant to complete their portion application. Tenants will be required to apply for assistance directly and/or confirm information submitted by the Landlord in order to ensure compliance with the City and County of Denver ERA Program.

**Rental Assistance Available:**

Eligible applicants may request and receive rent in arrears back to April 2020. In total (in one application or multiple), a tenant may receive assistance for up to 15 months under ERA1 and 18



months under ERA2 with no more than three months prospective rent at a time. In no case may an eligible household receive more than 18 months of assistance under ERA1 and ERA2 combined. The current month and the next two months are considered prospective rent. A month is considered current before the 16<sup>th</sup> of that month. On the 16<sup>th</sup> of the month and after, the month is considered in arrears. If rental arrears exist, before making any commitments for current or future month rent payments (prospective rent payments), the program must pay eligible arrears encumbered April 2020 to present, up to the maximum allowable number of months of eligibility. Under ERA2 the requirement to pay existing arrears before making any commitments for current or future month rent payments does not apply.

1. Pending funding availability, applicants can submit a re-application for assistance in subsequent months, again for up to three months of assistance. The applicant must requalify by income at the time re-application using the income documentation described above. In no case may an eligible household receive more than 15 months of assistance under ERA1 and 18 months of assistance under ERA2. In no case may an eligible household receive more than 18 months of assistance under ERA1 and ERA2 combined.
2. If the applicant has moved, full documentation of tenancy and rent must be provided for the new location. (See “Making Payment” above.)

In all instances, duplication of benefits must be prevented as described above. The maximum assistance available is calculated after subtracting other COVID- 19 housing specific assistance funds available to the applicant (“potential duplicated benefits”) for the specific month’s housing costs. Potential duplicative benefits include cash or payment assistance from a local government agency, housing authority, nonprofit organization, religious organizations, and friends or family.

### **Relocation Expenses:**

In cases where it is necessary to relocate to another housing unit to maintain housing stability, ERAP funds may be used to provide assistance to eligible households to cover prospective relocation expenses such as application fees, rental security deposits, current rental fees, and prospective rent, including after an eviction. In order to receive funds for use towards relocation expenses, tenants must enter into a lease agreement at the new residency for a minimum of 6 months. The amount of a security deposit should not exceed one month’s rent, except in cases where a higher amount is reasonable and customary in the local housing market. A Tenant must reside in a rental unit for a minimum of four months before being entitled to receive a returned security deposit that was paid for with ERAP funds. To the extent that the security deposit is not returned to the tenant, it should be returned to the Agency that issued the payment.

### **Hotel/Motel Expenses**

The cost of a hotel or motel room occupied by an eligible household may be covered, provided that the household has been temporarily displaced or permanently displaced from its primary residence or does not have a permanent residence elsewhere. Eligible households may also demonstrate imminent risk (within 14 calendar days) of losing their primary residence to receive assistance with a hotel or motel room. The cost of the hotel or motel stay does not include expenses incidental to the charge for the room. Both the reviewing agency and the City and County of Denver will not be responsible for any damages incurred by the household.

Prior to providing hotel/motel assistance, the reviewing agency must determine that:

1. Another agency serving City and County of Denver residents cannot offer similar, timely assistance via existing programs with narrower eligibility criteria such as Emergency Solutions Grants (ESG) or FEMA public assistance. Verification that no such resources are available must be documented in the application by the reviewing agency.
2. The household is otherwise eligible for assistance under Program Guidelines.
3. The household has been temporary or permanently displaced from its primary residence and/or does not have a permanent residence elsewhere. The household can also provide evidence of imminent displacement within 14 calendar days (i.e. eviction notice). Such determinations must be documented in the application by the reviewing agency.
4. The total months of assistance provided to the household are within applicable limits such that the number of months of rental assistance and/or hotel/motel assistance do not exceed 15 months or 18 months of assistance under ERA1 and ERA2 respectively. In no case may an eligible household receive more than 18 months of assistance under ERA1 and ERA2 combined
5. A ledger or other documentation of the hotel or motel stay is provided and uploaded to the application file. The reviewing agency must collect a W9 from the hotel/motel vendor and payments will only be made directly to the hotel/motel, but reservations may be secured by the household via credit card or other debt mechanism.
6. Payments will be issued for durations no longer than one month at a time which can include arrears and current charges. Reviewing agencies may provide a maximum of three months of hotel/motel assistance. At the discretion of the reviewing agency, additional months may be provided if the household demonstrates this need, the household continues to meet eligibility requirements at re-certification, and funding remains available.

In order to provide hotel/motel assistance, reviewing agencies must provide the household with contacts and linkages to housing counseling, housing case management, housing navigation, or similar services such that the household can be assisted in securing more permanent housing solutions. If the reviewing agency does not have the capacity to provide such services, please contact the Denver Department of Housing Stability (HOST) to discuss alternative ERAP providers and/or potential community referrals that may satisfy this requirement.

### **Other Fees Related to Housing**

Late fees are eligible expenses if these are described in the lease, are reasonable, and are documented on the rent ledger or statement. Late fees were prohibited in Colorado for the months of April, May, June, November, and December 2020 and January, February, March, and April 2021 so no late fees will be reimbursed for those months. Any future month's late fees are prohibited in Colorado will not be reimbursed.

Starting October 1<sup>st</sup>, 2021, Colorado State statute (SB21-173) requires that late fees cannot accrue interest, cannot be assessed until rent is late by 7 days (10 days for mobile home rental agreements), and must be assessed no later than 180 days after rent payments are due. Additionally, a landlord cannot charge more than the greater of \$50 or 5% of past due rent for

each late payment. Property owners cannot charge late fees for rent owed by a subsidy provider. For any payments made, property owners must apply tenant payments to rent first and the remaining amount to late fees.

Other reasonable fees that are described in the lease and are documented on the rental ledger or statement are eligible for assistance (for example pet fees, parking fees, and common area fees). Utilities and home energy costs that are covered by the landlord are eligible expenses and will be treated as rent, if documented on the rental ledger. In addition, rent or rental bonds, where a tenant posts a bond with a court as a condition to obtaining a hearing, reopening an eviction action, appealing an order of eviction, reinstating a lease, or otherwise avoiding an eviction order, may also be considered an eligible expense.

Attorney fees and non-sufficient funds fees may be eligible expenses with documentation of reasonableness, allowance in the lease, and proof that the legal process was allowable under state law at the time the fees were charged.

### **Making Payment:**

The rental assistance will be paid directly to the Landlord. In roommate situations where payment is typically made to the person named in the lease, the Landlord information must be provided for direct remittance.

1. Tenant will provide contact information for Landlord on their application, with additional remittance information to be provided by Landlord.
2. Agency shall verify who shall receive the funds using evidence of rent payments and information provided by Landlord.
3. Agency shall verify property ownership by reviewing property records.

### **Direct to Tenant Payments**

In cases where Landlords refuse payment or remain unresponsive, an Agency may authorize payments made directly to tenants. Proof that Landlord has refused payment or is unresponsive must be documented in the application file and must include:

1. A request for participation sent in writing, by mail, to Landlord, where the addressee does not respond to the request within seven (7) calendar days after mailing. Proof of mailing must be retained; or
2. The partner agency has made at least three attempts by text or e-mail over a minimum five (5) calendar-day period requesting Landlord participation with no response. Contact information for Landlord must be documented as true and correct through property records, business records, or other means; or
3. The Landlord confirms in writing that Landlord does not wish to participate.

Prior to funds being provided, tenant must agree to use any funds received for its intended purpose by completing the agreement field in the 'Submit' section of the tenant's ERAP application or by submitting a declaration of agreement in writing or by email. If a tenant is being provided funds directly and failed to complete this field, an application reviewer may reopen this portion of

the application for the tenant to complete prior to receiving payment. Landlord will be provided with a 'Direct Tenant Payment Notification' letter describing the amount of funds provided to Tenant for rental assistance along with contact information to report any concerns of fraud. Tenant payment will be made for rental arrears and current month. In order to authorize payment of additional prospective rent, landlord participation will be necessary and/or documentation must be received that payment has been made to the landlord. Payment may be made to multiple Landlords in situations where:

1. Evidence of Tenancy conditions described above are met; and
2. In order to achieve housing stability, Tenant is moving to alternate housing. In these situations, a lease or alternate tenancy agreement must be provided for the second housing situation, signed by both parties.
3. There may be instances when a landlord refuses to accept a payment from a tenant who has received assistance directly for the purpose of paying the landlord. In these cases, the tenant may be allowed to use the assistance for other eligible costs in accordance with the terms of the ERA program.

### **Application Prioritization**

On an ongoing basis (at minimum once a week), each Agency will identify the next tranche of applications to review, based on age of application (from oldest submitted forward). Within that tranche, Agency will prioritize the review of applications based on the following, when this information is available:

1. Households which have received eviction notices and these notices have been provided.
2. Households whose income is at or below 50% Area Median Income (AMI) and adequate documentation has been provided.
3. Households where one or more household members were unemployed for at least 90 days prior to the date of application and adequate documentation has been provided.
4. The rest of the weekly tranche.

Agencies focused on processing rental assistance for tenants at imminent risk of eviction may identify the next tranche of applications that indicate receipt of a demand, notice, or court date to review on an ongoing basis and prioritize among those applications based on need, regardless of application submission date.

### **Fair Housing:**

Program assistance must be provided according to Fair Housing requirements that protect people from discrimination on the basis race, color, religion or creed, national origin, ancestry, age, sex, gender, sexual orientation, gender expression, marital or familial status, military status or physical or mental disability.

### **Coordination with Other Programs:**



Agencies are encouraged to work with Tenants to apply for other available assistance, including but not limited to Unemployment Insurance to ensure their housing stability into the future. Please note, application for and/or approval of Unemployment Benefits (UI) is not an eligibility requirement for this program.

**Fraud Protection and Quality Assurance:**

Partner agencies may collect additional information as needed, at their discretion, to protect the City and County of Denver and Partner Agencies from fraud or for quality assurance.