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HOW TO ESTABLISH AND IMPROVE EMERGENCY RENTAL ASSISTANCE PROGRAMS

SUGGESTIONS FOR STATE, LOCAL, TRIBAL, AND TERRITORIAL ELECTED OFFICIALS

The COVID-19 emergency, and necessary measures enacted by federal, state and local governments to contain it, have unintentionally resulted in lost wages and other unavoidable harm to millions of families through no fault of their own. Those with the lowest incomes have been disproportionately impacted, and racial inequities have intensified. Millions of low-income households are behind on their rent and landlords in-turn may be unable to meet their financial obligations. In March 2021, one of every 6 renters had fallen behind on their rent payments, putting them at risk for eviction. Without the direct intervention of state and local governments under the federal Emergency Rental Assistance (ERA) Program, the risk is high for increasing homelessness and permanent losses of affordable housing just as jobs and the economy begin to rebound.

Congress is relying on state and local governments to stabilize distressed households by connecting residents at risk of eviction to the more than $46 billion in emergency rental and utility assistance provided by Congress in the American Rescue Plan Act and the December COVID-19 relief bill. These resources can help economic recovery at the state and local level by eliminating rent and utility arrears that struggling renters have accrued during the pandemic and enabling longer-term housing stability necessary for job security and returning to work.

The National Low Income Housing Coalition (NLIHC) and National League of Cities (NLC) recommend elected officials and administrators follow these key principles for emergency rental assistance (ERA) programs to minimize obstacles and maximize uptake of rental aid, and to ensure these critical federal resources reach households with the greatest needs and are distributed equitably.

KEY PRINCIPLES FOR MODEL ERA PROGRAMS

The more than $46 billion in ERA funds provided by Congress will prevent millions of renters from losing their homes and enable longer-term housing stability for some renters. Many states and localities have ramped up their existing rental assistance programs to distribute this unprecedented volume of funds, and others are preparing to implement rental assistance programs for the first time. Since the current challenge of administering these funds has fallen to state and local governments, this is a key moment to learn from the state and local COVID-19 rental assistance programs launched in 2020.

The following key principles are based on NLIHC's tracking and analysis of nearly 900 state and local emergency rental assistance programs, and findings from collaborative research conducted by NLIHC, Housing Initiative at Penn, and NYU Furman Center (see list of additional resources for more details). The three organizations surveyed administrators of 220 emergency rental assistance programs and conducted in-depth follow-up interviews with 15 of them.

State, local, tribal, and territorial governments should incorporate the following key principles to develop and implement more equitable ERA programs.

QUICK TIPS FOR ELECTED OFFICIALS	
DO's	**DON'Ts**
Do center racial equity in the design and implementation of ERA programs.	Don't impose unnecessary and burdensome requirements.
Do prioritize households with the greatest needs.	Don't neglect the need for targeted outreach to marginalized populations.
Do coordinate with housing agencies to make resources available to federally assisted households.	Don't restrict ERA to non-subsidized renters or bar renters living in subsidized housing from the ERA program.
Do partner with trusted community-based organizations.	Don't lose time setting up a "perfect" program.
Do engage landlords.	Don't penalize tenants if their landlords refuse to participate.
Do hold grantees accountable to racial equity performance metrics.	Don't be afraid to change aspects of program design if it is not working as intended.

Center Equity in Design and Implementation

Programs must center racial equity in the design and implementation of rent relief programs. The COVID-19 pandemic has disproportionately impacted Black, Latino, and Native American communities, and without explicitly centering equity, programs may underserve renters of color. State, local, tribal, and territorial governments can use the following strategies outlined below to develop ERA programs that work towards addressing disparities by income, ethnicity, and race.

Marginalized populations, including people of color, people with disabilities, immigrants, people with limited English proficiency, and others should have full and equitable access to ERA resources. Several jurisdictions intentionally designed their programs to reach underserved households. Santa Clara County, for example, shaped their documentation requirements to ensure that residents with informal leases or difficult to document incomes, as well as noncitizens – and especially undocumented residents – could participate in their ERA program. Other strategies for reaching marginalized populations include partnering with trusted community organizations and distributing program information or conducting intake at shelters, food pantries, housing counseling offices, and other critical points of intervention.

Prioritize Households with Greatest Needs

The statute authorizing Treasury's ERA program explicitly provides that states or localities can introduce additional prioritization criteria. Program administrators should use this flexibility to target households with the greatest needs by creating priority groups based on measurable needs, such as households with incomes at or below 30% of AMI, those with severe housing cost burdens, people who are experiencing homelessness at the time of application, and others. Program administrators should target outreach and assistance to census tracts with the highest number of low-income and rent-burdened tenants, using tools such as the Urban Institute's rental assistance prioritization tool or the Centers for Disease Control and Prevention's (CDC) Social Vulnerability Index.

While Treasury guidance makes clear that federally assisted households are not precluded from receiving ERA, several programs are excluding these households from applying for assistance. Since federal housing programs typically serve households with the lowest-incomes, these restrictions bar assistance to households most at risk of housing insecurity and, in worst cases, homelessness. Program administrators should not restrict access to federally assisted households; rather, administrators should coordinate with housing agencies to make ERA available to these households.

Partner with Trusted Community-Based Organizations

Partnering with community-based or nonprofit organizations has helped both small and large jurisdictions build the capacity and infrastructure to deliver ERA funds on the scale and timing demanded by federal funding guidelines. Programs have relied on nonprofit organizations for outreach, intake, processing payments, administration and tracking, or a combination of these. Programs should contract with organizations with a demonstrated history of serving marginalized populations to help ensure funds are distributed equitably and reach households most impacted and harmed by the pandemic. Additional suggestions for effectively partnering with nonprofits can be found here.

Simplify Applications and Allow Self-Attestation

Burdensome application processes and documentation requirements create barriers that slow application processing times, discourage eligible households from seeking assistance, and prevent states and localities from spending resources in a timely manner. Guidance from Treasury on the ERA program explicitly allows renters to self-certify that they meet most eligibility criteria, including COVID-related hardships, income, housing stability, and the amount of back rent owed. Utah, for example, used a detailed self-declaration form for applicants to calculate and declare their annual income. Treasury also allows grantees to accept various forms of documentation. Programs should use the flexibility provided by Treasury to extend critical ERA resources to marginalized populations by allowing self-attestation and not imposing unnecessary documentation burdens. Additionally, programs should establish administrative processes that allow tenants to directly apply for rental assistance, taking into account language, technological, and disability-related barriers.

Engage Landlords

Program administrators have cited a lack of landlord participation as a barrier to distributing ERA to households in need. Administrators have encountered landlords that are difficult to get in touch with, hesitant to participate in a government program, unwilling to comply with program requirements, or simply prefer to evict tenants rather than accept assistance. NLIHC, Housing Initiative at Penn, and NYU Furman Center learned that programs have addressed the challenge of landlord participation in a variety of ways, including by increasing outreach to landlords and adjusting landlord requirements.

Provide Direct-to-Tenant Assistance

Tenants should not be penalized due to their landlords' refusal to participate in ERA programs. While programs must make efforts to reach out to landlords under the Treasury ERA program, Treasury explicitly allows programs to make payments directly to the tenant in as few as 10-calendar days if landlords do not participate. Programs should provide rental assistance payments directly to tenants whose landlords cannot be reached or explicitly refuse to participate. The period of time for landlords to participate and meet necessary requirements before programs distribute assistance directly to tenants should be kept to a minimum to allow renters to receive payments as soon as possible.

Incorporate Racial Equity in Performance Measurements

Incorporating racial equity in performance measurements is critical to ensuring equitable access to emergency rental assistance for households of color. Program administrators should hold grantees accountable to key racial equity performance metrics, such as by requiring grantees to meet specific benchmarks. Programs can monitor grantees against key racial equity performance measures and develop strategies to help grantees reach these targets. Administrators should collect and monitor process and outcome data broken down by gender, age, and race/ethnicity – as required by Treasury – as well as by neighborhood and other variables of concern. Program administrators should also report the number of applicants deemed ineligible and the reasons for denial. These data can be used to identify and address disparities in service provision and outcomes.

FEDERAL EMERGENCY RENTAL ASSISTANCE PROGRAMS AND FUNDING TO ASSIST WITH IMPLEMENTING EMERGENCY RENTAL ASSISTANCE PROGRAM

American Rescue Plan Act

Emergency Rental Assistance: Of the $27.4 billion provided for rental assistance in the American Rescue Plan (ARP) Act, $21.55 billion will be funded through the ERA Program administered by the U.S. Department of the Treasury. These funds are in addition to the $25 billion provided for the Treasury ERA Program through the Consolidated Appropriations Act of 2021, as discussed below. Together, the COVID-relief bills provide $46.5 billion for emergency rental assistance. See NLIHC's factsheet for more information on the housing and homelessness provisions in the ARP. See NLIHC's Frequently Asked Questions (FAQ) document for more information on the Treasury ERA Program.

- **State and Local Governments:** States, tribal, territorial and local governments with populations above 200,000. The Treasury Department will soon announce the process for elected officials to receive a direct allocation.
- **Allocations:** Of the amount provided, $305 million is set aside for territories. States and eligible local jurisdictions will receive an allocation based on their population size, with a small state minimum of $152 million. A total of $2.5 billion will be distributed to high-need communities based on the number of very low-income renter households paying more than 50% of income on rent or living in substandard or overcrowded conditions, rental market costs, and employment trends.
- **Eligibility:** Households are eligible for ERA funds if one or more individuals: (1) has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the pandemic; (2) can demonstrate a risk of experiencing homelessness or housing instability; and (3) has a household income below 80% of area median income (AMI).
- **Use of Funds:**
  - *Financial Assistance:* ERA funds must be used to provide financial assistance, including back and forward rent and utility payments, and other housing expenses, such as rental security deposits, rental fees, and Internet service. Assistance can be provided for 18 months.
  - *Housing Stability Services:* Not more than 10% of funds may be used to provide case management and other services intended to help keep households stably housed.
  - *Administrative:* Not more than 15% of funds paid to a state or local government can be used for administrative costs.
- **Prioritization:** States and localities must prioritize households with incomes below 50% of AMI or those who are unemployed and have been unemployed for 90-days. States and localities can provide additional prioritization of funds.

Utility Assistance: The American Rescue Plan Act provides $4.5 billion for utility assistance through the Low Income Home Energy Assistance Program (LIHEAP) and $500 million for water assistance through the Low-Income Household Water Assistance Program (LIHWAP).

- **Low Income Home Energy Assistance Program:** ARP provides an additional $4.5 billion for LIHEAP to help low-income households with their current home energy heating or cooling bills. Funds will be available through September 30, 2022.
- **Low-Income Household Water Assistance Program:** ARP provides $500 million for LIHWAP, a program established under the Consolidated Appropriations Act of 2021, to help low-income households with water and wastewater bills. Up to 3% of the funds are reserved for tribal governments.

State and Local Fiscal Relief: The American Rescue Plan Act provides $350 billion to help states, counties, cities, and tribal governments respond to the COVID-19 public health emergency and address its economic effects. The funds can be used for local economic recovery purposes, including assistance to households, small businesses and nonprofits, aid to impacted industries, and support for essential workers.

- **State and Local Governments:** Funding is distributed to state, territorial, and tribal governments. Localities must work with their governors to receive an allocation.
- **Allocations:** ARP provides $195 billion to states and the District of Columbia (a minimum of $500 million for each state), $65.1 billion to counties and $65.1 billion to cities, towns and villages (a minimum of $1.25 billion per state is provided by the statute inclusive of the amounts allocated to local governments within the state), $20 billion for tribal governments, and $4.5 billion to U.S. territories. The American Rescue Plan provides $10 billion for a Coronavirus Capital Projects Fund to cover the costs of capital projects, particularly in rural America and low- and moderate-income communities.
- **Use of Funds:** The statute explicitly mentions assistance to households as an eligible expense. State and local governments can use these funds to provide emergency rental assistance or to address the housing and health needs of people experiencing homelessness. While this funding is available, utilize these funds strategically by first identifying other resources to serve as linkages between your community needs, gaps and priorities. If no money is available, be encouraged to tap into the state and local aid.

Consolidated Appropriations Act of 2021

Emergency Rental Assistance: The Consolidated Appropriations Act of 2021 passed by Congress in December 2020 established a $25 billion ERA Program administered by the U.S. Department of the Treasury. See NLIHC's Frequently Asked Questions (FAQ) document for more information on the Treasury ERA program. See the Frequently Asked Questions (FAQ) document from the Treasury Department for more details.

- **State and Local Governments:** States, tribal, territorial and local governments with populations above 200,000. To elect to receive a direct allocation by the Treasury Department, elected officials were required to submit requests in January 2021.
- **Allocations:** Of the total $25 billion, $400 million was allocated to U.S. territories and $800 million to tribal communities. The remaining funds were distributed to states and cities with populations of 200,000 or more. Each state received a minimum of $200 million.
- **Use of Funds:**
  - *Financial Assistance:* At least 90% of the funds must be used to provide financial assistance, including back and forward rent and utility payments and other housing expenses that were incurred due, directly or indirectly, to the pandemic. Assistance can be provided for 12 months. States and localities can provide an additional three months of assistance if necessary, to ensure housing stability.
  - *"Other housing expenses"* can include relocation expenses, including rental security deposits and rental fees, which may include application or screening fees; reasonable accrued late fees; and Internet service.

- *Administrative Costs and Housing Stability Services:* The legislation states that up to 10% of the amount paid to grantees may be used for administrative costs, and that 10% of the remaining amount can be used for housing stability services, including housing counseling, case management, and "attorney's fees related to eviction proceedings," (legal aid) among others. While Treasury initially misinterpreted the statutory language to suggest that 10% of funds are to be used for **both** housing stability services and administrative fees, revised guidance from Treasury clarifies these are two separate allocations.

- **Eligibility:** Households are eligible for ERA funds if one or more individuals: (1) has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the pandemic; (2) can demonstrate a risk of experiencing homelessness or housing instability; and (3) has a household income below 80% of AMI.
- **Prioritization:** ERA funds must be used for households with incomes below 80% of AMI, and states and localities must prioritize households below 50% of AMI or those who are unemployed and have been unemployed for 90-days. States and localities can provide additional prioritization of funds.

Coronavirus Aid, Relief, and Economic Security (CARES) Act

The CARES Act, enacted in March 2020, provided two main funding streams that state and local jurisdictions could use for emergency rental assistance: Coronavirus Relief Funds (CRF) and Community Development Block Grants (CDBG-CV).

NLIHC, NLC, the National Alliance to End Homelessness, and Mayors & CEOS for U.S. Housing Investments prepared guidance for elected officials to help maximize federal resources under the CARES Act to reduce housing instability and homelessness.

EXAMPLES FROM MODEL ERA PROGRAMS

EXAMPLES OF PROGRAMS IMPLEMENTING PRINCIPLES FOR MODEL ERA PROGRAMS		
Principle	**Example**	**Description**
Center Equity in Design and Implementation	Santa Clara County, California	Destination: Home and Sacred Heart Community Service, partner organizations in the Santa Clara County Homelessness Prevention System, co-designed ERA programs with community members and partners. The two organizations surveyed community members to learn what types of assistance were needed and how community members wished to receive assistance.
Prioritize Households with the Greatest Needs	Tarrant County, Texas	Tarrant County's rental assistance program assigns points to determine the order in which applications are processed. Applicants with current eviction cases receive 5 points, applicants unemployed for 90 days or more receive 5 points, and applicants with incomes below 50% of AMI receive 10 points. Other applications that do not receive any points under these criteria, but otherwise meet eligibility requirements, are reviewed after prioritized applications.
Partner with Trusted Community-Based Organizations	Washington State	The state of Washington required local jurisdictions to partner with organizations operated by and for the marginalized communities they assistance and serve. Pierce County's program administrators worked with organizations led by people of color and members of the LGBTQ+ community to perform outreach to historically marginalized people. Requiring grantees to partner with organizations improved their ability to serve marginalized communities.

EXAMPLES OF PROGRAMS IMPLEMENTING PRINCIPLES FOR MODEL ERA PROGRAMS		
Principle	**Example**	**Description**
Simplify Applications and Allow Self-Attestation	San Leandro & Oakland, California	Centro Legal de la Raza, a nonprofit legal services organization that administers ERA programs for the cities of San Leandro and Oakland, allows applicants to self-certify income, tenancy, and COVID-19 related hardship in lieu of more onerous documentation requirements. The organization also provides its application and self-certification form in both English and Spanish.
Engage Landlords	Colorado	The state of Colorado worked closely with its state apartment association to ensure that the Property Owner Preservation, one of their two rental assistance programs, had the association's support.
Provide Direct-to-Tenant Assistance	Los Angeles, California	In evaluating its application data, Los Angeles found that nearly 45% of landlords and property owners did not participate in the city's rental assistance program. The city used the flexibility provided by Treasury to offer a direct-to-tenant payment when the tenant was eligible but the owner did not participate.
Incorporate Racial Equity in Performance Measurements	Washington State	Washington's Eviction Rent Assistance Program (ERAP) required that the percentage of households being served by the program be proportional to the populations of color living in poverty in each county, including people of color in aggregate and Black, Hispanic/Latino, and American Indian/Alaska Native populations. Grantees not on track to meet their benchmarks by the time they spent 50% of their ERAP funds were required to submit a plan to the state on how they would address the gap.

ADDITIONAL RESOURCES

Housing Initiative at Penn, NLIHC, & NYU Furman Center. March 2021. Learning from Emergency Rental Assistance Programs: Lessons from Fifteen Case Studies.

Housing Initiative at Penn, NYU Furman Center, NLIHC. January 2021. COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs.

NLC. April 2021. Local Recovery: Five Principles for ARP Implementation.

NLC. January 2021. The Eviction Prevention Cohort Report.

NLIHC Emergency Rental Assistance Database

NLIHC. January 2021. Best Practices for State and Local Emergency Rental Assistance Programs

NLIHC. March 2021. Emergency Rental Assistance Case Study: Washington State Department of Commerce's Eviction Rent Assistance Program.

NLIHC. March 2021. Emergency Rental Assistance Case Study: Santa Clara County Homelessness Prevention System's COVID-19 Emergency Homelessness Prevention Program.

NYU Furman Center, Housing Initiative at Penn, & NLIHC. March 2021. Advancing Racial Equity in Emergency Rental Assistance Programs.