July 12, 2021

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
Washington, D.C.

The Honorable Marcia Fudge
Secretary
U.S. Department of Housing and Urban Development
Washington, D.C.

The Honorable Susan Rice
Director
Domestic Policy Council
White House
Washington, D.C.

The Honorable Gene Sperling
American Rescue Plan Coordinator &
Senior Advisor to the President
White House
Washington, D.C.

To Secretaries Yellen and Fudge, Director Rice, and Senior Advisor Sperling:

On behalf of the National Low Income Housing Coalition and the NLIHC-led Disaster Housing Recovery Coalition (DHRC), I write to express both my gratitude for the historic and essential actions the Biden-Harris administration has taken to provide housing stability for renters during the pandemic, and my alarm at the small fraction of Emergency Rental Assistance (ERA) that has been distributed to households in need. In just over two weeks, the federal eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) will expire, well before ERA has reached all renters at heightened risk of eviction. Immediate action by federal, state and local governments is needed to prevent a historic wave of housing instability this summer and fall.

NLIHC is tracking more than 1,000 state and local rental assistance programs created or expanded during the pandemic, analyzing key features of these programs, and sharing best practices to ensure assistance is distributed to households most in need and is used to advance racial equity. Over 450 of these programs are funded through the $25 billion appropriated for the Treasury ERA program under the December 2020 Consolidated Appropriations Act. Through this research, NLIHC has identified program challenges as they occur and brought these issues to the forefront.

The Biden-Harris administration has taken essential and unprecedented action to prevent evictions and keep renters stably housed. Most recently, the Biden-Harris administration extended through July 31, 2021 the federal eviction moratorium issued by the CDC and defended the moratorium in federal court to ensure states and localities have more time to distribute ERA to renters struggling to pay rent. New initiatives announced by the White House will help promote housing stability, and the first-of-its-kind Eviction Prevention Summit hosted by the Biden-Harris administration brought together key local stakeholders from 46 cities to create eviction diversion strategies. Earlier this year, the U.S. Department of the Treasury and the White House made major program improvements to respond directly to roadblocks identified by NLIHC based on our ongoing tracking and analysis of state and local emergency rental assistance programs, feedback from our partners including renters and program administrators, and findings from collaborative research conducted by NLIHC, the Housing Initiative at Penn, and NYU Furman Center.

Many state and local governments are also working diligently to stand up Emergency Rental Assistance (ERA) programs. It is a significant and time-consuming undertaking to set up new emergency rental assistance programs from scratch, let alone to do so during a global pandemic. Some state and local programs are successfully ramping up their programs: Texas has now distributed close to 50% of its ERA allocation, up from 11% through May 2021, and California increased its distribution from 2% to 20% since the end of May. But these states remain the outliners. Most programs need to immediately and dramatically improve their efforts.

Despite the urgent need to distribute ERA and keep renters stably housed, just $1.5 billion of the $25 billion in ERA provided by Congress in December 2020 has been spent through May 2021, according to data released by Treasury. On average, states have spent only 4% of their total allocations and cities have spent 13%. Nearly half of all states and more than 100 cities have spent less than 1% of their total ERA allocations. While ERA programs are improving and will continue to ramp up this month, the slow pace of distributing aid is deeply alarming.

As the end of the federal eviction moratorium nears, six million renter households remain behind on rent and at heightened risk of eviction or housing instability. Evictions risk lives and push households deeper into poverty, impacting health outcomes, educational attainment, and more. Having millions of renters lose their homes would be tragic under any circumstance; it will be especially so when the evictions are entirely preventable with abundant resources yet to reach households in need.

I urge the Biden-Harris administration to take immediate further action to prevent a wave of evictions this summer and fall by: addressing roadblocks that continue to prevent ERA from reaching households with the greatest needs; raising awareness of ERA resources available to renters and landlords; and ensuring data transparency to allow programs to correct-course and further improve programs.

Guidance to Eliminate Remaining Barriers in the ERA Program

Like the lessons learned from deploying Paycheck Protection Program (PPP) loans, Treasury should ensure that ERA funding can be disbursed quickly through a brief application, self-attestation, and minimal risk to administrators. While the White House and Treasury have made major improvements to ERA program guidance in direct response to roadblocks in programs and feedback from NLIHC and our partners, too few programs are making use of the guidance and flexibility to reduce barriers for renters and landlords.

According to NLIHC's ERA dashboard, only 49% of programs explicitly use self-attestation as an allowable substitute for at least one eligibility requirement. Only 14% of programs explicitly allow self-attestation of income, which is often the most difficult documentation for renters to provide. Only 6% of programs allow for self-attestation of lease/proof of tenancy, which can disproportionately impact renters in informal units or undocumented renters. Evidence from 2020 programs in Washington State and Illinois show that self-attestation of income reduces documentation burden and allows funds to be distributed faster and reach the most marginalized renters.

Similarly, programs have also been too slow to adopt direct-to-tenant assistance options, which are especially critical when landlords refuse to accept ERA. According to NLIHC's ERA dashboard, 25% of programs are explicitly allowing this flexibility. Evidence from research conducted by NLIHC, the University of Pennsylvania's Housing Initiative at Penn and NYU Furman Center indicates that a higher share of programs (69%) are in fact allowing direct-to-tenant assistance, but many of these programs have neglected to make this option publicly known to renters and landlords on program webpages or informational flyers. In other cases, grantees are not making public basic information about programs, including how much back rent will be covered and any caps on assistance.

Safe Harbor Protections

Many program administrators are hesitant to reduce application requirements, utilize self-attestation and provide direct to tenant assistance and are overly cautious in their design and implementation of ERA programs out of concern that the Biden-Harris administration may later penalize them for noncompliance. To facilitate faster ERA spending, Treasury and its Office of Inspector General should together set and announce clear and flexible expectations. The White House and Treasury should create an explicit safe harbor to provide program administrators with clear assurances that funds will not be clawed back if administrators' interpretation of the guidance is "reasonable."

Third-Party Contracting

Treasury guidance should strongly encourage states and localities to subgrant with well-established providers in the community. Treasury should explicitly encourage programs to use administrative and housing stability funds to support outreach, case management, financial counseling and other service to help people to navigate the process and increase stability.

Model ERA Applications

Treasury has created a resource for program administrators, identifying strategies that could help speed up program implementation and improve access to ERA programs. The resource includes 10 strategies and examples of how these strategies have been successfully implemented in programs nationwide. Now, Treasury should provide oversight and consequences for programs not applying these strategies to their programs.

Moreover, the Biden-Harris administration should build on this resource by creating and broadly distributing a model streamlined ERA application including broad use of self-attestation and proxies that state and local governments can easily and quickly adopt. The model application should explicitly allow for program administrators to encourage third parties (such as legal aid attorneys, shelter or service providers, teachers, etc.) to apply on behalf of a tenant.

Improved guidance from Treasury should require programs to make public the flexible program designs they have incorporated. Treasury must monitor compliance with program guidance and take action against program administrators who blatantly disregard the guidance. Treasury should create a hotline or email address for individuals to report programs that are not in compliance with Treasury guidance.

Outreach to Marginalized Renters

The updated ERA guidance provided by the Biden-Harris administration on June 24 encourages programs to partner with community-based organizations to provide "culturally and linguistically relevant outreach and housing stability services." Moreover, in its FAQ on State and Local Fiscal Recovery Funds, Treasury states that these flexible dollars can also be used to conduct outreach to households at risk of eviction.

Treasury can build on these efforts by reaffirming and strongly encouraging state and local ERA program administrators to utilize the maximum allowable amount of funding to support outreach, housing navigation, and other services that will assist households, particularly those who are the most marginalized, in accessing and successfully navigating ERA and stabilizing their housing.

The administration should also encourage state and local programs to contract with “peers” and people who have been beneficiaries of ERA programs and services as community navigators to assist others through the process. Community service organizations should be encouraged and enabled to have “ERA tables” in eviction courts, with a stack of applications and staff available to assist landlords and tenants with filling them out.

Renter Protections

In the updated Treasury guidance, program administrators are encouraged to bar landlords receiving ERA from evicting renters for a certain period. This guidance can be strengthened by encouraging program administrators to bar evictions while an application is pending.

Greater enforcement and oversight of these protections are needed; NLIHC has heard from some renters who have received ERA funds but who are now facing eviction by their landlords. Some landlords are charging renters fees – as much as $150 – to apply for ERA on behalf of the renter. In cases where an application for ERA is denied, renters are left with even more debt, resulting in greater housing instability. Treasury or the Consumer Financial Protection Bureau (CFPB) should create a hotline for renters to call to report landlords acting in bad faith.

Raise Awareness of Emergency Rental Assistance

Incorporate ERA into the Biden Administration’s Vaccination Efforts

The Biden-Harris administration, including the CFPB, Treasury, and HUD, are taking important steps to increase awareness of ERA and help connect renters to resources. To further raise awareness of ERA, the Biden-Harris administration should include information about ERA into broader efforts by the administration to increase vaccinations and educate the public about other American Rescue Plan resources such as stimulus checks and increased child tax credits.

For example, the White House is partnering with childcare workers to provide free childcare while parents and caregivers receive their vaccination. Those childcare workers should provide all parents and caregivers information on how to access ERA and other American Rescue Plan resources. The Biden administration is working with pharmacies, such as Walgreen’s and CVS, to extend their hours to provide vaccinations; these pharmacies should share ERA information with individuals who receive vaccinations at their locations. Existing plans to deploy community canvassing, phone banking, text banking, and hotlines can be modified to share information on ERA, and partnering businesses, colleges, and other institutions can similarly share ERA information.

The Biden administration should also operate a major public education campaign – including public service announcements, and traditional and non-traditional media – to inform renters and landlords about the availability of ERA.

Convene National Stakeholders

The Eviction Prevention Summit hosted by the Biden-Harris administration successfully brought together local stakeholders – including local government officials, legal aid organizations, tenant organizers, philanthropy, landlord associations, and other key partners – from 46 cities to work together to create eviction diversion strategies. By convening these stakeholders, the Biden-

Harris administration played a unique and powerful role in facilitating important actions to protect renters.

The Biden-Harris administration should also convene national stakeholders to help raise awareness of the availability of ERA and ensure proper buy-in from national landlord, apartment, realtor, and homebuilder associations who can and should do more to encourage their members to apply for and accept ERA assistance. National tenant and advocacy organizations should be encouraged and equipped by the Biden administration to inform other renters in their community about the availability of rental assistance.

Engage Federally Assisted Landlords

The White House announced that HUD will conduct outreach to grantees, HUD-assisted households, and housing providers to share information about ERA assistance and ensure these partners are collaborating with local ERA programs.

The Biden administration should require all housing-related agencies – including Treasury, the U.S. Department of Agriculture (USDA), the Federal Housing Administration (FHA), and the Federal Housing Finance Agency (FHFA) – to take these actions. All federal housing agencies should encourage federally assisted landlords to apply directly for ERA on behalf of tenants behind on their rent and require/encourage them to share information about ERA with tenants. The Biden administration should direct all owners and operators of federally assisted properties – including those using USDA and Low Income Housing Tax Credit resources – to provide information about ERA to tenants who report a reduction in income or who miss a rent payment.

To reduce the burden on renters and ERA program administrators, HUD and the U.S. Department of Health and Human Services (HHS) could encourage income verification through HUD programs, Supplemental Nutrition Assistance Program (SNAP), and Supplemental Security Income (SSI). Coordination with the Homeless Management Information System (HMIS) can help ensure that individuals who apply for ERA do not enter the homeless system.

Deploy U.S. Census Bureau Infrastructure and Best Practices

The infrastructure built by the U.S. Census Bureau for the virtual 2020 count, as well as lessons learned and best practices, could be used to increase awareness of ERA. During the 2020 Census count, the federal government mobilized stakeholders through key partnerships, technology support, social media and other measures, which could be harnessed now through many of the same already-established networks, to encourage renters and landlords to apply for emergency rental assistance. There is likely significant overlap between communities identified by the Census as "hard-to-count" and those communities with the greatest need for ERA, so utilizing similar Census count tactics could prove powerfully effective.

Use Other Federal Anti-Poverty Programs to Reach At-Risk Households

The recent announcement by the White House included important cross-agency efforts to increase awareness of ERA, including outreach to HUD grantees and HUD-assisted households and sharing information about ERA with SNAP recipients and SSI beneficiaries.

The Biden administration should build on this effort by directing all federal agencies that administer programs serving low-income households, including Medicaid/Medicare, Children's

Health Insurance Program, Temporary Assistance to Needy Families (TANF), Head Start, Low Income Home Energy Assistance Program (LIHEAP), National School Lunch Program and School Breakfast Program, and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), to include information about ERA in all existing outreach.

Treasury should encourage ERA programs to use enrollment in federal anti-poverty programs as a fact-specific proxy to prove eligibility. The White House should encourage states, who often administer these federal programs, to develop local protocols and procedures for data and information sharing, cross system collaboration and referral processes to increase access to ERA for those most in need.

Ensure Data Transparency

Data Transparency

On July 2, Treasury publicly released data on ERA program performance, after months of requests by NLIHC and others. This data paints a dire picture of the ERA program; only $1.5 billion of the $46 billion provided by Congress has been distributed to households in need. While the Biden-Harris administration must take action to help communities quickly deploy these resources, it must also commit to publishing reports monthly and quarterly. Collecting meaningful data allows for proper oversight and for policymakers and advocates to discern best practices and areas for improvement in programs and program design. Given the upcoming program deadlines – including reallocation deadlines – and the fast-changing nature of these programs, up-to-date data is critical to proper oversight.

State and Local Data Collection and Dissemination

While the Treasury Department has released more information on reporting requirements, more clarity is needed to ensure that the proper information is collected and disseminated. For example, when reporting “the acceptance rate of applicants for assistance,” Treasury should clarify that grantees should report both the number of applicants deemed eligible and the number of eligible applicants who also accepted assistance. Grantees should also report the number of applicants deemed ineligible and the reasons for denial. When reporting “the outcome…for the eligible household at the end of the assistance period,” Treasury should clarify what date signifies the end of the assistance period for households only receiving back rent and for households who receive future rent payments.

The statute requires data collected by Treasury to be publicly disaggregated by the gender, race, and ethnicity of the applicant. Treasury should further require that data be disaggregated by the smallest geography possible, such as block group or census tract, while protecting personally identifiable information. Disaggregating data by geography will allow researchers, academic institutions, and advocates to better understand gaps in program design and opportunities for policy improvements.

The statute also directs the Treasury Department to make full and unredacted data available for statistical research purposes. The Treasury Department should ensure that the process for obtaining such data is open to any research entity capable of maintaining the security of the data and provide clear information about this process in its guidance. Moreover, Treasury should encourage program administrators to ensure that de-identified, program level ERA data is publicly available and accessible.

With at least six million renter households still behind on rent as the expiration of the eviction moratorium nears, the Biden-Harris administration must continue to work quickly and aggressively to avert an historic wave of evictions and housing instability this summer and fall. The National Low Income Housing Coalition, and our broad network of thousands of partners throughout the country, stand ready to assist as always.

Sincerely,

Diane Yentel

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