Treasury Emergency Rental Assistance Program

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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 during of the pandemic. 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). As the first tranche of ERA funds comes to an end, grantees have disbursed of $31 billion to renter households in need. However, ERA has highlighted the extreme need among low-income renters and the importance of creating a sustained emergency rental assistance program for households that face a financial shock putting them at-risk of housing instability.-

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 by requiring applicants to document hardship beyond self-attestation; requiring grantees to wait 21 days after conducting outreach to the landlord or utility provider before providing assistance directly to the renter; and suggesting that 10% of funds were to be used for both housing stability services and administrative fees These restrictions increased application times, discouraged eligible households from seeking assistance, and prevented states and localities from spending resources in a timely, equitable manner.

After President Biden was sworn into office on January 20, 2021, NLIHC urged the new Administration to rescind the Trump-era guidance and issue new guidance to help state and local grantees distribute ERA to the millions of households at risk of losing their homes. 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, as was the case for ERA1. The FAQ also expanded eligibility criteria to include renters who 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 the tenant's behalf; prohibited ERA2 programs from denying aid to eligible households solely because they live in federally assisted housing, noting that failure to provide ERA 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, risk of homelessness or housing instability, and income. Treasury issued revised guidance in July 2022 to provide further information on documentation and eligibility requirements for housing stability services, the applicability of source-of-income laws, and the permissibility of job and employment requirements, among other provisions.

The statute establishing the ERA2 program provides that a grantee may use its ERA2 funds that are unobligated as of October 1, 2022, for "other affordable rental housing and eviction prevention purposes, as defined by the Secretary, serving very low-income families." In order to use funds for these purposes, a grantee must have obligated at least 75% of the total ERA2 funds allocated to it for rental and utility assistance, housing stability services, and administrative costs. Treasury's guidance defines "eligible affordable rental housing purposes" as expenses for the construction, rehabilitation, or preservation of affordable housing projects and the operation of affordable housing projects that were constructed, rehabilitated, or preserved using ERA2 funds. Affordable rental housing projects must serve very low-income (VLI) families earning at or below 50% of area median income (AMI) and must remain affordable for a minimum of 20 years. Treasury defines "eviction prevention purposes" in the same manner as housing stability services. Services provided with funds made available for eviction prevention purposes must serve very low-income families.

PROGRAM PROGRESS

Spending

Treasury's improvements to ERA guidance resulted in real-time changes and improvements to ERA programs. After a slow start to disbursing funds, many programs were able to accelerate their spending after the first several months of implementation. Through the end of June 2022, nearly $21 billion of ERA1 and $11 billion of ERA2 was spent on financial assistance to households, housing stability services, and administrative expenses. This is nearly 84% of the $25 billion available under ERA1 and 51% of the $21.5 billion available under ERA2. The ERA program has served over 5.3 million households between January 2021 and June 2022.

Nationally, ERA1 spending rapidly increased each month between April and September 2021, with significant increases occurring between July 2021 and September 2021. Between October 2021 and June 2022, ERA1 spending declined and then plateaued as more programs transitioned to spending their ERA2 funds. ERA2 funds were made available in April 2021, and after a slow start, fund disbursal rapidly increased between October 2021 and November 2021. Over $1 billion of ERA2 was spent each month between November 2021 and April 2022. In May and June 2022, spending tapered slightly and fell just below $1 billion.

Spending data through June 2022 reveals continued variability in spending rates across states. After aggregating the spending of all grantees within each state, six states and the District of Columbia had disbursed over 80% of total ERA funds allocated on assistance to households by June 2022. Conversely, seven states had spent less than 30% of their total ERA allocation.

Reallocation of Funds

In late 2021, Treasury began the process of reallocating ERA1 funds from slow-spending grantees to fast-spending grantees, as required by statute. To avoid having funds reallocated, grantees were required to meet a 30% expenditure ratio by September 30, 2021. Treasury calculated the expenditure ratio by dividing the amount grantees had distributed on assistance to households by 90% of the grantee's allocation, considering any funds reallocated. Any grantee which did not meet this threshold was considered to have excess funds subject to reallocation. Grantees falling below the 30% threshold were also required to reach a 40% expenditure ratio based on expenditures through November 2021.

After March 31, 2022, Treasury reallocated a portion of unobligated ERA1 funds from grantees, leaving grantees with the amount of ERA1 funds they had spent in their strongest quarter. After June 30, 2022, Treasury determined if additional recapture of unobligated funds were necessary to ensure ERA1 funds were distributed by the statutory deadline.

Like ERA1, Treasury was statutorily required to reallocate ERA2 funds. Under ERA2, grantees were again required to meet an increasing expenditure benchmark to avoid having funds reallocated. The expenditure ratio for ERA2 was based on funds disbursed for financial assistance and housing stability services. Treasury reallocated funds quarterly through 2022 based on an expenditure ratio that increased by 20% each quarter. ERA2 funds, which is disbursed in tranches, could only be reallocated if it had not yet been disbursed to grantees.

Between 2021 and 2022, Treasury reallocated around $3.6 billion in ERA funds from state, local, territorial, and tribal grantees. In early 2023, Treasury reallocated an additional $690 million in ERA2 funds bringing the total amount reallocated to just under $4.4 billion as of January 2023. The vast majority—$4.3billion— was reallocated from state, local, and territorial grantees. Nearly 64% of these funds were voluntarily reallocated either to another eligible grantee within the same state or to a national pool if another grantee could not be identified (e.g., there were no other grantees within the state). Due to the large proportion of voluntarily reallocated funds, over 60% of funds remained in the same state. Reallocated funds remaining in the same state likely helped correct the initial allocation formula, which gave a disproportionate amount of funding to state grantees compared to local grantees. However, the large amount of reallocated funds remaining in the same state may have prevented disparities between states from being addressed. Considering what grantees have received so far in both ERA1 and ERA2 reallocations, the grantees that have received the most additional funds are: the State of California ($539.9million), the State of New York ($397.6million), the State of New Jersey ($234.2million), the State of Texas ($204.8million), and Indianapolis, Indiana ($98.1 million).

Grantees were statutorily required to obligate their initial ERA1 allocation by September 30, 2022. Grantees have until 2025 to obligate their initial ERA2 allocation. Grantees had until the end of 2022 to distribute any reallocated ERA1 funds.

Equitable Distribution

Spending is just one measure of performance. Program administrators were tasked with the dual responsibility of getting out the funds quickly and to those who needed it the most. Initial research conducted by the Office of Evaluation Sciences suggests that from January 2021 to June 2022 ERA programs served a high share of renters with extremely low incomes—defined as incomes less than or equal to 30% of the area median income—as well as a high share of Black renters. By using data from the American Community Survey, Household Pulse Survey, and the Current Population Survey, researchers were able to create a demographic profile of renters that were likely eligible for ERA. Only 36% of eligible renters in the Office of Evaluation Sciences' profile had extremely low incomes, while 64% of renters served had extremely low incomes. Additionally, Black renters made up only 23% of profiled renters eligible for ERA but made up 46% of all ERA recipients. However, the ERA program may have underserved Asian renter households and, in some states, Latino renter households. Additional research should explore challenges administrators faced in reaching these households.

PROGRAM IMPLEMENTATION FEATURES

Since the beginning of ERA, NLIHC has closely tracked how ERA programs are being implemented nationwide. As of November 2022, NLIHC identified 514 Treasury ERA programs set up by states, localities, territories, and tribal governments. In April 2021, only 27% of ERA programs explicitly allowed for self-attestation—instead of asking for source documentation—for some eligibility criteria. By November 2022, nearly 62% of programs explicitly allowed for at least one form of self-attestation. The most common form of self-attestation used was for COVID hardships, with 51% of programs allowing applicants to self-attest to that eligibility criteria. Similarly, the share of programs explicitly allowing payments to be made directly to tenants increased from 15% in April 2021 to 35% by November 2022.

In addition to self-attestation, programs utilized other income verification flexibilities. Over one in four programs used categorical eligibility to verify an applicant's income eligibility. Categorical eligibility allowed programs to rely on an eligibility determination letter from any local, state, or federal government assistance program (e.g., SNAP, TANF, WIC, Medicaid, Housing Choice Voucher) to verify income eligibility. Nearly 6% of programs utilized fact-specific proxy to verify an applicant's income eligibility. Fact-specific proxy allowed grantees to use a reasonable proxy, such as an average income in a neighborhood, in conjunction with self-attestation, to determine household incomes.

Treasury also allowed ERA programs to use funds for "other housing expenses" such as relocation assistance and hotel or motel stays. Over 1 in 2 programs used funds for at least one allowable activity related to other housing expenses with the most programs covering internet costs (28% of programs), relocation expenses (27% of programs) and late fees (22% of programs).

An increasing number of programs are no longer accepting new applications. As of November 10, 2022, nearly 37% of programs paused accepting new applications. Most programs cited limited remaining funds as their reason for no longer accepting new applications. Some of these programs may re-open if they receive additional funds through reallocation, although programs may opt to use those funds to assist existing applicants. Another 14% of programs have closed, leaving approximately half of ERA programs still accepting applicants and disbursing funds.

MOVING FORWARD

Over the last two years, more than 500 state and local jurisdictions have established Treasury ERA programs using federal dollars, many of them starting from scratch. At the same time, NLIHC's partners successfully advocated for the passage of more than 150 new federal, state, and local tenant protections since January 2021. The unprecedented investment in emergency rental assistance, coupled with new local, state, and federal tenant protections, prevented at least 1.36 million formal evictions in 2021 alone. Given the success of ERA and renter protections in preventing housing instability, efforts should be made to preserve the newly created ERA infrastructure and new federal funding should be made available to continue this critical component of the housing safety net.

States and localities must act quickly to protect the progress that has been made, address the possible loss of ERA, and invest in long-term housing solutions. Most communities are grappling with how to sustain ERA programming, infrastructure, and partnerships without federal ERA funding. More action is needed to preserve the gains made in creating an infrastructure to provide emergency assistance and prevent evictions. Congress should build on the successes and lessons learned from Treasury's ERA program to establish and fund a permanent emergency rental assistance program to help stabilize households experiencing economic shocks before they face instability and homelessness.

Before the pandemic, NLIHC's multisector Opportunity Starts at Home (OSAH) campaign worked to build bipartisan support for and introduce legislation to establish a pilot emergency rental assistance program. OSAH worked closely with a bipartisan group of senators – Michael Bennet (D-CO), Rob Portman (R-OH), Sherrod Brown (D-OH), and Todd Young (R-IN) – to craft the Emergency Assistance Fund proposed in the "Eviction Crisis Act" (S.2182), introduced first in 2019 and reintroduced in 2021. The "Eviction Crisis Act" and the "Stable Families Act" (H.R.8327), the House companion bill introduced by Representative Ritchie Torres (D-NY), would establish a new, national Emergency Assistance Fund to help ensure that extremely low-income renters have access to emergency assistance to cover the gap between income and housing costs in the event of a financial crisis. Since its first introduction in 2019 and after Congress approved $46 billion in ERA during the pandemic, congressional sponsors have strengthened the legislation by redesigning it as a permanent program rather than a pilot program, and incorporated lessons learned and best practices from the Treasury ERA program.

Despite Congress providing ERA, many renters faced difficulties accessing assistance. Some renters were not aware of the availability of emergency rental assistance, while others had to navigate overly burdensome documentation requirements or try to work around their landlord's refusal to accept emergency assistance funds. Providing funding directly to tenants helped decrease these barriers and sped up the delivery of assistance to the lowest-income households, while modeling a new way of delivering assistance not typically seen in other housing assistance programs. Future iterations of emergency rental assistance, including the Emergency Assistance Fund proposed in the "Eviction Crisis Act" and "Stable Families Act," should provide such direct-to-tenant assistance to ensure the fast and equitable distribution of funding.

NLIHC released a report, *Emergency Rental Assistance: A Blueprint for a Permanent Program*, in November 2022 that examines the implementation of Treasury's ERA program by state and local organizations to identify best practices and provide a blueprint that could be used to establish a permanent ERA program.

In addition to establishing a permanent ERA program, Congress must ensure long-term affordability for the lowest-income renters through universal vouchers, preserve and increase the supply of housing affordable to renters with the lowest incomes, and enact robust and permanent tenant protections at the state, local, and federal levels.

FOR MORE INFORMATION

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

NLIHC ERA Dashboard: https://bit.ly/3gfgmWy.

NLIHC ERA Resource Hub: https://bit.ly/3TFcNXp.

NLIHC ERA Spending Tracking: https://bit.ly/3EzJukR.

NLIHC Report, *Emergency Rental Assistance: A Blueprint for a Permanent Program*: https://bit.ly/3gibG2w.