Treasury Emergency Rental Assistance

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In response to the COVID-19 pandemic, Congress established an Emergency Rental Assistance (ERA) program administered by the U.S. Department of the Treasury to distribute critically needed emergency rent and utility assistance to millions of households at risk of losing their homes. Congress appropriated an historic $46.5 billion for the Treasury ERA program, including $25 billion through the "Consolidated Appropriations Act of 2021" (ERA1) and $21.6 billion through the "American Rescue Plan Act of 2021" (ERA2). State and local governments have worked to design, scale up, and distribute aid to renters and landlords, though as some programs have developed innovations and disbursed aid swiftly, others have failed to quickly scale up, leaving renters in need without adequate aid.

FEDERAL ENACTMENT AND IMPLEMENTATION OF EMERGENCY RENTAL ASSISTANCE

In April 2020, after passage of the "CARES Act," NLIHC launched and led a national campaign for "Rent Relief Now." The campaign, comprised of over 2,300 organizations from across the country, called for a national moratorium on evictions for nonpayment of rent, and sufficient emergency rental assistance funds to assist low-income tenants and small landlords.

By the end of 2020, renters had accrued an estimated $50 billion in rent and utility arrears. In December 2020, Congress passed an initial $25 billion (ERA1) in the "Consolidated Appropriations Act of 2021." The ability of state and localities to distribute critical ERA funds was hindered early on by harmful guidance released by the Trump Administration on its last day in office, January 19, 2021. The Trump Administration's FAQ created unnecessary barriers that increased application times, discouraged eligible households from seeking assistance, and prevented states and localities from spending resources in a timely manner.

The U.S. Department of the Treasury (Treasury) rescinded the Trump Administration's harmful FAQ and released a new FAQ in February 2021 that directly addressed the significant flaws in the previous Administration's guidance. The revised guidance clarified that renters may self-attest to meeting most eligibility criteria, including COVID-related hardships, income, housing stability, and the amount of back rent owed; shortened the timeframe from 21 days to as little as 10 days before ERA could be provided directly to tenants when landlords refuse to participate in the program or are unresponsive; and clarified that home Internet costs and legal assistance for renters facing eviction are eligible uses of ERA.

Congress appropriated an additional $21.6 billion for ERA in March 2021 through the American Rescue Plan, establishing ERA2. Guidance for ERA2 addressed several of the ongoing challenges of ERA1. Treasury's revised guidance required program administrators distributing ERA2 to provide assistance directly to renters if landlords refuse to participate or are unresponsive and allowed ERA2 programs to offer direct-to-tenant assistance first and immediately, rather than requiring programs to conduct outreach to landlords beforehand. The FAQ also expanded eligibility criteria for eligible renters to those that experienced a financial hardship during COVID-19 rather than as a result of COVID-19. The updated FAQ also encouraged grantees to avoid establishing burdensome documentation requirements that would reduce participation and allowed programs to verify eligibility based on readily available information, such as the average income of the neighborhood in which renters live.

The improved guidance expanded renter protections by prohibiting landlords from evicting tenants for nonpayment while ERA payments

are being made on their behalf; prohibited ERA2 programs from denying aid to eligible households solely because they live in federally assisted housing, noting that failure to do so may violate civil rights laws; and increased access for people experiencing homelessness by reinforcing that ERA can be used for moving expenses, security deposits, future rents and utilities, and the costs of transitional hotel or motel stays.

Treasury has continued to make improvements and revisions to their guidance throughout 2021, issuing revised FAQs on August 25 to support state and local governments in expediting the distribution of ERA. The revised guidance provides even more explicit permission for ERA grantees to rely on self-attestations without further documentation to demonstrate every aspect of a household's eligibility for ERA, including financial hardship, the risk of homelessness or housing instability, and income.

PROGRAM PROGRESS

Treasury's improvements to ERA guidance resulted in real-time changes and improvements to ERA programs. After a slow start to getting funds out the door, many programs were able to accelerate their spending after the first several months of implementation. Through the end of November 2021, $15.9 billion from ERA1 and ERA2 has been disbursed to households, reaching over 3.2 million renter households.

Despite this, programs have experienced uneven success in getting funds disbursed to renters in need. In November alone, programs disbursed $1.5 billion in ERA1 and $1.35 billion in ERA2 funding. After steady increases in monthly ERA1 spending since the program's start, October marked the first month where ERA1 spending decreased, and this decrease continued into November. Despite these decreases, ERA2 spending has increased significantly, more than doubling between October and November. While over 100 grantees have spent most of their ERA1 allocation and are transitioning to ERA2, approximately 70 grantees have still spent less than one-third of their ERA1 allocation.

State grantees, whose allocations account for $17.7 billion of ERA1, spent 54% of their funding by November 30. Eighteen states have spent more than 50% of their ERA1 allocation, with New York, California, New Jersey, and Minnesota all spending over 90% of their allocations. Many other states continue to fall behind, with 14 states having spent less than 20% of their allocation by the end of November. Several states have also begun spending their ERA2 funds. By the end of November, the state of New Jersey reported spending 82% of their total ERA2 allocation, followed by the District of Columbia at 66%, and Texas at 47%.

Local grantees spent 74% of their total ERA1 allocations by the end of November 2021. Nearly 100 localities have spent more than 90% of their ERA1 funding and over two-thirds have spent more than 50%. Nearly 150 local grantees have started spending ERA2 as well, with many large cities and counties already spending a significant portion of their allocation. NLIHC tracks ERA spending on the ERA Dashboard and Spending Tracker, integrating Treasury data with data from real-time a program dashboards to provide a closer estimate of how much ERA funding has been obligated to date.

Spending is just one measure of program performance, however. NLIHC has also assessed the number of households served by ERA programs as a share of cost-burdened, low-income renters, which provides insight on the reach of ERA programs. States that are particularly concerning are those that have spent very little and have a high number of low-income renter households, such as Ohio, Georgia, Arizona, and Tennessee. This analysis also points to the disproportionality of the ERA1 allocation formula, which determined allocations based on a state's total population instead of potentially eligible households. For example, New York received $824 in ERA1 funds per cost-burdened low-income renter household, while Wyoming received $8,188. As a result, states that received disproportionately high allocations will be able to serve a much higher share of their cost-burdened, low-income renter households than states that received disproportionately low allocations.

PROGRAM IMPLEMENTATION

Since the start of ERA, NLIHC has closely tracked how ERA programs are being implemented nationwide. As of February 2022, NLIHC identified 511 Treasury ERA programs set up by state and local grantees, 201 of which are now administering ERA2 funds. Treasury's changing guidance and programs' course corrections have resulted in ERA programs that look significantly different in early 2022 compared to when they first opened.

For example, in April 2021, only 27% of ERA programs explicitly allowed for self-attestation for some eligibility criteria instead of asking for source documentation. By February 2022, 63% of programs allowed self-attestation for at least one eligibility criteria. The most common form of self-attestation was COVID hardship, with 51% of programs allowing applicants to self-attest to experiencing hardship due to COVID-19. Twenty-one percent of programs allowed applicants to self-attest to their income, and 17% of programs allowed applicants to self-attest to experiencing housing instability. Similarly, the share of programs explicitly allowing payments to be made directly to tenants increased from 15% in April 2021 to 33% by February 2022. This is expected to continue to rise, as programs administering ERA2 funds are required to provide assistance directly to tenants if landlords refuse to participate.

Additional guidance from Treasury also clarified allowable "other housing expenses" that programs may cover, such as relocation assistance and hotel or motel stays to assist those who are at risk of or have already experienced eviction. This clarification has increased the number of programs funding these additional services. As of February 2022, 53% of ERA programs fund at least one "other housing expense." Twenty-seven percent cover internet expenses and relocation expenses, 22% cover late fees, and 11% cover hotel and motel stays.

PROMISING PRACTICES

Many programs that have demonstrated strong ERA approval or distribution rates have implemented program flexibilities, simplified their application, conducted robust outreach, and increased capacity and infrastructure to improve program performance. The following details how some of these promising practices have been implemented on the ground.

Robust & Equitable Outreach with Trusted Community Partners: High-performing programs have relied on robust partnerships with trusted community organizations to reach the most marginalized communities and support renters through the application process. For example, the State of Virginia partners with and funds organizations to reach households and landlords with limited access to the internet or otherwise unable to complete online applications due to accessibility and language barriers. In Richland, SC, ERA program administrators work with public libraries to provide access to the application and offer application support. Honolulu's ERA program similarly works with a network of nonprofit partners and target specific populations, such as the Micronesian community, or neighborhoods with high need, like the Leeward Coast of Oahu. San Antonio has been effective at reaching Latino households by conducting door-knocking campaigns in such neighborhoods, advertising on Spanish-speaking local radio, and offering support with the application process at libraries in Latino neighborhoods.

Increasing Capacity & Infrastructure: To disburse funding efficiently, program administrators also had to increase staffing and develop more advanced technological infrastructure to handle the influx of applications and program requests from renter households in need. Programs that attempt to administer ERA with the same staffing and internal systems they used prior to COVID-19 will likely suffer from major backlogs, limited visibility, and staff burnout. Many high-spending programs increased internal staff through permanent hires, temporary workers, and interns, or they

subcontracted to community-based organizations and other contractors to bolster program capacity.

Simple & Accessible Applications: Local programs, such as in Caddo Parish, LA; New Hanover County, NC; and Honolulu, HI, use a very simple, low-barrier screening application. Once applications are selected, program administrators follow up with tenants to request any necessary information or documents. To reduce burden on tenants, the City of Houston and Harris County's joint program requests that landlords share information as part of their landlord directory; tenants can select their landlord from a dropdown and, if their landlord is participating in the directory, tenants will find information prefilled so that there is less information for tenants to collect and input as part of the application.

High-performing program administrators take intentional steps to ensure applications are accessible to a wide audience, via multiple methods such as online, in person, and on the phone, as well as in multiple languages. In San Antonio, ERA program administrators ensure that all people, regardless of immigration status, know they can access the program by explicitly accepting Consular IDs as a form of identification. The State of Connecticut's program brings the ERA application to towns and neighborhoods, leveraging a mobile technology bus with staff and volunteers, to help renters apply for assistance on the spot.

Using Proxies and Categorical Eligibility to Decrease Documentation Burden: Many high-spending programs have implemented various flexibilities to reduce documentation for program applicants. Among state programs, Kentucky, Virginia, South Carolina, North Carolina, and Connecticut have implemented fact-specific proxies for income so that households residing in low-income ZIP codes or Qualified Census Tracts do not have to provide income documentation, easing the application process. Some programs have also integrated categorical eligibility into their programs, utilizing administrative data from other federal, state, or local assistance programs to verify a household's income. As of December 2021, 24% of all programs have implemented this flexibility by either allowing households to provide a benefit letter rather than income documentation or integrating their application software with administrative data sources from SNAP, TANF, Medicaid, and other programs.

Landlord Engagement & Tenant Protections: Several high-spending state and local ERA programs have adopted notable strategies to engage landlords, implement tenant protections, and ensure tenants do not fall through the cracks. Several programs actively engaged landlords to increase their program buy-in and participation. The State of Texas held meetings with landlord groups to hear their concerns about the program and to get feedback on what additional resources would be helpful. As a result of these meetings, the state decreased documentation requirements for landlords and created resources, such as an application process flow-chart, that landlords requested.

Several programs also developed strong tenant protections and eviction-diversion strategies in coordination with their ERA programs. Philadelphia's Municipal Court issued an order stating that after applying for emergency rental assistance and participating in landlord/tenant mediation, landlords must wait 45 days to file for eviction. Philadelphia has created an eviction-diversion program as another facet of its ERA program, and the ERA program administrators regularly check in with the courts to keep the courts up to date on pending applications and to ensure tenants are not evicted during this time. Louisville/Jefferson County, KY, has formed a strong relationship with the courts to ensure households applying to ERA are protected from eviction and to inform households about ERA as soon as they receive an eviction notice. In New York State, once tenants apply for ERA, they cannot be evicted because the lease has expired or due to non-payment of rent during the COVID-19 pandemic.

REALLOCATION AND THE FUTURE OF ERA

In late 2021, Treasury began the process of reallocating ERA1 money from grantees with "excess" funds to grantees in need of additional resources, as required by the statute establishing the ERA program. Grantees which have not obligated 65% of their funds and have also not met a 30% expenditure ratio by September 30 are determined to have "excess funds." The expenditure ratio is the amount grantees have distributed divided by 90% of their total allocation, and the amount of funds recaptured will be based on the difference between a grantee's expenditure ratio and the 30% threshold. The expenditure ratio required of grantees to avoid recapture will increase by 5% each month and by the end of March 2022, Treasury will conduct a final assessment of each grantee's spending. At that time, Treasury may determine any unobligated ERA1 funds to be "excess funds."

Treasury completed the first round of reallocation in January 2022 and released documents detailing which grantees had funds recaptured and which grantees voluntarily gave up funding, as well as where this funding went. More than $1 billion was voluntarily reallocated, with $875 million going to grantees in the same state and $162 million going toward general reallocation. Another $91 million was recaptured from grantees who did not meet the required expenditure threshold and did not voluntarily reallocate funds, for a total reallocation pool of $1.1 billion. Wisconsin, North Dakota, Indiana, Louisiana, and Tennessee all voluntarily gave up more than $100 million of their allocations. Idaho, Montana, and Delaware had the largest amount of funds recaptured involuntarily, with $33 million, $22 million, and $11 million being returned, respectively.

Because the majority of reallocated funds were given up voluntarily during the first round, most stayed within the same state. Only $209 million of the more than $1 billion in reallocated funds crossed state lines, making up 19% of the available funds. The small amount of funds available for reallocation across state lines, however, meant that some places with significant needs received far less than they requested. The state of New York, for example, received only $27 million despite requesting $1 billion, and the state of Texas received nothing despite requesting $3 billion. Other large ERA programs have also indicated they do not have enough funds to meet the need of their low-income renters, including California, New Jersey, Oregon, Austin, TX, and Philadelphia, PA. These examples illustrate the continued widespread need for emergency rental assistance among low-income renters and highlight the need for swift reallocation by Treasury to jurisdictions with overwhelming demand.

Congress should build on the successes and lessons learned from Treasury's ERA program by creating a permanent emergency rental assistance program to cover the gaps between income and rental costs during a financial crisis. The bipartisan "Eviction Crisis Act" (S. 2182) introduced by Senators Michael Bennet (D-CO) and Rob Portman (R-OH) would establish a permanent national housing stabilization fund – funded at $3 billion annually – to help stabilize households experiencing an economic shock before it causes housing instability and homelessness. Congress should pass the "Eviction Crisis Act" to establish a permanent emergency rental assistance program using the ERA infrastructure communities are building now.

FOR MORE INFORMATION

Treasury's ERA Program webpage: https://bit.ly/3rJengP.

NLIHC ERA Rental Assistance Look-Up: https://nlihc.org/rental-assistance.

NLIHC ERA Dashboard: https://nlihc.org/era-dashboard.

NLIHC ERA Resource Hub: https://nlihc.org/resource-hub.

NLIHC ERA Spending Tracking: https://bit.ly/ERA-spending.