



Eviction Rent Assistance Program 2.0 (ERAP 2.0)

Questions & Answers

January 2022, Version 1

Allowable Expenses

Can we make direct payments to tenants, if landlords are unresponsive or refuse to sign the payment form? No, the requirement to make payments to landlords was passed down to Commerce from the legislature when they allocated the funds for Rental Assistance. From [HB 5092](#) 45 (b)(i): "Providers must make rental payments directly to landlords and utility payments directly to utility providers."

Clarify whether internet is considered a utility, if not, what "other housing costs" might be allowable under ERAP 2.0? Rent and Utilities are the only allowable types of financial assistance under ERAP 2.0. Internet is considered a utility under ERAP 2.0.

Can grantees make payments to people who are not the property owners/property managers with the property owner's permission? Grantees can make payments to whoever the tenant has an obligation to pay rent to. For more informal rental agreements this could end up being a friend or a family member. Or in the case of subletting, it could be the person you are subletting from who could also be your roommate.

Can ERAP 2.0 fund utilities being reconnected where a person is moving into accommodation? In order to be eligible for ERAP 2.0, the tenant needs to have a past due or partially paid rent payment and currently be still occupying the residence. If they are moving into a new place, they are likely not eligible.

How are future utilities calculated? Future utilities can be calculated either by taking the average amount of the two months preceding the months requested, or taking the average amount over the same period in the previous year.

How are future utilities calculated if the tenant does not have a previous utility bill for comparison? In the instance that past utility bills are not available for reference, an estimate may be made by contacting the provider of utilities and requesting an estimate of costs.

Can ERAP 2.0 pay rent assistance at a transitional facility; such as Oxford House? Yes, ERAP 2.0 can pay rent assistance in these facilities, as long as their portion of rent covers only allowable expenses.

Can ERAP 2.0 pay for “pet rent” or other fees?

If the fee is included as an expense in the lease and paid with rent each month, it can be included as Rent. If it's a fee outside of the lease, it would not be eligible.

If a landlord raises fees that are listed in the lease, and paid monthly with rent, does raising those fees violate the Rent Payment Agreement Form's prohibition on rent increases?

Yes. Since those fees are paid and counted by the program as rent, an increase of those fees would constitute a rent increase, and would be prohibited by the terms of the form.

If a tenant is subletting, and the person they are subletting from (tenant on the lease) has also received rental assistance, can we pay the subletting tenant for the same months?

It depends. If the tenant on the lease has received the full rental obligation owed to the property owner/manager through rental assistance, then paying the subletting tenant would be a duplicative payment. If, however, the tenant on the lease only had their portion of the rental obligation paid, then you may make a payment to them for the remaining portion on behalf of the subletting tenant.

Do we have to pay rental arrears in order for the applicant to receive utility assistance?

No, the applicant must have a past due or partially paid rent payment, but you do not need to pay arrears in order for the applicant to be eligible for other types of payments.

Can we pay reconnection fees for utilities?

Yes, ERAP 2.0 may be used to pay reconnection fees in situations where utilities at the tenant's current residence have been disconnected.

How do we handle internet payments when a household's internet is included in a bundle with telephone and/or cable television services, since internet is allowable but phone and cable assistance is not?

If possible, obtain an itemized invoice that shows the internet amount only. If this is not possible, you can establish and apply reasonable procedures for determining the portion of the expense that is appropriate to be covered. For example, you could research the average cost of internet for your area on internet provider's website, and decide on a base internet amount to apply to the bundled bill.

Now that late fees are no longer prohibited, can grantees pay them?

Yes, late fees occurring after December 31, 2021 may be paid with ERAP 2.0 funds. Late fees fall under the “rent” category, and therefore any amount exceeding 150% FMR may not be paid. Any nonrefundable fee (including late fees) may only be charged if they are included in a written lease, and specified as nonrefundable. Collecting any nonrefundable fees with a verbal agreement only is illegal.

Additionally, grantees may choose not to allow late fees based on local factors. Whether or not grantees choose to allow payment of late fees under ERAP 2.0, please note the following legal restrictions:

- Until the end of the public health emergency (pursuant to RCW [59.18.630\(2\)](#)), landlords must offer tenants a reasonable schedule for repayment of unpaid rent before beginning an unlawful detainer action (eviction). Part of the definition of “reasonable” includes covering only rent and not late fees. They also must allow for payments from any source of income (as defined in RCW [59.18.255](#), which explicitly includes emergency rental assistance).
- Landlords may not initiate an unlawful detainer action (eviction) for nonpayment if the tenant does not owe rent, even if they owe other fees or costs on the property (as per [RCW 59.18.283](#)).

Eligibility

Can we use a different FMR for motel rooms? Most of those in our area are well above 150%.

No, this requirement was passed down to Commerce from the legislature when they allocated the funds for Rental Assistance. From [HB 5092](#) 45 (b)(i): “A provider may provide financial 18 assistance for an eligible household's rent and rental arrears of up to 19 to 150 percent of the fair market rent for the area in which the household resides, as determined by the department of housing and urban development.” That being said, if tenants living in motel rooms can pay the portion above 150% FMR beforehand, you may pay the portion that is within the limit.

What, if any, prioritization policies need to be in place? Commerce does not require grantees to prioritize specific households. However, if grantees want to add prioritization criteria, they must get prior approval from their grant coordinator. These additional criteria must be seeking to prioritize people based on an increased vulnerability to and/or risk of experiencing homelessness.

What is Commerce thinking and/or what other communities may be doing regarding the unrestricted number of months of assistance allowed? This is a matter of Local Variance. If you have concerns that the unrestricted number of months of assistance may make it harder to meet the need in your community (through a funding deficit or for some other reason), talk to your grant coordinator. As with any other Local Variance, we would expect you to make decisions around prioritization with the intention of serving those more at risk of or vulnerable to experiencing homelessness.

Can we serve youth under the age of 18 who are not emancipated?

No. In order to be eligible for the program, youth under the age of 18 must be emancipated. Legally, young people must be at least 16 in order to be legally emancipated.

If a tenant pays utilities to their landlord, but it's not a fixed rate, should it be counted as rent or utilities?

As long as it is in the lease agreement that utilities are to be paid to the landlord, you may count this payment as “rent.”

Can ERAP 2.0 pay for towing or repairs if someone lives in a vehicle or RV?

Unfortunately, ERAP 2.0 can only pay for Rent and Utilities, and towing and repairs do not fall into those categories. We encourage you to check with your other funding sources to see if you can find more flexible funding to cover these costs.

A tenant had a fire in their mobile home and are currently staying elsewhere. Are they still eligible for ERAP 2.0 even though they are not currently “occupying” the residence?

Because the lot is still “occupied” by the damaged trailer and the tenant intends to return to the living on the lot after making repairs, the tenant is still eligible for ERAP 2.0.

Are tenants in “Rent-to-own” agreements eligible for ERAP 2.0?

A grantee may provide financial assistance to households that are renting their residence under a “rent-to-own” agreement, under which the renter has the option (or obligation) to purchase the property at the end of the lease term, provided that a member of the household:

1. Does not hold the deed or title to the property; and
2. Has not exercised the option to purchase.

However, if the tenant has entered into an agreement to purchase the property, they may be in an “owner-financed mortgage,” which would not be eligible. If you’re unsure, contact your grant coordinator with questions.

Documentation

What backup documentation can grantees continue to collect? Grantees may collect the documentation outlined on the Household Information and Eligibility Form to verify income. However, Commerce strongly encourages the use of self-certifications of income for ease of access to the program, especially in circumstances where collecting documentation is creating a barrier to administering funds. Commerce explicitly prohibits grantees from collecting evidence to substantiate a household statement or adding any additional criteria, such as identification, social security numbers, birth certificates, or medical documentation. However, if grantees suspect fraud, they may access publicly available records such as those substantiating land ownership, and may reach out to landlords or tenants for verification or clarification of information.

If a grantee’s rent is income-based, such as Section 8 or HUD housing, do changes in their portion of the rent violate the provision against raising rent on the Rent Payment Agreement Form?

No. Landlords are prohibited by the Rent Payment Agreement Form from raising *overall* rent. The portion of rent paid by the tenant may change based on income without violating the terms of the Rent Payment Agreement Form. If you would like to add language to the Payment Agreement Form to clarify this, contact your grant coordinator.

Do tenants need to be listed on the utility bill in order to make a payment directly to the Utility company?

No, tenants do not need to be listed on the utility bill in order for a payment to be made. However, the grantee should make some effort to document that the utility bill is for the tenant's unit.

Other

What should we do if a landlord violates the landlord agreement prohibiting eviction, additional fees for covered months, or rent increases for 6 months? If the landlord violates the landlord agreement, refer the tenant to the Eviction Defense Screening Line at 1-855-657-8387 for legal support.

If we're paying future utilities, what happens if the actual amounts differ from the projected amounts? Do they have to return unused funds? Can they come back for more money if it doesn't cover it all? There is no need for tenants to pay back excess funds paid for utilities. If the estimate is too low, they can come back for more funds to cover the rest of the cost. If the estimate was too high, the utility company should apply the excess to their account as a credit.

If we are paying future rent, when does the 6 months (as specified on the Rent Payment Agreement Form) kick in? For example, if we are paying current Oct rent and future Nov – Jan rent, does the 6 months start from October or January? The 6 month time period begins upon signature of the form. In the example above, the landlord would no longer be bound by the agreement starting in April.

If a new landlord takes over the lease of a tenant who has been paid with ERAP 2.0 funds, do they still need to follow the terms of the Payment Agreement Form?

Yes. When a landlord takes over a lease from another, they generally agree to the terms entered into with that tenant by the old landlord. Therefore, we would expect them to honor the Payment Agreement signed by the previous landlord.

If a tenant has had future rent paid and moves from one unit to another within the same complex, with the same landlord and rental obligation, does the future rent paid apply to the new unit?

Yes. The future rent paid should be applied to the new unit.

What if a staff member has a relative applying for ERAP 2.0, or they find that they are reviewing an application of a relative or family member?

If there is a staff member that can help the tenant and/or who can process the paperwork that is not related to the tenant, grantees should go that route. If that's not possible, grantees should have a staff member who's not related to the tenant review the paperwork for eligibility. If none of that is possible, grantees should partner with a lead grantee to review the paperwork for your organization.

Grantees could also consider getting a release of information with another local organization administering the same funds and pass off the tenant application to them for processing. Please gain consent from the tenant before sharing information.