

TREASURY ERA1 REALLOCATION GUIDANCE

11/10/2021

The U.S. Department of the Treasury issued on October 4 [guidance](#) and a [one-paper](#) on reallocating the \$25 billion in [Emergency Rental Assistance \(ERA\)](#) appropriated under the Consolidated Appropriations Act of 2021, referred to as “ERA1.” **This guidance only pertains to ERA1 funds.** The reallocation guidance describes both the process for program improvement plans as well as the process for potential recapture and reallocation of ERA 1 funds. As NLIHC recommended, Treasury will require poor performing program administrators to submit improvement plans outlining how they will adopt these best practices to expedite the delivery of assistance to renters and landlords. Importantly, Treasury says its reallocation guidance aims to ensure improved relief - not less - to residents in low-performing jurisdictions by looking to other grantees in the state to deliver the funds.

OBLIGATIONS AND EXCESS FUNDS

The ERA1 statute requires Treasury to begin reallocating “excess” funds on September 30, 2021. Treasury will not recapture funds a grantee has “obligated” - a measure that includes both spent and committed funds. Treasury will assess a Grantee’s performance and Expenditure Ratio based on the reporting data through September 30, 2021. Programs can also certify they spend at least 30% or obligated 65% of the funds by November 15.

- **Grantees who have not obligated at least 65% of their ERA1 funds or do not provide an [Obligated Funds Certification](#) by November 15 must submit a program self-assessment and improvement plan by November 15 that outlines how they will speed ERA distribution.**
 - Grantees that do not submit a [program improvement plan](#) by November 15 will have 10% of their allocation considered “excess funds.”
 - In evaluating improvement plans, Treasury will consider whether grantees plan to implement the [best practices](#) identified in Treasury’s [ERA guidance](#), including self-attestation, eviction diversion partnerships, and other effective strategies.
 - Grantees who do not obligate or certify they have obligated at least 65% of their ERA1 funding and have expenditure ratios below 30% by November 15, will be determined to have “excess funds.”
- **Treasury’s reallocation guidance makes clear grantees cannot use subrecipient agreements to avoid meeting the statutory obligation deadlines.** Funds are not considered obligated based solely on the fact they are given to a subrecipient to administer. Funds administered by either the grantee or a subrecipient will only be counted as obligated if:
 - The funds have been spent on eligible financial assistance or housing stability services;
 - Assistance has been approved for an eligible household but the payment has not yet been disbursed; or
 - Assistance has been approved but not yet disbursed under a bulk payment arrangement with a large landlord or utility provider.

Note: Approved or obligated funds will not be considered under a contractual obligation for more than 12 months.

- **Grantees who do not obligate or certify they have obligated at least 65% of their ERA1 funding who have expenditure ratios below 30% as of November 15, will be determined to have “excess funds.”**
 - The expenditure ratio is a measure of funds actually spent on financial assistance and housing stability services.

- In calculating the expenditure ratio, Treasury will consider 10% of each grantee's initial allocation as obligated for administrative expenses regardless of actual expenditures, commitments, or obligations.
- **The 30% expenditure ratio programs must meet to avoid recapture will increase by 5% each month and be assessed every two months.** The threshold as of November 30 will be 40%.
- **Any funds not obligated by March 31, 2022, may be deemed excess funds subject to potential recapture,** helping to ensure funds do not go unused given the September 30, 2022 statutory deadline for obligating ERA1 funds.

MITIGATING FACTORS

There are several ways for grantees to mitigate the amount Treasury would otherwise recapture as a result of the first assessment.

- Grantees can avoid recapture if they certify by November 15, 2021, that their expenditure ratio is at least 30%, or that they have obligated at least 65% of their ERA1 allocation.
- Additionally, in cases where Treasury approves a grantee's program improvement plan, a one-time additional 15% of the original allocation will be calculated into the program's expenditure ratio to assist in meeting the minimum threshold. This will allow grantees time to implement new ERA policies and practices to accelerate distribution.

REQUESTING ADDITIONAL FUNDS

Treasury will begin accepting requests from grantees for reallocated funds on October 15, 2021. Grantees must submit a [request for reallocated funds form](#) that confirms they have obligated at least 65% of their total ERA1 funds - as required by the statute - and identifies the need for additional funds in their jurisdiction.

DISTRIBUTING RECAPTURED FUNDS

Treasury will distribute recaptured funds about every two months based on availability and confirmed need. Each request for additional funds will be evaluated based on the grantee's demonstrated capacity to meet and exceed the minimum expenditure ratio and on other indications of ERA need within the jurisdiction. Treasury will prioritize, when feasible, requests to reallocate funds to other grantees in the same state. The remainder of funds will be available for reallocation nationwide, with priority given to grantees already on track to expend their remaining ERA1 and ERA2 funds.

VOLUNTARY REALLOCATION

Beginning September 30, 2021, grantees may request to transfer some or all of their allocations to another grantee in their state that has obligated or spent at least 65% of its own allocation.

ADMINISTRATIVE EXPENSES

For reallocation purposes, Treasury will consider 10% of each grantee's initial allocation as having been obligated for administrative costs regardless of the grantee's actual expenditures, commitments, or obligations.

- Grantees may spend up to 10% of its initial ERA1 allocation for administrative expenses only if they obligate at least 30% of its initial allocation for eligible financial assistance and housing stability services by September 30, 2022.
- If by September 30, 2022, a grantee obligates less than 30% of its initial allocation providing financial assistance and housing stability services, they can spend up to 10% of the new allocation (new allocation = original allocation - anything recaptured or reallocated).

IMPORTANT DATES AND DEADLINES

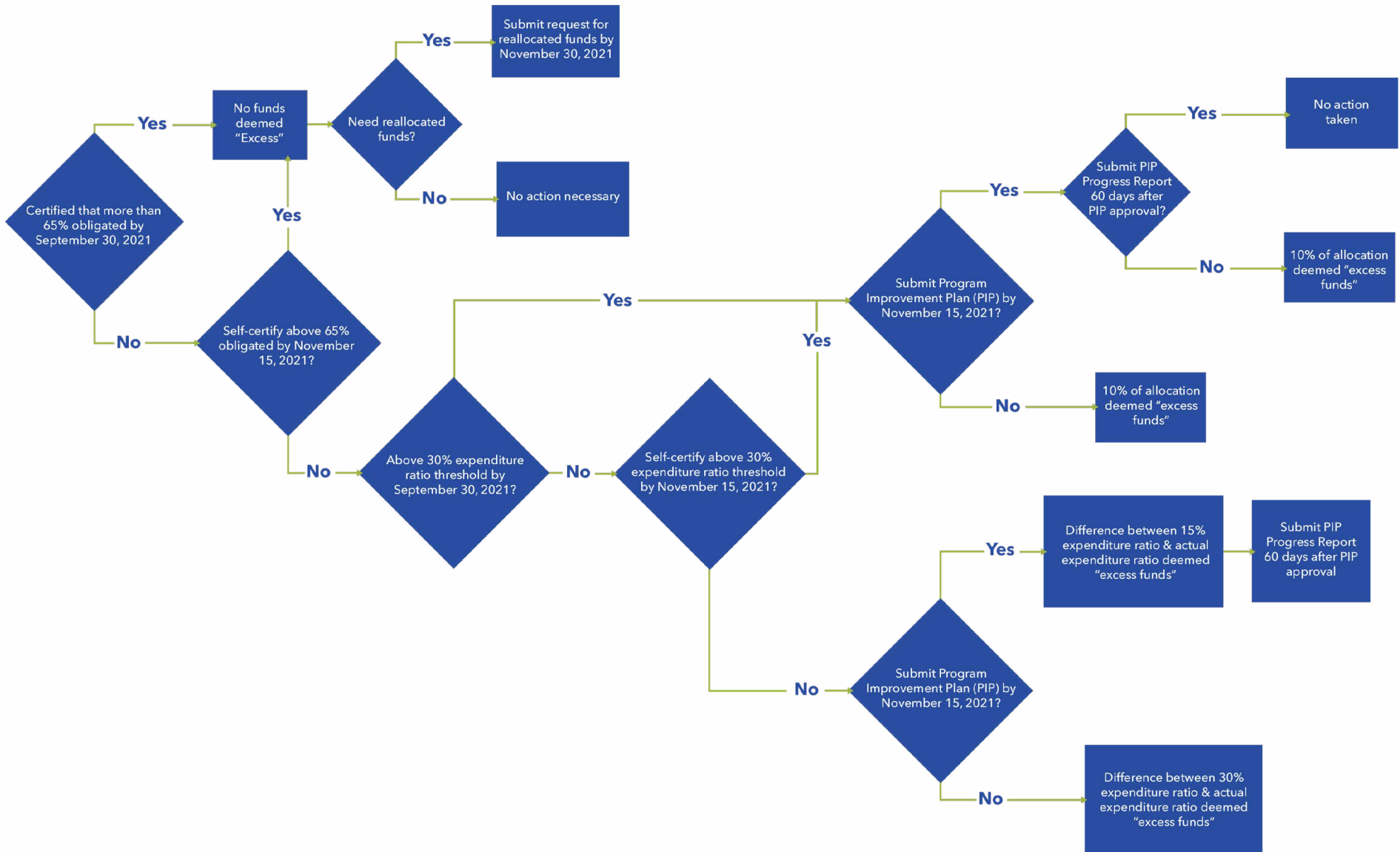
- **September 30, 2021:** Treasury begins to reallocate excess ERA1 funds.
- **October 15, 2021:** Grantees can begin requesting additional funds [using the Request for Reallocated Funds form](#).
- **November 15, 2021:** [Obligated Fund Certifications](#) and [Program Improvement Plans](#) are due. Failure to submit improvement plans by this date can result in 10% of the initial allocation deemed excess funds.
- **March 31, 2022:** Any unobligated funds will be considered excess funds.
- **March 31, 2022:** Treasury will require monthly reports at least until this date.
- **April 2022:** Treasury may begin recapturing funds from Indian Tribes, TDHEs, and U.S. Territories.
- **September 30, 2022:** All ERA1 funds must be obligated from the initial allocation.
- **December 29, 2022:** Grantees may request an extension through this date to continuing obligating reallocated funds.

RESOURCES

- [NLIHC ERA Dashboard](#)
- [NLIHC ERA Spending Tracking](#)
- [NLIHC ERA Grantee Recapture Data](#)

For more information, contact NLIHC Policy Analyst Alayna Calabro at acalabro@nlihc.org

ERA GRANTEE INITIAL REALLOCATION FLOWCHART



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