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"Protecting Renters During the Pandemic: Reviewing Reforms to Expedite Emergency Rental Assistance"
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Chairwoman Waters, Ranking Member McHenry, and members of the committee, thank you for the opportunity to testify on protecting renters during the pandemic and needed reforms to expedite and improve the distribution of emergency rental assistance (ERA).

The COVID-19 pandemic has made clear the inextricable link between housing and individual and public health, but millions of renters – predominantly people of color – struggled to remain safely and stably housed throughout the pandemic. This housing instability was due primarily to the severe shortage of affordable and available homes for people with the lowest incomes before the pandemic began. Many low-income renters struggled to pay rent before the COVID-19 crisis and are now in an even more perilous position due to the loss of jobs, increased expenses, and resulting rent arrears accrued during the pandemic.

By January of 2021, at least 9 million renter households[1] were estimated to owe up to $50 billion in rent and utility arrears[2] and were at high-risk of losing their homes. That number has since decreased, but it remains high: in mid-August, the latest Census Pulse Survey data indicated that nearly 6.5 million renter households were still behind on rent and at heightened risk of eviction.[3]

Congress provided $25 billion in ERA in December 2020 (ERA1) and an additional $21.5 billion in ERA through the American Rescue Plan (ERA2). Throughout 2020 and 2021, Congress and both the Trump and Biden administrations implemented and extended federal eviction moratoriums. Last month, the Supreme Court eliminated the protections under the Centers for Disease Control and Prevention's (CDC) federal eviction moratorium. The ruling is a devastating blow to the over 6 million households behind on rent for whom the moratorium was a lifeline, keeping them stably housed during the pandemic as they wait for needed emergency rental assistance. With the moratorium no longer in effect, these families are at risk of losing their homes in the coming weeks and months.

The elimination of the federal eviction moratorium heightens the urgency of ensuring emergency rental assistance gets to tenants and landlords, but most states, counties, and cities are spending their ERA allocations much too slowly. As of this week, only $7.5 billion of the first $25 billion allocation of ERA had been spent or obligated, according to NLIHC's tracking[4] and analysis[5] of state and local ERA programs.[6] Nine states, and dozens of cities and counties, have spent less than 5% of their ERA1 allocations nearly nine months after receiving the funds, and many more have spent less than 10% of their funds.

Success or challenges of ERA program administration should be measured not only by the rate of spending, but also by the number of households served. While ERA programs have made meaningful progress in collectively assisting nearly one million households through July, at least another 1.2 million households had submitted completed applications but, as of the end of July, had yet to receive any assistance. Many other households have been unable to complete applications due to complexity and/or documentation requirements and have therefore been unable to access assistance.

Some program administrators are successfully scaling up their efforts and quickly distributing aid. New Jersey has distributed 61% of their ERA1 allocation, Virginia and Texas have each distributed 57%, and D.C. has distributed 52%. Six additional states – Massachusetts, Alaska, North Carolina, Connecticut, California, and Illinois – have spent more than 30% of their funds. New York, Connecticut, and California have recently made major improvements in ERA spending. More than a dozen cities and counties have spent over 80% of their first allocations.

While these programs prove that success is possible, they are outliers. Many states and cities need to dramatically improve and expedite their efforts. Some states and cities were slow to begin spending ERA due to state legislatures' or city councils' early involvement in design and implementation. A few states have likely received more ERA than needed, due to Congress's faulty "small state minimum" formula allocation in both ERA1 and ERA2. Many communities are struggling with landlords' refusal to participate in ERA programs.

But the overarching issue with slow ERA spending is many program administrators not adopting evidence-based best practices in program design and implementation that have allowed other programs to quickly distribute aid. Many slow-spending programs have unnecessarily lengthy applications and overly burdensome documentation requirements that slow down their ability to process applications and prevent some of the lowest-income and most marginalized renters from receiving aid. According to NLIHC's tracking,[7] only 16% of programs explicitly allow renters to use self-attestation to document income and only 13% allow self-attestation of housing instability, despite Department of the Treasury (Treasury) guidance that encourages programs to use self-attestation for all eligibility criteria.[8] Similarly, despite clear evidence and need, only 28% of programs explicitly allow direct-to-tenant assistance, which is critical to keeping renters stably housed when landlords refuse to participate in the program.

Federal, state, and local governments, as well as landlords, advocates, and ERA program administrators, must do more, better, and faster, lest millions of renters lose their homes in the coming months. Having millions of families lose their homes would be tragic at any time; it will be especially so with a backlog of abundant resources to pay the rent yet to reach them.

Congress should consider statutory changes to expedite assistance to renters and landlords and do so in a way that protects the housing stability of the lowest-income and most marginalized tenants. Legislation to improve the ERA statute should make the program more consistent with the low-barrier and more accessible design passed three times by the U.S. House of Representatives in the spring of 2020 and embed evidence-based best practices from ERA programs administered throughout the pandemic. ERA legislation should expedite delivery of assistance and provide tenant protections to maintain housing stability.

The "Expediting Assistance to Renters and Landlords Act of 2021," introduced by Chairwoman Waters, would do both. The legislation would build off existing program guidance and directives, address and correct many of the root causes of slow ERA spending and provide tenant protections. In my testimony, I will share recommended improvements to further strengthen the legislation and its impact.

The "Protecting Renters Act of 2021," introduced by Ranking Member McHenry would neither expedite ERA assistance nor protect tenants. Instead, the legislation would further slow ERA distribution by requiring Treasury to retract and redo most of its current ERA guidance, thereby requiring program administrators to redesign programs in a manner *counter* to evidence-based best practices. The legislation would grind most ERA programs to a halt by leaving virtually all states and cities without any funding for staffing, technology and other reasonable administrative costs associated with administering the programs. And, by giving communities very little time to spend their remaining ERA funds, Congressman McHenry's legislation would ensure that the needs of millions of landlords and tenants will go unmet with the funds Congress has already provided.

NLIHC recommends that the Committee improve and advance Chairwoman Waters's "Expediting Assistance to Renters and Landlords Act of 2021" as the vehicle for ERA reform legislation.

To further expedite and improve ERA programs, the Biden administration should continue to aggressively encourage and enable states and localities to use the flexibilities given to them to streamline and expedite assistance. Treasury should provide additional guidance to eliminate remaining barriers and use the upcoming process of recapturing and reallocating unspent funds to further incentivize ERA programs to adopt best practices and expedite the distribution of assistance. And ERA program administrators should course-correct, improve programs, and expedite assistance to tenants.

For the longer term, Congress must repair the gaping holes in our social safety net that brought us to the brink of an eviction tsunami during a global health emergency. Long after the public health dangers and economic crisis gradually recede, low-income renters will continue to be in a precarious position until we create permanent solutions to widespread housing unaffordability. In the upcoming infrastructure and economic recovery bills, Congress must provide robust resources to expand rental assistance, preserve public housing, and increase the supply of homes affordable to people with the lowest incomes by expanding the national Housing Trust Fund.

In my testimony today, I will discuss how we got here; the enactment, implementation, and mixed success of ERA; recommendations for Congress and the Biden administration to expedite ERA; and needed long-term solutions.

How We Got Here

Even before the COVID-19 pandemic, the country was in the grips of a pervasive affordable housing crisis, impacting rural, suburban, and urban communities alike. While the crisis has many dimensions, the fundamental cause of housing instability is the mismatch between housing costs and what people earn or otherwise have available to spend for their homes. Rents have risen much faster than renters' incomes over the last several decades: since 1960, renters' incomes have increased by only 5% while rents have risen 61%.[9]

NLIHC's annual report, *The Gap: A Shortage of Affordable Rental Homes*,[10] documents the severe shortage of decent, accessible, and affordable homes for extremely low-income people. Pre-pandemic, there was a shortage of seven million affordable and available rental homes for the lowest-income renters earning less than the federal poverty rate or 30% of their area median income (AMI). For every 10 of the lowest-income renters, there are fewer than four homes affordable and available to them. Without affordable options, nearly ten million very low-income households were severely housing cost-burdened pre-pandemic, spending more than half of their limited incomes on rent and utilities.

In Chairwoman Waters' district, there are fewer than two affordable and available rental homes for every 10 of the lowest-income households. In Ranking Member McHenry's district, there are three affordable and available rental homes for every 10 of the lowest-income households.[11] Across the country, there is not a single state or congressional district with enough affordable homes available to its lowest-income renters.

Decades of structural racism in multiple systems created tremendous racial disparities in housing and homelessness. Renters of color are much more likely to be housing cost-burdened, spending more than 30% of their incomes on rent: 52% of Latino renters and 54% of Black renters are cost-burdened, more than 10 percentage points higher than white renters.[12] Black Americans represent 13% of the general population but are 40% of people experiencing homelessness and more than 50% of homeless families with children.[13] Native communities have some of the most urgent housing needs in the nation – 6% of homes on tribal lands lack adequate plumbing, 12% have inadequate heating, and 16% are overcrowded, compared to 1-2% of the general population, and 38% of Native households are housing cost-burdened.[14]

The economic downturn from the COVID-19 pandemic and its resulting job and wage losses exacerbated and accelerated the existing housing crisis. While the national unemployment rate peaked in April 2020 at 14.8%, some industries reached unemployment rates of almost 40%.[15] More than 20 million renters live in households that suffered COVID-19-related job losses.[16] While the overall unemployment rate fell to 6.7% by the end of 2020, the Black and Latino unemployment rates were still considerably higher – 9.9% and 9.3%, respectively – and a Federal Reserve analysis finds the unemployment rate for workers in the bottom wage quartile may have been higher than 20%.[17]

A patchwork of federal, state, and local resources and protections kept many struggling renters in their homes and helped to avoid an unprecedented eviction crisis that could otherwise have resulted in an estimated 30-40 million people losing their homes by the end of 2020.[18] In addition to resources for housing and homelessness provided in the CARES Act, the Consolidated Appropriations Act, and the American Rescue Plan Act, a federal eviction moratorium issued by the CDC in September 2020 provided vital protections to tens of millions of renters at risk of eviction for nonpayment of rent during the pandemic. With very limited assistance for rental assistance throughout 2020, however, tenants fell behind on rent. In January of this year, renters were estimated to owe up to $50 billion in rent and utility arrears.[19]

According to an analysis of Household Pulse Survey data, nearly 6.5 million renter households were still behind on their rent in mid-August 2021.[20] On average, those renters were behind by about two and a half months of rent, though about 6% were behind by eight or more months, and the lowest-income renters were likelier to have fallen severely behind.

Black renters, low-income renters, and families with children continue to be disproportionately at risk of eviction and housing loss. Twenty-seven percent of Black renters are behind on rent, compared to 19% of Asian renters, 19% of Latino renters, and 10% of white renters. Twenty-five percent of renters with incomes less than $25,000 are behind in rent, as are 18% of renters with incomes between $25,000 and $34,999. In addition to rental arrears, households behind on rent often experience debt and wealth loss in other areas of their lives placing them at risk for continued housing instability. Among renters of all incomes who are behind on rent, 43% report having borrowed from friends and family to meet spending needs in the last seven days, 24% have used savings or sold assets, and 31% have used credit cards or loans.[21]

The Importance of the Federal Eviction Moratorium

Citing the historic threat to public health created by the pandemic, the CDC implemented an eviction moratorium in September 2020 to help ensure renters could practice the social distancing necessary to curb the transmission of COVID-19. The moratorium proved to be an essential public health measure.

Research conducted on the efficacy of local, state, and federal eviction moratoriums provide evidence that such moratoriums are effective at reducing both eviction filings[22] and COVID-19 transmission and fatalities. Researchers estimate the CDC eviction moratorium alone prevented at least 1.55 million eviction filings nationwide, and state and local eviction protections prevented an additional 900,000 eviction filings throughout the country. [23] Nationally, researchers found that expired eviction moratoriums led to an additional 433,700 cases of COVID-19 and 10,700 associated deaths.[24] The risk of infection increases substantially when people are evicted or forced to live doubled-up with another household, but people who are evicted are not the only ones at risk – spillover transmission amplified by evictions also places the broader community at increased risk of infection.[25]

Congress extended the CDC eviction moratorium through January 2021, and President Biden further extended it three additional times through March, June, and July. NLIHC urged[26] the White House and Congress to extend the CDC eviction moratorium and, on July 27, I testified before the House Select Subcommittee on the Coronavirus Crisis to emphasize the urgency.[27] On July 29, 48 hours before the expiration of the federal eviction moratorium, the Biden administration announced[28] the CDC could not extend the moratorium due to the Supreme Court's June 29 decision[29] that upheld the federal eviction moratorium but declared the CDC could not grant an extension without "clear and specific congressional authorization (via new legislation)." Despite Chairwoman Waters and Speaker Pelosi's best efforts, a measure to extend the moratorium failed to garner the support needed to pass the House. The eviction moratorium expired on July 31.

NLIHC continued to urge President Biden to use his authority to extend the eviction moratorium and, in the meantime, to take all other possible actions to reduce evictions.[30] Representative Cori Bush (D-MO) and other members of the Congressional Progressive Caucus staged rallies outside of the Capitol building to demand an extension of the moratorium and, along with NLIHC, Speaker Pelosi and Chair Waters, demanded that the Biden administration use every authority to extend eviction moratorium protections for renters. As a result of the extraordinary dedication of congressional champions and housing and homelessness advocates across the country, the CDC announced on August 3 a new limited eviction moratorium through October 3. The new moratorium covered renters living in communities experiencing a substantial or high level of COVID-19 transmission, an estimated 90% of all renters.

The new moratorium provided states and communities more time to ramp up their ERA programs, and NLIHC urged elected leaders and ERA program administrators to use this time effectively to expedite assistance to households in need, particularly with legal challenges threatening the moratorium. One day after the CDC announced the new moratorium, the Alabama and Georgia Associations of Realtors, backed by the National Association of Realtors, again petitioned the federal district court in DC to overturn it.

The Supreme Court ruled[31] on August 26 to invalidate the federal eviction moratorium, eliminating vital protections that have kept millions of households in their homes. The tragic, consequential, and entirely avoidable outcome of the Supreme Court's ruling could be millions of renters, predominantly people of color, losing their homes this fall and winter, just as the Delta variant ravages communities and lives.

Evictions risk lives, push families deeper into poverty, and threaten to strain our public health systems. Following an eviction, a person's likelihood of experiencing homelessness increases, mental and physical health is diminished, and the probability of obtaining employment declines.[32] Evictions are linked to numerous poor health outcomes,[33] including depression, suicide, and anxiety.[34] Evictions are also linked with respiratory disease, which could increase the risk of complications and mortality if COVID-19 is contracted.

Evictions make it more expensive and more difficult for tenants to rent safe and decent housing, apply for credit, borrow money, or purchase a home. Housing instability caused by eviction is particularly harmful to children, who suffer in ways that can impact their educational development and wellbeing for years.[35]

The public costs of eviction are far reaching; individuals experiencing displacement due to eviction are more likely to need emergency shelter and re-housing, use in-patient and emergency medical services, become involved with child welfare services, and interact with the criminal-legal system, among other harms.[36] Considering these and other services used due to an eviction, NLIHC estimates the public costs of eviction to range between $62 billion and $129 billion, depending on the number of people evicted. These costs are in addition to the well-documented personal costs of eviction on individuals and the costs to landlords of unpaid rent.[37]

The Supreme Court decision also undermines historic efforts by Congress and the White House to ensure housing stability during the pandemic and makes our collective work to distribute ERA to keep renters stably and safely housed more important and urgent than ever.

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 ERA to assist low-income tenants and small landlords.

The U.S. House of Representatives voted three times to approve ERA, in May, June and July of 2020, when renters were still relatively current on their rent payments and the funds could have been used as they were designed – as prospective assistance to help struggling renters stay current on rent. But the measures stalled in the Senate under Republican leadership, and Congress did not pass ERA until late December 2020. By then, renters had accrued an estimated $50 billion in rent and utility arrears.[38]

Throughout the House of Representatives' design and passage of, and final congressional negotiations for, ERA, NLIHC urged that the funds be distributed through the Department of Housing and Urban Development (HUD), given the agency's deep expertise in housing and the unique needs of the lowest-income and most marginalized populations. NLIHC further urged that ERA programs: be administered through multiple delivery systems and by grantees with experience working with individuals in need; and be low barrier for participation. The legislation that passed three times through the House of Representatives included these essential features.

During final negotiations, however, the Trump administration and Republican leadership in the Senate demanded otherwise. Due to these demands, the final law allocates ERA through the Department of Treasury and with some unfortunate and unnecessary restrictions that have made it more difficult for tenants behind on rent to receive needed assistance. Ultimately, Congress provided a combined $46.5 billion in ERA funds in the December 2020 COVID-19 relief package and the American Rescue Plan Act.

On January 8, 2021, NLIHC sent the incoming Biden administration recommendations for guidance on the ERA program.[39] NLIHC developed these recommendations based on our tracking and analysis of state and local rental assistance programs and with direct input from local stakeholders about challenges experienced by localities in administering rental assistance programs funded through the Coronavirus Relief Fund and other CARES Act resources.

The ability of state and localities to distribute critical ERA funds was hindered early on by harmful guidance released by the Trump administration on its last day in office, January 19, 2021.[40] The Trump administration's guidance created new and unnecessary barriers that increased application times, discouraged eligible households from seeking assistance, and prevented states and localities from spending resources in a timely manner.

Immediately after President Biden was sworn into office, NLIHC urged the new administration to rescind the harmful Trump administration guidance and provide state and local governments with improved guidance needed to distribute ERA more effectively to millions of households at risk of losing their homes.[41,] Treasury did so[42] in February 2021, issuing new guidance that directly addressed the significant flaws[43] in the previous administration's guidance and included many of NLIHC's recommendations.[44]

The revised guidance 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; shortened the timeframe from 21 days to as little as 10 days before ERA could be provided directly to tenants when landlords refuse to participate in the program or are unresponsive; and clarified that home internet costs and legal assistance for renters facing eviction are eligible uses of ERA.

Treasury made additional improvements to the FAQs on March 26[45] that aligned with NLIHC recommendations to ensure rent relief resources reach households with the greatest needs. Treasury clarified that rental security deposits and application or screening fees can be covered by ERA, and that households renting manufactured homes or temporarily residing in hotels or motels are eligible for the program.

In March 2021, NLIHC notified the Biden administration of emerging and troubling roadblocks in many ERA programs, including the lack of direct-to-tenant assistance options, the continued reliance on burdensome documentation requirements, and the exclusion of federally assisted households and undocumented households.[46] On May 7, Treasury and the White House released new ERA guidance[47] and a summary[48] with major program improvements that directly addressed NLIHC's concerns. While many of the improvements in the revised guidance apply specifically to the ERA funds enacted under the American Rescue Plan Act (ERA2), the White House and Treasury made clear what they consider model ERA programs that serve renters most in need.

Treasury's revised guidance requires program administrators distributing ERA2 to provide assistance directly to renters if landlords refuse to participate or are unresponsive; cuts in half the time to determine a landlord's refusal to participate before providing direct-to-tenant assistance; and allows ERA2 programs to offer direct-to-tenant assistance first and immediately, rather than requiring programs to conduct outreach to landlords beforehand. The updated FAQ encourages grantees to avoid establishing burdensome documentation requirements that would reduce participation and allows programs to verify eligibility based on readily available information, such as the average income of the neighborhood in which renters live.

Additionally, the improved guidance expands renter protections by prohibiting landlords from evicting tenants while ERA payments are being made on their behalf; prohibits ERA2 programs from denying aid to eligible households solely because they live in federally assisted housing, noting that failure to do so may violate civil rights laws; and increases 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. To ensure that ERA reaches those who need it most, Treasury's updated guidance requires programs to report how they will achieve the required prioritization of assistance.

In June 2021, NLIHC identified ongoing roadblocks and new challenges in the ERA programs, including state and local government capacity issues; programs continuing to impose burdensome documentation requirements and not utilizing direct-to-tenant assistance; landlord refusal to participate in ERA programs; a lack of awareness of available aid; and a developing trend of some landlords evicting tenants even after receiving ERA funds to cover rental arrears.[49] NLIHC urged the Biden administration to strengthen and extend the federal eviction moratorium, which was set to expire on June 30; raise awareness of ERA; establish eviction delay, diversion, and mitigation measures; support ERA program administrators to quickly deploy aid; and ensure data transparency to help policymakers and advocates discern best practices and areas for improvement.

The Biden administration adopted many of NLIHC's recommendations, including extending the eviction moratorium and releasing an updated FAQ[50] and fact sheet[51] on June 24 to accelerate and broaden the distribution of ERA. The White House encouraged state courts to adopt anti-eviction diversion practices, activated a whole-of-government effort to raise awareness of ERA, and issued new guidance to accelerate and broaden state and local distribution of funds.[52] Treasury's revised FAQ strongly encourages grantees to partner with courts to actively prevent evictions and develop eviction diversion programs; increases access to ERA for people experiencing homelessness by establishing a commitment-letter process; directs grantees to remove cultural and linguistic barriers to accessing aid; encourages grantee coordination to reduce burdens and delays; and streamlines payments for utility providers and large-scale landlords.

NLIHC sent several additional letters to the Biden administration in July and August outlining our most urgent recommendations on how to prevent evictions and strengthen ERA programs.[53,54,55,56] The Biden administration responded to NLIHC's concerns by announcing additional steps the federal government will take to protect renters as part of its all-of-government approach to prevent evictions during the pandemic. These include convening national stakeholders, releasing revised ERA guidance to broaden and accelerate the delivery of aid, and engaging federally assisted landlords, among other actions.

The White House held two virtual eviction prevention summits in June[57] and July[58] to emphasize the need for eviction diversion programs and help leaders across the country adopt evidence-based eviction prevention action plans. The administration announced on August 9 additional steps[59] it would take to protect renters, including those recommended by NLIHC and the National Housing Law Project in a joint letter to administration officials.[60] The Biden administration directed federal agencies to consider all legal authorities to stop evictions and to ensure federally supported landlords apply for ERA rather than evict tenants. The White House also encouraged states and localities to enact or extend their own eviction moratoriums, called on courts to stop eviction proceedings until renters and landlords first apply for ERA; and clarified that ERA and ARPA State and Local Fiscal Recovery Funds can be used to support eviction prevention efforts by courts, legal aid providers, and housing counselors; among others.

In response to NLIHC's ongoing concerns about ERA programs' continued reliance on burdensome documentation and lengthy application processes, Treasury again issued guidance streamlining ERA documentation requirements, enacted additional policy changes to accelerate ERA distribution, published examples of simplified eligibility forms[61] and an eviction-diversion "maturity model,"[62] and reiterated its call for ERA grantees to speed the delivery of aid by eliminating undue documentation burdens.[63]

Treasury issued revised FAQs on August 25 to support state and local governments in expediting the distribution of ERA.[64] The revised guidance provides even more explicit permission for ERA grantees to rely on self-attestations without further documentation to demonstrate every aspect of a household's eligibility for ERA, including financial hardship, the risk of homelessness or housing instability, and income.

Mixed Success on ERA Program Implementation

Despite these ongoing efforts by NLIHC and the Biden administration to continuously work to remove obstacles and provide clear directives and guidance, and by some ERA program administrators to expedite assistance, most ERA programs are not utilizing proven best practices nor reaching tenants or landlords quickly enough.

For example, despite the administration's repeated and consistent guidance on utilizing self-attestation for eligibility, only 16% of programs explicitly use self-attestation for income eligibility and only 13% use self-attestation for housing instability.[65] Similarly, despite some landlords refusing to participate in ERA programs, only 28% of program administrators are explicitly utilizing direct-to-tenant assistance as the law allows and the White House and NLIHC urge. The data and evidence unfortunately suggest that if such flexibilities and proven best practices remain optional, most program administrators will *not* adopt them.

The most recent report from Treasury shows that, after steady increases in ERA spending rates from January through June, the amount spent across all programs in July grew only slightly, increasing from $1.53 billion spent in June to $1.68 spent billion in July for a total of $5.2 billion spent through July 31. Furthermore, less than half of the households that had applied for ERA by end of June had been served through the program by the end of July.

NLIHC tracking and analysis of state and local ERA programs shows improvement in August - $7.5 billion of the first $25 billion allocation of ERA has been spent or obligated by early September.[66] And while ERA spending remains low overall, states and cities have experienced highly variable levels of success getting their funds out the door. According to NLIHC tracking, three states and the District of Columbia have paid at least 50% of their ERA1 allocations to households, while nine states have spent less than 5% as of the beginning of September. Nineteen local programs have spent more than 75% of their funding while twenty-four local programs have spent less than 1%.

High-Spending & Improving Programs

States vary widely in their success in spending ERA funds. According to NLIHC's tracking, New Jersey, Virginia, Texas, and the District of Columbia are leading fund distribution, having spent 61%, 57%, 57%, and 52% of their allocations, respectively, through the beginning of September. Several other states have also reported significant increases in spending since Treasury's report through July 31st. New York, for example, has distributed an additional $300 million since the end of July, California an additional $135 million, Connecticut $30 million, and Indiana an additional $18 million.

Localities continue to spend down their funds more quickly than states, increasing their spending from 20% to 30% of their total allocations between June and July. According to NLIHC's tracking, at least 15 localities have spent more than 80% of their allocations. This includes a mix of large and mid-sized jurisdictions, such as Philadelphia, PA; Houston and Harris County, TX; Louisville, KY; Honolulu, HI; Caddo Parish, LA; and Richland County, SC.

The tables below detail the state programs that have spent more than 35% of their ERA1 allocations and the local programs that have spent more than 75% of their allocations.

State Programs with at least 35% of ERA1 Funds Distributed

ERA1 State Program	Assistance Paid	% ERA1 Paid
New Jersey*	$232,000,000	60.8%
Texas*	$750,999,326	57.4%
Virginia*	$300,000,000	57.2%
District of Columbia*	$103,800,000	51.9%
Alaska*	$116,664,123	40.8%
Illinois*	$255,022,021	40.5%
North Carolina*	$219,000,000	40.1%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Local Programs with at least 75% of ERA1 Funds Distributed

ERA1 Local Program	Assistance Paid	% ERA1 Paid
New Hanover County, NC	$8,335,106.00	100.0%
Louisville/Jefferson County Metro Government, KY	$23,843,399.00	100.0%
Leon County, FL	$8,600,000.00	97.0%
Milwaukee County, WI	$10,087,396.00	94.9%
Caddo Parish, LA	$6,657,093.00	92.9%
Davidson County, TN*	$18,893,667.00	90.4%
Richland County, SC	$8,565,977.00	88.6%
Chesterfield County, VA	$9,380,979.00	88.5%
Philadelphia, PA*	$92,235,793.00	88.5%
Honolulu County, HI*	$99,896,180.00	86.9%
Santa Barbara County, CA	$11,524,340.00	86.8%
Kansas City, MO	$12,637,399.00	85.3%
Austin, TX	$25,070,726.00	84.8%
Cook County, IL*	$60,474,457.00	83.1%
Harris County, TX	$130,279,712.00	81.9%
Summit County, OH*	$13,000,000.00	80.5%
San Antonio, TX	$48,187,314.00	79.6%

Harrison County, MS	$4,834,625.00	76.8%
Fulton County, GA	$13,700,034.00	76.1%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Low-Spending Programs

Many states and localities are still struggling to get money to tenants and landlords in need. The following tables detail the states and localities that have distributed 5% or less of their ERA1 funds according to NLIHC's most recent tracking as of early September.

State Programs with less than 5% of ERA1 Funds Distributed

ERA1 State Program	Assistance Paid	% ERA1 Paid
Alabama	$5,749,034	2.2%
South Dakota	$4,427,255	2.2%
Wyoming*	$4,500,000	2.3%
Georgia	$19,845,288	3.6%
Arkansas*	$7,200,000	4.1%
Delaware	$8,880,747	4.4%
Nebraska*	$7,159,047	4.5%
North Dakota	$9,200,000	4.6%
Tennessee	$18,827,647	4.9%

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Local Programs with less than 5% of ERA1 Funds Distributed+

Local ERA1 Program	Assistance Paid	% ERA1 Paid
Baltimore, MD*	$0	0.0%
Bergen County, NJ	$0	0.0%
Hempstead, NY	$0	0.0%
Yakima County, WA	$0	0.0%
Union County, NJ	$0	0.0%
Camden County, NJ	$0	0.0%
Passaic County, NJ	$0	0.0%
Lackawanna County, PA	$0	0.0%
Marion County, OR	$0	0.0%
Escambia County, FL	$0	0.0%
Oyster Bay Town, NY	$0	0.0%
Gloucester County, NJ	$0	0.0%
Newark, NJ	$0	0.0%
St. Johns County, FL	$0	0.0%
Laredo, TX	$0	0.0%

Jersey City, NJ	$0	0.0%
Hays County, TX	$0	0.0%
San Bernardino, CA	$0	0.0%
Nueces County, TX	$0	0.0%
Lake County, OH	$3,230	0.0%
Horry County, SC	$14,519	0.1%
Montgomery County, TX	$44,475	0.2%
Hidalgo County, TX*	$150,000	0.6%
Tuscaloosa County, AL	$50,329	0.8%
Rockingham County, NH	$205,311	1.0%
Corpus Christi, TX	$123,383	1.3%
Columbus, OH	$432,776	1.6%
Baltimore County, MD*	$800,000	1.6%
Madison County, AL	$84,945	1.6%
Seattle & King County, WA	$2,740,746	1.6%
Stanislaus County & Modesto, CA	$641,586	1.9%
Brazoria County, TX	$244,571	2.2%
Atlantic County, NJ	$193,980	2.5%
Ocean County, NJ	$501,684	2.8%
Berks County, PA	$803,712	2.9%
Multnomah County & Portland, OR*	$807,008	3.3%
Jefferson County, TX	$267,056	3.5%
Chester County, PA	$1,238,115	3.6%
Cumberland County & Fayetteville, NC	$367,337	3.6%
Middlesex County, NJ	$898,211	3.6%
Okaloosa County, FL	$235,762	3.7%
Collier County, FL	$497,127	4.3%
Cincinnati, OH	$412,193	4.5%
Webb County, TX	$20,250	4.7%
Bernalillo County, NM	$243,261	4.8%

+*Some local programs may be spending down funds from their state allocation or from other sources. Other programs have only opened in the last couple months and may have not had time to ramp up.*

**Program indicators updated with more recent data than provided by Treasury (July 31, 2021) such as programs' dashboards, news articles, or other sources.*

Key Characteristics of State and Local Programs with Strong Approval or Distribution Records

Many programs that have demonstrated strong ERA approval or distribution rates have also implemented program flexibilities such as self-attestation and fact-specific proxies, accessible features such as simple applications and robust outreach, and other features to increase capacity and improve program performance.

Robust & Equitable Outreach with Trusted Community Partners

High-performing programs have relied on robust partnerships with trusted community organizations to reach the most marginalized communities and support renters through the application process. For example, the State of Virginia partners with and funds organizations to reach households and landlords with limited access to the internet or otherwise unable to complete online applications due to accessibility and language barriers. In Richland, SC, ERA program administrators work with public libraries to provide access to the application and offer application support. In Louisville/Jefferson County, KY, ERA program administrators leverage preexisting Neighborhood Place services already embedded in key neighborhoods and partner with community service providers and community groups to conduct on-the-ground outreach. Honolulu's ERA program similarly works with a network of nonprofit partners and target specific populations, such as the Micronesian community, or neighborhoods with high need, like the Leeward Coast of Oahu. San Antonio has been effective at reaching Latino households by conducting door-knocking campaigns in such neighborhoods, advertising on Spanish-speaking local radio, and offering support with the application process at libraries in Latino neighborhoods.

Simple & Accessible Applications

Local programs, such as in Caddo Parish, LA; New Hanover County, NC; and Honolulu, HI, use a very simple, low-barrier screening application. Once applications are selected, program administrators follow up with tenants to request any necessary information or documents. To reduce burden on tenants, the City of Houston and Harris County's joint program requests that landlords share information as part of their landlord directory; tenants can select their landlord from a dropdown and, if their landlord is participating in the directory, tenants will find information prefilled so that there is less information for tenants to collect and input as part of the application.

High-performing program administrators take intentional steps to ensure applications are accessible to a wide audience, via multiple methods such as online, in person, and on the phone, as well as in multiple languages. In San Antonio, ERA program administrators ensure that all people, regardless of immigration status, know they can access the program by explicitly accepting Consular IDs as a form of identification. The State of Connecticut's program, which has spent about one-third of its ERA1 allocation, bring the ERA application to towns and neighborhoods, leveraging a mobile technology bus with staff and volunteers, to help renters apply for assistance on the spot. Several programs also make clear they provided support for applicants with hearing or visual impairments.

Using Proxies, Categorical Eligibility, and Self-Attestation to Decrease Documentation Burden

Many high-spending programs have implemented various flexibilities to reduce documentation for program applicants. Among state programs, Virginia and Connecticut have implemented fact-specific proxies for income so that households residing in low-income ZIP codes or Qualified Census Tracts do not have to provide income documentation, easing the application process. Louisville/Jefferson County and Richland County have also implemented this flexibility. Some programs have also integrated categorical eligibility into their programs, utilizing administrative data from other federal, state, or local assistance programs to verify a household's income. Texas, Connecticut, the City of Houston, Harris County, Philadelphia and Kansas City, MO, have all implemented this flexibility by either allowing households to provide a benefit letter rather than income documentation or integrating their application software with administrative data sources from SNAP, TANF, Medicaid, and other programs.

Following Treasury's guidance, many of the more successful programs allow self-attestation for households to affirm housing instability, COVID-related hardship, income, and leases. Richland County, SC; Chesterfield County, VA; Harris County, TX; San Antonio, TX; Texas; Connecticut; and New Jersey are high ERA spenders who have all implemented one or more forms of self-attestation to ease documentation burdens for tenants.

Real-Time Evaluation and Course Correction

ERA provided an unprecedented amount of funding, and jurisdictions needed to stand up programs quickly to respond to households' emergency needs. Many programs were designed quickly with the knowledge that modifications would be necessary for the program to run smoothly. Successful programs have listened to renter and landlord concerns, identified program challenges, and conducted real-time analysis to make course corrections along the way.

The State of Virginia integrates fact-specific proxies of eligibility into their process to address application backlogs and incomplete applications. The State of Texas details program changes on their website, which include expanding their categorical eligibility criteria, decreasing documentation burdens for tenants and landlords, and re-prioritizing applications for households with active eviction cases. The State of New York, which spent $300 million in August alone, has simplified their online application after hearing complaints that the application was too complex and not user friendly. Many high-spending programs also have public data dashboards, allowing both administrators and stakeholders to identify potential challenges and programmatic solutions.

Landlord Engagement & Tenant Protections

Several high-spending state and local ERA programs have also adopted notable strategies to engage landlords, implement tenant protections, and ensure tenants do not fall through the cracks. Several programs actively engaged landlords to increase their program buy-in and participation. The State of Texas held meetings with landlord groups to hear their concerns about the program and to get feedback on what additional resources would be helpful. As a result of these meetings, the state decreased documentation requirements for landlords and created resources, such as an application process flow-chart, that landlords requested. In Houston and Harris County, TX, the ERA program invited landlords to register for ERA as part of a landlord directory to expedite review and payments and to connect applications from renters to additional information requested of landlords.

Several programs also developed strong tenant protections and eviction-diversion strategies in coordination with their ERA programs. Philadelphia's Municipal Court issued an order stating that after applying for emergency rental assistance and participating in landlord/tenant mediation, landlords must wait 45 days to file for eviction. Philadelphia has created an eviction-diversion program as another facet of its ERA program, and the ERA program administrators regularly check in with the courts to keep the courts up to date on pending applications and to ensure tenants are not evicted during this time. Louisville/Jefferson County, KY, has formed a strong relationship with the courts to ensure households applying to ERA are protected from eviction and to inform households about ERA as soon as they receive an eviction notice. In New York State, once tenants apply for ERA, they cannot be evicted because the lease has expired or due to non-payment of rent during the COVID-19 pandemic.

Increasing Capacity & Infrastructure

To disburse funding efficiently, program administrators must increase staffing and develop more advanced technological infrastructure to handle the influx of applications and program requests from renter households in need. Programs that attempt to administer ERA with the same staffing and internal systems they used prior to COVID-19 will likely suffer from major backlogs, limited visibility, and staff burnout. Most high-spending program, including the State of Alaska, State of Texas, and Louisville, KY, increased internal staff through permanent hires, temporary workers, and interns, or they subcontracted to community-based organizations and other contractors to bolster program capacity. The State of Alaska hired over 100 people to staff its call center, reach out to tenants and landlords, process applications, and support the administration of the program. Louisville, KY, hired 18 college interns from their local university to support the program.

Recommendations for Congress to Improve ERA Distribution

The slow pace of ERA spending is due primarily to challenges at the state and local levels, not a lack of legislative authority or administrative guidance. The Biden administration has provided significant flexibility to state and local governments to streamline programs and minimize burdensome documentation requirements, to conduct outreach to renters and landlords, and to work creatively with local eviction courts to prevent evictions. While some jurisdictions are effectively adopting these flexibilities and proven best practices into their program designs, far too many states and communities are choosing not to.

As Congress works to advance reform legislation, NLIHC urges you to include key reforms to streamline program delivery, improve program performance, and protect tenants. The purpose of statutory reform to ERA should be to expedite assistance and, to the greatest extent possible, maintain housing stability for tenants.

The **"Expediting Assistance to Renters and Landlords Act of 2021,"** introduced by Chairwoman Waters, would expedite ERA assistance by building off existing program guidance and directives and addressing and correcting many of the root causes of slow ERA spending. The legislation would also provide important renter protections. We appreciate Chairwoman Waters for her leadership on this legislation and for including many of NLIHC's recommendations at introduction and in the substitute amendment. Below, I outline essential provisions in this legislation and recommend additional improvements to strengthen the legislation and its impact.

The **"Protecting Renters Act of 2021,"** introduced by Ranking Member McHenry, would neither expedite ERA assistance nor protect tenants. Instead, the legislation would further slow ERA distribution by requiring the Department of Treasury to retract and redo most of its current ERA guidance, thereby requiring program administrators to redesign programs in a manner *counter* to evidence-based best practices. The legislation would grind most ERA programs to a halt by leaving virtually all states and cities without any funding for staffing, technology, and other reasonable administrative costs associated with administering the programs. And, by giving communities little time to spend their remaining ERA funds, Congressman McHenry's legislation would ensure that the needs of millions of landlords and tenants will go unmet with the funds that Congress has already provided.

Streamline Program Delivery

Any reform legislation should include measures to streamline the delivery of ERA. The "Expediting Assistance to Renters and Landlords Act" includes these essential provisions:

1. *Require all ERA program administrators to use self-attestation without further need for documentation*

Congress should require grantees to use self-attestation for income, risk of housing instability or homelessness, leases, and rent arrears, without further need for documentation and/or fact-specific proxies. Treasury's guidance currently allows programs to use self-attestation for all eligibility criteria, but few programs are doing so. Just 57% of ERA programs explicitly allow self-attestation for at least one eligibility criteria. According to NLIHC's tracking,[67] 43% explicitly allow self-attestation to affirm a COVID-19 hardship; 16% use self-attestation for income; and 13% use it for housing instability. Broader use of self-attestation would significantly increase accessibility for the lowest-income and most marginalized renters, decrease processing times, and speed up the delivery of assistance to renters and landlords.

2. *Require all program administrators to provide direct-to-tenant assistance*

Many program administrators are challenged by some landlords refusing to accept ERA. A survey conducted by NLIHC, the Housing Initiative at Penn, and the NYU Furman Center found that 44% of program administrators identify landlord responsiveness as a challenge.[68] Program administrators said landlords decline to participate in ERA programs for several reasons, including not wanting or being able to provide a W-9, wanting to evict tenants regardless of receiving ERA payments, and not wanting to participate in a government program.

Despite guidance from and urging by Treasury and the White House, too few ERA programs offer direct-to-tenant assistance when landlords refuse to participate. Of the nearly 500 ERA programs NLIHC is tracking, only 28% explicitly state they will provide direct-to-tenant assistance. Without a direct-to-tenant option, renters are effectively barred from receiving the assistance they need to remain in their homes when their landlords refuse to participate in the program, undermining the efficacy of the program.

3. *Prohibit all program administrators from requiring written leases*

The lowest-income and most marginalized renters are least likely to have written leases, but they are often most in need of assistance. Congress should prohibit ERA programs from requiring written leases to reduce overly burdensome documentation requirements for both tenants and landlords and to ensure resources reach those with the greatest needs.

4. *Create a safe harbor for ERA program administrators*

Many program administrators are hesitant to reduce application requirements, utilize self-attestation for tenants' eligibility, and provide direct-to-tenant assistance and are overly cautious in their design and implementation of ERA programs out of concern that the Biden or a future administration may later penalize them. To facilitate faster ERA spending, Congress should create an explicit safe harbor to provide program administrators with clear assurances that funds will not be clawed back for improper payments in cases where programs used self-attestation for tenant's eligibility or provide assistance directly to tenants. Congress can extend safe harbor to all programs using "good faith efforts to expedite the distribution of low-barrier assistance."

Improve Program Performance

ERA reform legislation should improve program performance and ensure resources reach tenants and landlords in need. As recommended by NLIHC, the "Expediting Assistance to Renters and Landlords Act" includes these essential provisions:

1. *Require performance improvement plans for slow-spending programs.*

The "Expediting Assistance to Renters and Landlords Act" would require slow-spending programs (those that have expended less than 25% of ERA1 funds) to create an improvement plan demonstrating how the program will adopt best practices to expedite the delivery of aid.

NLIHC recommends that this provision be further strengthened by conditioning a grantee's ability to retain needed funds on an approved performance improvement plan. Congress should also direct Treasury and HUD to provide technical assistance focused on helping these programs get on track.

2. *Redefine "eligible grantees" for recaptured funds to include community based nonprofit organizations and courts.*

Beginning on September 30, Treasury may recapture and reallocate excess ERA funds. Congress can help ensure renters and landlords in communities with poor-performing and low-capacity ERA programs can still access emergency aid by redefining "eligible grantees" to include community-based nonprofit organizations and courts. This safeguard is especially important in locations where there may not be another eligible state or local government grantee with the capacity to serve additional jurisdictions. Without this flexibility, Treasury may reallocate needed funds out of state, leaving renters and landlords without the resources Congress provided. By identifying courts as eligible grantees, Congress can help ensure resources are available to renters at immediate risk of eviction.

NLIHC urges the committee to further improve ERA program performance by including in the "Expediting Assistance to Renters and Landlords Act" these additional provisions:

1. *Require programs to use a minimum percentage of funds for outreach, application, navigation, and housing stability services.*

As Chairwoman Waters noted in a Dear Colleague letter[69] sent on August 27, the lack of awareness among renters and landlords about the availability of ERA is deeply troubling. In addition to the difficulty applying for ERA programs and complicated eligibility criteria, lack of awareness is among the top reasons renters have not applied for ERA. Robust and equitable marketing and outreach efforts are needed to ensure all low-income renters and landlords know about ERA and how to access it.

Navigators can provide renters with the information they need, from a source they trust, to apply for aid and can assist renters with filling out applications and understanding the process, particularly where there are barriers such as language access. Navigators could include additional staff, housing counselors, case managers, nonprofit organizations, and others familiar with the ERA application process. Congress should direct program administrators use a minimum percentage of funds for outreach and application navigation to assist renters and landlords in applying for aid, and it should provide clarification on how these costs should be billed. Congress should clarify that administrative costs will not be recaptured.

2. *Increase access for people experiencing homelessness.*

Congress should create a presumption that people experiencing homelessness (as defined by HUD Categories 1 and 4) meet all eligibility criteria for ERA funds. While Treasury guidance currently allows people experiencing homelessness to receive ERA funds, these households are typically required to meet the same eligibility and programmatic criteria as renters. This can make it more difficult to serve people without homes, who may not have a photo ID, lease, or other documentation.

Provide Robust Renter Protections if Allowing for Direct-to-Landlord Assistance

As outlined in our August 31 letter[70] to Chairwoman Waters, NLIHC has deep reservations about any legislative proposal to allow landlords to apply for ERA without the participation of tenants. Without significant safeguards, such a proposal could result in increased fraud by landlords and greater housing instability for tenants. We appreciate the inclusion of many of NLIHC's recommended tenant protections in the "Expediting Assistance to Renters and Landlords Act." These protections ensure that a landlord receiving ERA without tenant involvement:

- *Is prohibited from evicting a current tenant for at least 120 days, with exceptions only for health or safety issues.* A landlord receipt of ERA funds without tenant involvement must be conditioned on continued housing stability for the tenant.

- *Must set aside and vacate any past eviction judgment based on nonpayment of rent for the arrears they are paid.* Congress must prevent circumstances where a landlord receives assistance through the ERA program, but renters continue to have an eviction judgement on their record, which can make it more difficult to find future housing.

- *Must rescind any current eviction notice, and courts must dismiss and agree to seal any active eviction filling.* Even an eviction filing without a final determination can harm tenants for years, making it difficult to find future housing. Landlords must be required to rescind any eviction notice, and courts must seal eviction filings.

- *Provide the tenant with written notice of arrearages paid and ongoing protections.* Landlords are required to provide written notice to tenants that the arrears owed have been paid and that the landlord is prohibited from evicting the tenant for 120 days except for health or safety reasons.

Additionally, as recommended by NLIHC, the "Expediting Assistance to Renters and Landlords Act" would require ERA program administrators that assist landlords without tenant involvement to notify state and local courts that the landlord received payment, rent is no longer past due, and evictions must be halted.

In rare cases where landlords are permitted to receive ERA for now vacant units - due to a tenant leaving before an application was submitted, completed, or approved - there must be strict requirements in place to minimize fraud and tenant harassment and to avoid creating perverse unintended consequences. I appreciate Chairwoman Waters's responsiveness to these concerns by including the following essential protections for these circumstances:

- Such applications will only be considered for units vacated prior to September 7, 2021.
- To receive such assistance the landlords must attest, under penalty of perjury, that they:
    - Did not file an eviction notice on the tenant
    - Did not sever any utilities or order the severing of utilities to the dwelling while the tenant resided in the unit
    - Did not change the locks while the renter occupied the unit
    - Did not take any other action to bar the tenant from the unit

Additionally, ERA program administrators would be held responsible for any payments made to a landlord that ultimately is found to have harassed or acted illegally to force a tenant from their unit.

To further improve the "Expediting Assistance to Renters and Landlords Act," NLIHC recommends that the legislation give clear authority and responsibility to the Department of Justice and the Consumer Financial Protection Bureau to monitor and enforce these protections.

Recommendations for the Biden Administration

The Biden administration should continue working aggressively to avert an historic wave of evictions this fall and winter. In addition to providing guidance, support, and technical assistance to ensure ERA program administrators are implementing the core features that lead to success, the administration should take the following steps to keep renters safely and stably housed.

Issue an Eviction Moratorium for Federally Supported Properties

Treasury, HUD, the U.S. Department of Agriculture (USDA), and the Federal Housing Finance Agency (FHFA) should quickly implement the directive issued on July 29 by the Biden administration, urging all federal housing agencies "to extend their respective eviction moratoria through the end of September" and "to do everything in their power so that owners and operators of federally-assisted and financed rental housing seek Emergency Rental Assistance (ERA)…before moving toward eviction."[71]

In letters sent on July 29[72] and August 10,[73] NLIHC and NHLP urged the administration to immediately announce an eviction moratorium for renters living in all federally assisted properties supported by the HUD, USDA, or Treasury. The Biden administration has the authority to issue such a moratorium, and it should investigate its authority to issue similar protections for renters in properties backed by Fannie Mae and Freddie Mac.

Further Eliminate Barriers in ERA Programs

Treasury should continue to improve the ERA program by providing additional guidance to eliminate barriers that have slowed down the ability of state and local governments to distribute aid.

1. *Create Explicit 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 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."

2. *Allow Programs to Presume COVID-19 Hardships for All Income-Eligible Households*

While the administration makes clear that self-attestation of COVID-19-related hardship is sufficient, Treasury should also allow programs to presume applicants have a COVID-19-related hardship if they have low or moderate incomes, as is allowed under the State and Local Fiscal Recovery Fund. 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.

3. *Simplify Applications and Develop a Model ERA Application*

Treasury has identified and released promising practices for ERA programs that identify strategies to help accelerate program implementation and improve access to ERA programs.[74] Most recently, Treasury updated its list of promising practices by publishing examples of self-attestation forms[75] and an eviction-diversion "maturity model,"[76] as recommended by NLIHC.[77]

The Biden administration should build on these resources 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 program administrators to encourage third parties, such as legal aid attorneys, shelters or service providers, to apply on behalf of a tenant.

Program administrators should be directed to simplify applications and work with renters to complete those applications that are currently incomplete, and Treasury should provide oversight and implement consequences for administrators not applying these strategies to their programs.

Use the Recapture and Reallocation Process to Hold Programs Accountable and Expedite Assistance

The Biden administration should use the recapture and reallocation process to incentivize programs to adopt best practices and hold ERA programs accountable. The goals of any recapture process must be to ensure the timely distribution of aid to all renters in need, to incentivize programs to improve and streamline program delivery, and to ensure resources are allocated equitably. To this end, we urge Treasury to:

1. *Hold renters harmless for the slow spending of their ERA programs*

Treasury should, first and foremost, ensure that struggling renters can receive the assistance they need and that Congress provided to them by reallocating recaptured funds to other grantees in the state or by requiring poor-performing grantees to subaward their funds to nonprofit organizations with the capacity to administer aid. Treasury guidance (Q.21)[78] allows grantees to make subawards to other entities, including nonprofit organizations, to administer ERA programs. Poor-performing grantees that are unable to significantly improve their administration of aid must be required to subaward their allocation to an entity that can. We cannot allow renters to lose their homes because of the inefficiency and slow spending of program administrators.

2. *Require performance improvement plans for poor-performing programs*

To avoid the recapture of funds, programs that have struggled to distribute ERA resources should be required by Treasury to create an improvement plan demonstrating how the program has made mid-course corrections and adopted best practices to improve delivery of aid. Programs should be required to have improvement plans in place, rather than merely promising to do so in the future, to avoid recapture of unspent funds. Treasury should also provide technical assistance focused on helping these programs get on track.

3. *Reallocate resources based on need, capacity, and use of best practices*

All ERA programs should be required to complete and make public an analysis of the projected need in their jurisdiction for renters and people experiencing homelessness. Treasury should use these data to distribute recaptured ERA funds to states and communities with the greatest needs and the ability to quickly distribute aid. Treasury should also prioritize reallocation of recaptured funds to programs that have incorporated best practices, such as self-attestation, simple applications, and direct-to-tenant assistance, into their program design.

4. *Establish additional recapture opportunities*

Treasury should closely monitor how funds are being spent and recapture ERA resources from jurisdictions that are unable to distribute funds or unwilling to adopt best practices. Recapture processes should provide sufficient time for programs receiving recaptured funds to distribute aid before the final expenditure deadline.

5. *Reallocate excess ERA to successful programs*

The allocation formula included in the statute establishing the ERA program disproportionately distributed ERA funds to small states and communities through the small state minimum. While some recaptured funds should be reallocated to grantees within the state to hold renters harmless for the poor performance of their ERA program, Treasury should use the recapture and reallocation process to direct excess ERA funds to high-need states and communities, regardless of their location, to help address the original inequitable allocation of resources.

Long-Term Solutions to the Underlying Housing Crisis

The COVID-19 pandemic and its economic fallout underscore the need for a stronger housing safety net in the U.S. Beyond addressing and averting the immediate eviction crisis, Congress must address the underlying and long-standing shortage of affordable, accessible homes and insufficient renter protections for America’s lowest-income people.

The upcoming economic recovery package is a once-in-a-generation opportunity to achieve the large-scale, sustained investments and anti-racist reforms necessary to ensure the lowest-income and most marginalized renters have an affordable place to call home. To help address America’s housing and homelessness crisis, Congress must include the following investments in the forthcoming infrastructure and economic recovery package:

Expand Rental Assistance to Effectively End Homelessness for Families and Individuals

Due to inadequate federal funding, only one out of four households eligible for rental assistance receives it. Congress should make a major investment in expanding rental assistance – no less than the $90 billion included in Chairwoman Waters's reconciliation bill package, as a down payment towards President Biden's commitment to universal housing vouchers for all eligible households.

Preserve Public Housing

Public housing is critical to ensuring people with the greatest needs have safe, decent, affordable, and accessible homes, and the preservation of this community asset must be included in any strategy to address America's housing crisis. Congress has divested from public housing for decades, resulting in over $70 billion in unmet capital backlog needs. As a result, our nation loses 10,000 to 15,000 units of public housing every year to obsolescence or decay and other units fall into disrepair. Congress should provide no less than the $80 billion of preservation funding included in Chairwoman Waters's reconciliation bill.

Invest in the National Housing Trust Fund to Build and Preserve Homes Affordable to People with the Lowest Incomes

The Housing Trust Fund is the first new federal housing resource in a generation exclusively targeted to build and preserve rental homes affordable to people with the lowest incomes, those with the greatest and clearest needs. It is the only federal housing production program targeted to address the market failure that is an underlying cause of the housing crisis. Congress should provide no less than the $37 billion of HTF funding included in Chairwoman Waters's reconciliation bill.

Conclusion

With nearly 6.5 million renter households still behind on rent, Congress, the Biden administration, and state and local governments must work quickly and aggressively to avert an historic wave of evictions and keep renters stably housed during the pandemic. NLIHC looks forward continued work with members of Congress, the administration and state and local partners to advance the short-, medium- and long-term solutions needed to prevent an eviction crisis and repair the gaping holes in our country's social safety.

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