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). While the ERA1 program has come to an end, grantees have until 2025 to disburse ERA2 funds. Thus far, grantees have disbursed nearly $40 billion to renter households in need. 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" for emergency rent and utility assistance.

At the beginning of 2021, NLIHC urged the Biden Administration to issue guidance to help state and local grantees distribute ERA to the millions of households at risk of losing their homes. In February 2021, Treasury issued guidance which 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. It allowed payments to be made directly to tenants when landlords refused to participate in the program or were 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.

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.” 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 IMPLEMENTATION FEATURES

Since the beginning of ERA, NLIHC has closely tracked how ERA programs are implemented, with particular interest in how programs utilize the flexibilities allowed by Treasury. Of the 514 ERA programs identified by NLIHC, nearly 62% explicitly allowed for at least one form of self-attestation. The most common use of self-attestation was for COVID hardships, with 51% of programs allowing applicants to self-attest that that eligibility criteria.

In addition to self-attestation, programs utilized other income verification flexibilities. More than one in four programs explicitly used categorical eligibility to verify an applicant’s income. Categorical eligibility allowed programs to rely on an eligibility determination letter from another local, state, or federal government assistance program (e.g., SNAP, TANF, WIC, Medicaid, Housing Choice Vouchers) to verify income eligibility. Nearly 6% of programs explicitly 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 housing income eligibility. More than one-third (36%) allowed payments to be made directly to tenants.

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).

PROGRAM PROGRESS AND IMPACT

SPENDING AND REALLOCATION

Spending data through June 2023 indicates that the overall amount of ERA1 and ERA2 expended since January 2021 is more than $39.9 billion, or 85% of the $46.5 billion in funds made available by Treasury. State, local, and territorial grantees have made over 11.6 million payments to households between January 2021 and June 2023.

Some grantees are utilizing their remaining ERA2 funds for other affordable housing projects. The latest data indicates that 18 states and 8 local grantees are using a portion of their remaining funds for these purposes. Six grantees are using ERA2 funds, beyond those set aside for housing stability services, for eviction prevention programs.

Treasury was statutorily required to reallocate

ERA1 and ERA2 funds from slower spending grantees to faster spending grantees. Broadly, Treasury required grantees to meet a gradually increasing expenditure ratio to avoid having funds reallocated. Grantees were also allowed to voluntarily reallocate funds to another grantee within the same state. Between 2021 and 2023, Treasury reallocated around $4.8 billion in ERA1 and ERA2 funds from state, local, and territorial grantees.

Due to the large proportion of voluntarily reallocated funds, nearly 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 ($539.9 million), the State of New York ($397.6 million), the State of New Jersey ($234.2 million), the State of Texas ($204.8 million), and Indianapolis, Indiana ($98.1 million).

While the expenditure period for ERA1 passed, grantees have until September 2025 to obligate their initial ERA2 allocation. However, it is unlikely that funds for rental assistance will be available until 2025. Most programs have already closed their programs to new applicants; as of early December 2023, just under 8% of programs were accepting new applications.

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. Preliminary data indicates that both ERA1 and ERA2 programs reached the households most in need. Nearly 65% of ERA1 recipients and 60% of ERA2 recipients had extremely low incomes—defined as incomes less than or equal to 30% of the area median income.

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 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. As more data becomes available, additional research should explore challenges administrators faced in reaching these households.

TENANT AND LANDLORD IMPACT

Receiving ERA had significant impacts on the housing stability and well-being of tenants. Research from NLIHC and the Housing Initiative at Penn, *Beyond Housing Stability: Understanding Tenant and Landlord Experiences and the Impact of Emergency Rental Assistance*, examines tenant and landlord experiences with the ERA program. Researchers found that surveyed tenants who received support from the ERA program experienced more positive short-term outcomes than those who did not. Tenants who received assistance were more likely to be living in their own apartment or home, were less likely to owe back rent, and were less worried about their housing stability compared to those who did not. Further, tenants and landlords felt that ERA provided renter households with stability in the short term and provided landlords with a degree of financial security. Researchers should continue to examine the impacts of ERA on both tenants and landlords.

MOVING FORWARD

The circumstances of the ERA program were unique, and the magnitude of the funding was unparalleled. Despite the ongoing need of low-income renters, most programs have exhausted available Treasury funding. In July 2023, NLIHC and the Housing Initiative at Penn released a report, *Continuing Emergency Rental Assistance: How Jurisdictions Are Building on Treasury's ERA Program*, which examines different components of the Treasury ERA program that are being retained by state and local jurisdictions as their Treasury funds run out, as well as factors leading to their retention.

Nearly half of surveyed administrators indicated that their jurisdiction is continuing or planning to continue emergency financial assistance beyond the exhaustion of ERA funds. About half of these jurisdictions are doing so using temporary federal funds like State and Local Fiscal Recovery Funds. Nearly 60% use, in part, state and local funds. In all cases, the scale of continued funding was significantly smaller than that of Treasury's ERA program. Further, many jurisdictions continuing to provide financial assistance relied heavily on previously existing programs.

Jurisdictions that are not continuing to provide emergency rental assistance overwhelming identified lack of a dedicated funding source (90%) and staff capacity (67%) as major barriers to continuing assistance. However, one-third of jurisdictions not continuing financial assistance are retaining or planning to retain at least one other component of the Treasury ERA program (e.g., legal services for tenants and housing navigation).

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 at the federal level 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.

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: Beyond Housing Stability: Understanding Tenant and Landlord Experiences and the Impact of Emergency Rental Assistance, https://tinyurl.com/yrhjzztc.

NLIHC Report: Continuing Emergency Rental Assistance: How Jurisdictions Are Building on Treasury's ERA Program, Continuing_ERA_Final.pdf (nlihc.org).