NATIONAL LOW INCOME
HOUSING COALITION

July 26, 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 Dr. Rochelle Walensky
Director
Centers for Disease Control and Prevention
Atlanta, Georgia

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

To Secretaries Yellen and Fudge, Directors Rice and Walensky, and Advisor Sperling:

On behalf of the National Low Income Housing Coalition and the NLIHC-led Disaster Housing Recovery Coalition (DHRC), I write to urge you to take immediate action to prevent a historic wave of housing instability and further spread of and deaths from COVID-19 this summer and fall. Without further action by the Biden-Harris administration, the federal eviction moratorium issued by the Center for Disease Control and Prevention (CDC) will expire this week, just as the danger posed by the Delta COVID-19 variant grows. Recent research estimates that up to 80% of households behind on rent and at risk of eviction live in communities with over 100% COVID-19 case growth rates in July.

At the same time, only $3 billion of the $46 billion in Emergency Rental Assistance provided by Congress to help keep renters stably housed has been distributed through June 2021. Despite historic actions by the Biden administration and Congress, more than 6.5 million renter households remain behind on their rent, according to the U.S. Census Bureau. Without immediate action by federal, state, and local governments, millions of these households will be at risk of losing their home, and with it, their ability to keep themselves and their families safe and healthy.

The Biden-Harris administration must take every possible action to prevent evictions, starting with: (1) an extension of the federal eviction moratorium; (2) further guidance to reduce roadblocks that continue to prevent ERA from reaching households with the greatest needs; and (3) a continued all-of-government approach to raising awareness of ERA resources available to tenants and landlords. These recommendations are outlined further in NLIHC's comprehensive set of recommendations, sent to the Biden administration on June 14 and July 12.

### Extend the Federal Eviction Moratorium

Given the growing danger of the Delta variant and the significant health and safety risks it poses, the Biden-Harris administration should immediately extend the federal eviction moratorium issued by the CDC until vaccination rates increase in the lowest-income and most marginalized communities that face greatest risk of eviction. The eviction moratorium extends vital protections to renters at risk of eviction during the pandemic, and by doing so, it has helped keep stably housed millions of people who otherwise would have been evicted.

Evictions put lives at risk and strain our already overstretched public health systems. As the CDC makes clear in its order, "eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease." The CDC order rightfully holds that, "evictions substantially contribute to COVID–19 transmission," as evictions "force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters."

In issuing its order, the CDC warned that despite vaccination efforts, "communities with high rates of eviction may currently have lower coverage of COVID–19 vaccination," putting these households and communities at great risk. As the CDC notes, evictions have enormous consequences for individuals, their communities, and our nation's public health. In fact, research shows that evictions occurring between the beginning of the pandemic and the issuance of the CDC moratorium in September led to more than 400,000 more COVID-19 cases and nearly 11,000 additional deaths.

The agency's decision to extend the eviction moratorium through July 31, 2021 was "based on the current and projected epidemiological context of SARS–Co–2 transmission throughout the United States." While the extension was intended to be the final iteration, the CDC held that a further extension may be needed after "the assessment of natural changes to COVID–19 incidence, the influences of new variants, additional distribution of emergency rental assistance funds, and the expansion of COVID–19 vaccine uptake."

The emergence of the Delta variant necessitates a further extension of the CDC eviction moratorium to contain the spread of the deadly disease. As stated by CDC Director Dr. Rochelle Walensky on July 22, 2021, "the Delta variant is more aggressive and much more transmissible than previously circulating strains. It is one of the most infectious respiratory viruses we know of, and that I have seen in my 20-year career." According to the CDC, cases in Florida, Texas, and Missouri account for 40% of all new COVID cases nationwide. These states alone are home to over 800,000 renter households behind on their rent who are at immediate risk of eviction when the CDC moratorium expires.

If the CDC is unwilling to extend the full moratorium, the Biden administration should use its existing authority to establish a more limited eviction moratorium for renters living in federally assisted properties, including those with Fannie Mae or Freddie Mac-backed mortgages and those financed with the Low-Income Housing Tax Credit, and resources from the U.S. Department of Housing and Urban Development (HUD) or Agriculture (USDA).

**Provide Additional Guidance to Reduce ERA Roadblocks**

State and local governments must do more, better, and faster, or else millions of renters will lose their homes after the eviction moratorium expires. On average, states have spent only 10% of their total allocations and cities have spent 20%. Nearly half of all states and more than 100 cities spent less than 5% of their total ERA allocations through the end of June.

Some state and local governments are successfully ramping up their programs, but most need to dramatically improve and expedite their efforts. The Biden administration can support these efforts by addressing continued barriers in ERA programs and holding open sessions with Treasury staff, where program administrators and advocates can get their questions answered regarding program guidance. Below are the most critical changes that are needed.

<u>Safe Harbor Protections</u>
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."

<u>COVID-19 Hardships</u>
Treasury should use a similar approach to proving a COVID-19-related hardship under the ERA program as allowed under the State and Local Fiscal Recovery Funds.

Even with self-attestation, proving a COVID-19-related hardship can be a challenge. Allowing programs to presume that all low- and moderate-income households were negatively impacted by the pandemic – rather than proving such hardship for each individual applicant – would greatly expedite the process of getting aid to households in need.

<u>Model ERA Applications</u>
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.

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.

**Raise Awareness of ERA Resources Through an All-Of-Government Approach**

Incorporate ERA into the Biden Administration's Vaccination Efforts

The Biden-Harris administration, including the Consumer Financial Protection Bureau (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 in its broader efforts to increase vaccinations and educate the public about American Rescue Plan resources such as stimulus checks and increased child tax credits.

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.

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.

The Biden-Harris administration must take all necessary action to protect individuals from evictions and, in worst cases, homelessness during the COVID-19 pandemic. The CDC moratorium is a public health necessity, and we urge you to take immediate action to extend, improve, and enforce it, as well as take other needed actions to expedite the dispersal of ERA. As always, NLIHC and our partners across the country stand ready to assist.

Sincerely,

Diane Yentel
President and CEO
National Low Income Housing Coalition