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# Pandemic Relief: The Emergency Rental Assistance Program

SUMMARY

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January 10, 2023

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In response to concerns about the economic effects of the COVID-19 pandemic on renters and their landlords, Congress created a $25 billion Emergency Rental Assistance (ERA) program in the Consolidated Appropriations Act, 2021 (Division N of P.L. 116-260). A second round of ERA funding—$21.55 billion—was included in Section 3201 of the American Rescue Plan Act of 2021 (P.L. 117-2). Throughout this report, when there are relevant distinctions between the two laws, the program is accordingly referred to as either ERA-1 or ERA-2.

ERA is administered by the Department of the Treasury. Funding under both ERA-1 and ERA-2 was provided to states, localities, and territories via a per capita formula allocation. The formula for allocating ERA-1 funding guaranteed states a minimum initial allocation of $200 million. ERA-1 also included a set-aside for tribes. The formula for allocating ERA-2 funding guaranteed to states a $152 million minimum initial allocation. ERA-2 did not include a tribal set-aside, but did include a set-aside of $2.5 billion for "high need" grantees.

P.L. 116-260 established various parameters for how the ERA-1 funding can be used. Among other requirements, states and localities must use the bulk of funds for financial assistance, defined to include rental assistance and utility assistance (including payment of arrearages as well as prospective rental payments). Remaining funds may be used for housing stability services (case management and other supports to help families retain their housing) and administrative expenses. Renters are eligible for assistance if they are low-income, experiencing financial hardship due to the pandemic, and at risk of homelessness or housing insecurity. Grantees were directed to prioritize very low-income renters for assistance. The law also established obligation and expenditure deadlines and imposed various reporting requirements on the Treasury Secretary.

These parameters were changed somewhat for ERA-2. Specifically, the amount that can be spent on administrative expenses was increased for ERA-2, and grantees may be able to use ERA-2 funds that remained unobligated as of October 1, 2022, for a broader range of affordable housing and eviction prevention activities. Further, eligibility for assistance was broadened to include households experiencing financial hardship *during* the pandemic. P.L. 117-2 also extended the availability of ERA-1 funding from December 31, 2021, to September 30, 2022; ERA-2 funding was made available through September 30, 2025. The laws governing ERA-1 and ERA-2 directed Treasury to recapture and reallocate unused ERA funding from slow spending grantees to fast spending grantees.

Within the statutory requirements—and any additional guidance established by Treasury—states and localities have had flexibility in designing their ERA programs. The ability of states and localities to structure their programs differently means that the experience of similarly situated renters seeking assistance varied geographically. Similarly, there has been geographic variability in the degree to which existing resources—both ERA and other funds—have been adequate to meet demand for rental assistance and the speed at which grantees have been able to disburse assistance.

One concern since the ERA program initially launched has been the relatively slow rate of expenditure. Slow expenditure may be attributable to grantees struggling to launch programs (particularly if they had no prior experience administering emergency rental assistance); having difficulty attracting or processing eligible renters; receiving too much funding relative to demand (particularly in the case of some smaller states); and other factors. As of the cover date of this report, Treasury had completed four rounds of ERA-1 recapture and reallocation (as well as one round of tribal recapture and reallocation) and one round of ERA-2 recapture and reallocation, redirecting more than $3.1 billion in ERA-1 funding and more than $500 million in ERA-2 funding among grantees with higher expenditure rates. Of the amount redistributed, about 58% of ERA-1 funds were redistributed within the same state, with the remaining funds redistributed across states, often from small states (those that received the minimum allocation) to larger states.

Grantees have reported some basic information to Treasury on how they have spent ERA funding and who they have served. Data from the first quarter of 2021 through the second quarter of 2022 showed that grantees had provided ERA to 5.35 million unique households, the majority of which had incomes at or below 30% of local area median income. Roughly 70% of those served received rental assistance and about 64% received assistance with rental arrears. About 14% received utility assistance and 27% received assistance with utility arrears. The U.S. Department of Housing and Urban Development is funding a study to better understand the range of impacts the ERA program has had on program participants and their communities.

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# Introduction

The Emergency Rental Assistance (ERA) program was created to help cover the unmet rent and utility expenses of low-income households affected by the economic consequences of the COVID-19 pandemic. The program received two rounds of funding.

The Consolidated Appropriations Act, 2021 (P.L. 116-260) initially funded the ERA program with an appropriation of $25 billion.[1] The ERA program was funded through the Coronavirus Relief Fund (CRF), a program created as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), and administered by the Department of the Treasury, to assist state, local, territorial, and tribal governments.[2] While the CARES Act CRF appropriation could be used for multiple purposes, the ERA appropriation in P.L. 116-260 was directed only to rent and utility assistance and related housing stability services. A second appropriation for ERA—of $21.550 billion—was included in Section 3201 of the American Rescue Plan Act of 2021 (P.L. 117-2). Throughout this report, when there are relevant distinctions between the two laws, the program is accordingly referred to as ERA-1 or ERA-2.

This report briefly describes the need for rental assistance during the COVID-19 pandemic, provides information about the allocation of ERA funds, describes the parameters of the ERA program, and concludes with an analysis of how the program is being implemented, including the reallocation of funds to-date, a review of some of the administrative considerations in the program, and information about who the program has served.

# Background: Rental Assistance During the COVID-19 Pandemic

Even before the onset of the COVID-19 pandemic, low-income renters struggled with housing affordability. The Joint Center on Housing Studies reported that in 2018, nearly half (48%) of all renters were cost burdened (i.e., paying more than 30% of their income in rent), with higher numbers for lower-income (80%), Black (55%), and Hispanic (53%) renters.[3]

The pandemic and its economic effects made renters' housing arrangements even more precarious. Efforts to assist renters included eviction moratoriums at the state and federal levels, including a nationwide moratorium on evictions for nonpayment of rent issued by the Centers for Disease Control and Prevention (CDC) that was in effect from September 4, 2020, until August 3, 2021.[4] However, moratoriums did not prevent arrearages from accumulating, and renters still faced risks of eviction, particularly after moratoriums ended.

Prior to enactment of ERA, some states and localities used federal funds appropriated as part of the CARES Act, including funds distributed through CRF and the Community Development Block Grant (CDBG), to operate rental assistance programs designed to prevent evictions.[5]

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[1] See Division N, Title V, Section 501 of P.L. 116-260.

[2] For more information about CRF in the CARES Act, see CRS Report R46990, *General State and Local Fiscal Assistance and COVID-19: Eligible Purposes, Allocations, and Use Data*.

[3] Joint Center for Housing Studies, *America's Rental Housing 2020*, January 2020, pp. 26-29, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf.

[4] For more information, see CRS Insight IN11673, *The CDC's Federal Eviction Moratorium*.

[5] See examples from the National Conference of State Legislatures, which tracks the ways in which states used their CRF allocations: https://www.ncsl.org/research/fiscal-policy/state-actions-on-coronavirus-relief-funds.aspx. The

Organizations representing both tenants and landlords advocated for additional federal funds to help tenants pay rental arrearages that had accumulated during eviction moratoriums.[6] Legislation was introduced in the 116th Congress that would have provided as much as $100 billion to help tenants pay rent.[7] Ultimately, Congress appropriated nearly $47 billion for emergency rent and utility assistance through the ERA program.

# Initial State and Local Allocations

## P.L. 116-260 (ERA-1)

P.L. 116-260 provided a total of $25.000 billion in ERA support. Payments (denoted as ERA-1 payments here and in Treasury documentation) were distributed across these jurisdictions as follows:

- $23.785 billion was allocated to eligible local governments, the 50 states, and the District of Columbia based on their populations (as projected by the U.S. Census Bureau for July 2020),[8] with no state receiving less than $0.200 billion;[9]
- $0.800 billion was set aside for governments in tribal areas, with individual government allocations distributed in proportion to relative payments made under the Native American Housing Block Program in FY2020;[10]
- $0.400 billion was allocated to the territories of Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, with $0.325 billion provided to Puerto Rico and $0.075 billion distributed to the remaining territories based on their relative population share; and
- $0.015 billion was set aside to cover federal administrative costs related to program implementation.

ERA-1 payments were generally provided to state (or territorial) governments. Local governments serving a population of at least 200,000 (as measured by the U.S. Census Bureau in 2019),[11] could elect to receive their own direct allocations from Treasury. Direct payments made to localities reduced Treasury's initial allocation to their state government (keeping the total amount provided across each state constant), and were the product of (1) the state or territorial

National Low Income Housing Coalition tracked the way in which CARES Act funding more broadly was used for rental assistance: https://bit.ly/RA-database.

[6] See, for example, National Housing Conference, "31 housing organizations tell administration and Congress to immediately return to negotiations," press release, August 21, 2020, https://nhc.org/press-release/31-housing-organizations-tell-administration-and-congress-to-immediately-return-to-negotiations/.

[7] See the Heroes Act (H.R. 6800) and the Emergency Rental Assistance and Rental Market Stabilization Act (H.R. 6820, S. 3685).

[8] U.S. Census Bureau, "Vintage 2020 Population Estimates for the United States and States," December 2020, https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates.html. Allocations are determined by total state populations, including nonrenters; for recent estimates of state renter populations, see U.S. Census Bureau, "American Community Survey 2015-2019 5-Year Data Release," December 2020, https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html.

[9] The District of Columbia was treated as a state for both the ERA-1 and ERA-2 allocations.

[10] For more on the Native American Housing Block Grant program, see CRS Report R43307, *The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA): Background and Funding*.

[11] U.S. Census Bureau, "Subcounty Resident Population Estimates: April 1, 2010 to July 1, 2019," May 2020, https://www.census.gov/data/tables/time-series/demo/popest/2010s-total-cities-and-towns.html.

allocation amount, (2) the percentage of the state or territorial population attributable to the local government, and (3) 45%.

In many cases, populations were served by more than one local government eligible for direct assistance from ERA (e.g., a city with a population of 300,000 located in a county with 200,000 people living in other localities in the county, and thus having a county population of 500,000). Treasury clarified that in such cases, overlapping governments were eligible for assistance.[12] However, direct assistance payments to larger localities was calculated using only their unique population, or was reduced by any amounts also attributable to smaller localities receiving assistance (i.e., in the above example, the county government would only use a population of 200,000 for its direct payment calculation).

## P.L. 117-2 (ERA-2)

P.L. 117-2 appropriated an additional $21.550 billion in ERA support to local, state, and territorial governments. Unlike P.L. 116-260, P.L. 117-2 did not include a separate allocation of funds for tribal governments. Payments (denoted as ERA-2 payments here and in Treasury documentation) were distributed across eligible jurisdictions as follows:

- $18.712 billion was allocated to eligible local governments, the 50 states, and the District of Columbia based on their populations (as projected by the U.S. Census Bureau for July 2020),[13] with no state receiving less than $0.152 billion;
- $0.305 billion was allocated to the territories of Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, with $0.240 billion provided to Puerto Rico and $0.065 billion distributed to the remaining territories based on their relative population share;
- $2.500 billion was set aside for high-need grantees, to be distributed by the Treasury Secretary using statistics on high-need housing, rental market costs, and unemployment (ERA-2 High Need); and
- $0.033 billion was set aside to cover federal administrative costs related to program implementation.

Direct local allocation eligibility, calculations, and division of payments across overlapping governments in ERA-2 were consistent with the methodology from ERA-1. However, P.L. 117-2 directed that ERA-2 funds be staggered in their distribution. Specifically, Treasury was directed to distribute no less than the first 40% of ERA-2 funds within 60 days of enactment, with the remainder to be distributed after grantees expended 75% of their initial ERA-2 allocation.[14]

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[12] U.S. Department of the Treasury, "Emergency Rental Assistance Program: Data and Methodology for State, Local Government, and Territory Allocations," January 2021, https://home.treasury.gov/system/files/136/Emergency-Rental-Assistance-Data-and-Methodology-1-11-21.pdf.

[13] U.S. Census Bureau, "Vintage 2020 Population Estimates for the United States and States," December 2020, https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates.html. Allocations are determined by total state populations, including nonrenters; for recent estimates of state renter populations, see U.S. Census Bureau, "American Community Survey 2015-2019 5-Year Data Release," December 2020, https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html.

[14] See P.L. 117-2, §3201(c) available at https://www.congress.gov/bill/117th-congress/house-bill/1319/text#H61B6162AB8EC496ABB590ADA8F6898FF.

**Table 1** shows ERA-1 and ERA-2 initial allocations broken out by state and territory, and government level.[15]

**Table 1. Emergency Rental Assistance Initial Allocations in P.L. 116-260 (ERA-1) and P.L. 117-2 (ERA-2)**

(All allocations in millions of dollars)

| | Allocations to State Governments | | Allocations to Local Governments | | |
|---|---|---|---|---|---|
| **State or Territory** | **ERA-1** | **ERA-2** | **ERA-1** | **ERA-2** | **Grand Total** |
| Alabama | 263 | 224 | 63 | 65 | 615 |
| Alaska | 165 | 125 | 35 | 27 | 352 |
| American Samoa | 10 | 9 | 0 | 0 | 19 |
| Arizona | 290 | 229 | 203 | 199 | 921 |
| Arkansas | 174 | 137 | 27 | 22 | 360 |
| California | 1,498 | 1,210 | 1,113 | 1,376 | 5,197 |
| Colorado | 248 | 196 | 137 | 138 | 719 |
| Connecticut | 236 | 222 | 0 | 0 | 458 |
| Delaware | 200 | 96 | 0 | 56 | 352 |
| District of Columbia | 200 | 152 | 0 | 0 | 352 |
| Florida | 871 | 740 | 570 | 575 | 2,756 |
| Georgia | 552 | 479 | 158 | 159 | 1,348 |
| Guam | 33 | 29 | 0 | 0 | 62 |
| Hawaii | 125 | 95 | 75 | 71 | 366 |
| Idaho | 176 | 125 | 24 | 27 | 352 |
| Illinois | 566 | 474 | 268 | 288 | 1,596 |
| Indiana | 372 | 324 | 76 | 74 | 846 |
| Iowa | 195 | 149 | 15 | 17 | 376 |
| Kansas | 169 | 126 | 31 | 26 | 352 |
| Kentucky | 264 | 233 | 33 | 32 | 562 |
| Louisiana | 249 | 192 | 59 | 70 | 570 |
| Maine | 200 | 126 | 0 | 26 | 352 |
| Maryland | 258 | 204 | 143 | 148 | 754 |
| Massachusetts | 421 | 353 | 36 | 83 | 893 |
| Michigan | 623 | 403 | 38 | 190 | 1,254 |
| Minnesota | 289 | 229 | 86 | 84 | 688 |
| Mississippi | 187 | 145 | 13 | 13 | 358 |

[15] U.S. Department of the Treasury, "Emergency Rental Assistance Program," May 2021, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program.

| | Allocations to State Governments | | Allocations to Local Governments | | |
|---|---|---|---|---|---|
| **State or Territory** | **ERA-1** | **ERA-2** | **ERA-1** | **ERA-2** | **Grand Total** |
| Missouri | 324 | 270 | 84 | 94 | 771 |
| Montana | 200 | 152 | 0 | 0 | 352 |
| Nebraska | 159 | 121 | 41 | 36 | 357 |
| Nevada | 125 | 99 | 83 | 87 | 394 |
| New Hampshire | 179 | 115 | 21 | 37 | 352 |
| New Jersey | 354 | 272 | 235 | 260 | 1,121 |
| New Mexico | 161 | 123 | 39 | 36 | 359 |
| New York | 801 | 673 | 481 | 639 | 2,594 |
| North Carolina | 547 | 490 | 156 | 138 | 1,331 |
| North Dakota | 200 | 152 | 0 | 0 | 352 |
| Northern Mariana Islands | 10 | 9 | 0 | 0 | 19 |
| Ohio | 565 | 496 | 210 | 205 | 1,476 |
| Oklahoma | 210 | 166 | 54 | 55 | 485 |
| Oregon | 204 | 156 | 77 | 88 | 525 |
| Pennsylvania | 570 | 500 | 278 | 263 | 1,611 |
| Puerto Rico | 325 | 240 | 0 | 0 | 565 |
| Rhode Island | 200 | 152 | 0 | 0 | 352 |
| South Carolina | 272 | 232 | 74 | 73 | 651 |
| South Dakota | 200 | 152 | 0 | 0 | 352 |
| Tennessee | 383 | 313 | 73 | 93 | 862 |
| Texas | 1,308 | 1,080 | 639 | 660 | 3,686 |
| U.S. Virgin Islands | 21 | 18 | 0 | 0 | 40 |
| Utah | 150 | 113 | 65 | 64 | 392 |
| Vermont | 200 | 152 | 0 | 0 | 352 |
| Virginia | 525 | 396 | 45 | 113 | 1,079 |
| Washington | 322 | 278 | 188 | 190 | 978 |
| West Virginia | 200 | 152 | 0 | 0 | 352 |
| Wisconsin | 322 | 281 | 65 | 67 | 735 |
| Wyoming | 200 | 152 | 0 | 0 | 352 |
| All Tribal Governments | 800 | 0 | 0 | 0 | 800 |
| **Totals** | **18,305** | **14,531** | **6,680** | **6,964** | **46,480** |

**Source:** U.S. Department of the Treasury, "Emergency Rental Assistance Program," May 2021, https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program; and U.S. Treasury, "ERA2

Allocations for Eligible Entities," May 2021, https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program.

**Notes:** Recipients may choose to subgrant funds to governments within their jurisdiction, but are not obligated to do so. Sums may not equal totals due to rounding. ERA-2 payments include those categorized as high-need payments.

## Funding Availability

P.L. 116-260 made ERA-1 funds available to grantees through December 31, 2021; the ERA-1 deadline was subsequently extended to September 30, 2022, by P.L. 117-2. Beginning September 30, 2021, the law directed the Treasury Secretary to recapture any "excess" unobligated ERA-1 funds (as determined by the Secretary) and to reallocate them to grantees that had obligated at least 65% of their ERA-1 funds for eligible purposes. Grantees receiving reallocated ERA-1 funds were eligible for an up to 90-day extension of the funding availability deadline, to December 29, 2022.

P.L. 117-2 made ERA-2 funds available to grantees until September 30, 2025. However, beginning March 31, 2022, the law directed the Treasury Secretary to reallocate *undisbursed* ERA-2 funds[16] only to grantees that have obligated 50% or more of their total allocated ERA-2 funds. These reallocated funds can only be used for financial assistance, not housing stability services or administrative costs. The law permits grantees that have obligated at least 75% of their ERA-2 funds for eligible purposes as of October 1, 2022, to obligate remaining unobligated funds for a broader range of other affordable rental housing and eviction prevention purposes for very low-income families.

### ERA-1 Recapture and Reallocation Process

The law that created ERA-1 left the Treasury Secretary discretion regarding how to structure the recapture and reallocation process. The process developed by the agency was described in guidance, initially published in October 2021, and subsequently revised several times.[17] Under that guidance, grantees were subject to recapture of unobligated funding if they had "excess" ERA-1 funding. Treasury periodically determined whether grantees had "excess funds" by evaluating their spending against expenditure ratios, which increased over time. Generally, the expenditure ratio is calculated as the share of a grantee's allocation (excluding 10% for administrative costs) spent on assistance to eligible households. For grantees with spending below the expenditure ratio, the amount subject to recapture was the difference between the grantee's expenditures and the applicable ratio at the time of evaluation.[18]

[16] As noted earlier, P.L. 117-2 directed Treasury to disburse ERA-2 funding allocations in phases, based on grantee spending rates. Specifically, Treasury was directed to distribute no less than the first 40% of ERA-2 funds within 60 days of enactment, with the remainder to be distributed after grantees expend 75% of their initial ERA-2 allocation. It is these undisbursed ERA-2 funds held by Treasury that are subject to potential reallocation.

[17] U.S. Department of the Treasury, "Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021 Reallocation Guidance," October 4, 2021, https://home.treasury.gov/system/files/136/ERA1-ReallocationSummary-October-2021.pdf; "Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021 Reallocation Guidance," updated March 30, 2022, https://home.treasury.gov/system/files/136/Updated-ERA1-Reallocation-Guidance%203-30-%202022.pdf; "Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021, Addendum to Reallocation Guidance for Tribal Governments," June 1, 2022, https://home.treasury.gov/system/files/136/ERA_Tribal_Guidance_Addendum.pdf; and "Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021 Reallocation Guidance," updated September 6, 2022, https://home.treasury.gov/system/files/136/UpdatedERA1ReallocationGuidanceSep6.pdf.

[18] For example, see "Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021 Reallocation

Treasury gave grantees the ability to avoid or lessen recapture if they submitted and complied with a Program Improvement Plan. If a grantee failed to submit required reports under the Program Improvement Plan, the grantee could also be determined to have excess funds subject to recapture in an amount equal to 10% of the grantee's allocation.

In order to prevent recapture, Treasury also allowed grantees to request that a portion of their ERA-1 funds be voluntarily reallocated to another designated grantee (either other localities within the same state or the state grantee) that had obligated at least 65% of its funds.

Once Treasury made a recapture, it started a process to reallocate funds to other grantees. According to the Treasury guidance,

- grantees were eligible to apply for reallocated funds if they had obligated at least 65% of their initial ERA-1 allocations and they submitted a request to Treasury;
- if more requests were received than there were excess funds to be reallocated, Treasury would develop a relative share formula for allocating funds:
    - when feasible, Treasury prioritized reallocation within the same state; and
    - Treasury reserved the right to prioritize grantees likely to expend all remaining ERA-1 and ERA-2 funds promptly.

Treasury ultimately conducted four rounds of ERA-1 recapture and reallocation, and one round of tribal reallocation.[19] Through the recapture and reallocation process, $3.140 billion dollars—or nearly 13% of all ERA-1 funding—was redistributed among grantees.

### ERA-2 Recapture and Reallocation Process

As with ERA-1, the statute left Treasury with discretion to structure the recapture and reallocation process for ERA-2. In late March 2022, Treasury released ERA-2 reallocation guidance, which was subsequently revised in November 2022.[20] The recapture process was structured similarly to the ERA-1 process, with grantee expenditures being evaluated quarterly against increasing expenditure ratios. Unlike the ERA-1 process, the ERA-2 process did not allow for Program Improvement Plans or cure periods. Another important difference is that the only ERA-2 funding subject to recapture is funding still held by Treasury. (As noted earlier, ERA-2 directed that Treasury only disburse the first 40% of a grantee's funding initially, retaining the remaining 60% until 75% of the initial allocation had been spent.) Thus, the first 40% of all ERA-2 grant allocations is protected from recapture.

Guidance," updated September 6, 2022, p. 3, https://home.treasury.gov/system/files/136/UpdatedERA1ReallocationGuidanceSep6.pdf

[19] Round 1 reallocation was announced January 7, 2022; Round 2 reallocation was announced March 14, 2022; Round 3 reallocation was announced September 26, 2022; Tribal Reallocation was announced October 21, 2022; Round 4 (final) reallocation was announced October 28, 2022. Reallocation data are available on Treasury's website, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program.

[20] U.S. Department of the Treasury, "Emergency Rental Assistance Under the American Rescue Plan Act of 2021 (ERA2) Reallocation Guidance," March 30, 2022, https://home.treasury.gov/system/files/136/Updated-ERA1-Reallocation-Guidance%203-30-%202022.pdf, and "Emergency Rental Assistance Under the American Rescue Plan Act of 2021 (ERA2) Reallocation Guidance," updated November 15, 2022, https://home.treasury.gov/system/files/136/ERA2-Reallocation-Guidance-March-30-2022.pdf.

As of December 2022, Treasury had conducted one round of ERA-2 reallocation, for Quarter 1, 2022, in which almost $521 million was redistributed among grantees. In terms of future reallocations of ERA-2 funding, a December 2, 2022 notice issued by Treasury stated:

> Grantees have continued to draw down and obligate their ERA2 funds at high rates, diminishing the need to conduct additional reallocation following the already-announced Quarter 2 and Quarter 3 2022 Assessments [based on expenditures as of June 30, 2022 and September 30, 2022]. Accordingly, Treasury will not conduct the optional Final Undrawn Funds Assessment described in the Guidance until at least June 2023, if ever.[21]

# ERA Program Parameters

When P.L. 116-260 created the ERA program, it established parameters for how ERA-1 funds could and should be spent. Treasury issued Frequently Asked Questions (FAQs) regarding how certain aspects of the law are to be applied.[22] For ERA-2 funding, P.L. 117-2 made some changes that are applicable to ERA-1 (i.e., expenditure deadlines); and others that are applicable only to ERA-2 (i.e., income eligibility and a different cap on administrative expenses). Treasury has revised its FAQs multiple times to reflect the requirements of both ERA-1 and ERA-2 and in response to stakeholder feedback.[23]

ERA funds are provided from Treasury to grantees, which can use the funds to design their own rental assistance programs within the requirements of the law and Treasury guidance. Some grantees were able to use the new funds to supplement existing rental assistance programs created with CARES Act or other funds, to the extent their existing programs aligned with ERA statutory requirements (which are outlined below); others had to develop new programs from scratch.

## Eligible Use of Funds

P.L. 116-260 directed that 90% of ERA-1 funds be spent on direct financial assistance and that up to 10% could be spent on administrative expenses and housing stability services. Treasury guidance further interpreted these limits to allow grantees to use up to 10% of ERA-1 funds for housing stability services, and up to 10% of total funds for administrative expenses.

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[21] U.S. Department of the Treasury, "Emergency Rental Assistance (ERA2) Under the American Rescue Plan Act of 2021, Notice Regarding the ERA2 Final Undrawn Funds Assessment," December 2, 2022, https://home.treasury.gov/system/files/136/ERA2-FinalAssessmentNotice-FINAL12222.pdf.

[22] Treasury FAQs can be found at https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/faqs.

[23] Treasury's ERA website contains a change log of FAQs, available at https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/faqs/change-log. FAQs were initially published in January 2021; see the January 19, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-1-19-21.pdf. As of the cover date of this report, the FAQs have been changed seven times, in February, March, May, June, and August of 2021 and twice in July 2022. See February 22, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-2-22-21.pdf; March 16, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-3-16-21.pdf; May 7, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf; June 24, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA_FAQs_6-24-21.pdf; August 25, 2021, FAQs at https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf; July 6, 2022, FAQs at https://home.treasury.gov/system/files/136/ERA_FAQ_7622.pdf; and July 27, 2022, FAQs at https://home.treasury.gov/system/files?file=136/ERA-FAQ-7.27.22.pdf.

For ERA-2, P.L. 117-2 directed that no more than 15% of ERA-2 funds be spent on administrative expenses and 10% be spent on housing stability services, leaving at least 75% to be spent on direct financial assistance.

## Financial Assistance

P.L. 116-260 defined financial assistance as assistance to tenants for

- rent and rental arrears,
- utilities and home energy costs and arrears, and
- other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak, as defined by the Treasury Secretary.

The definition of financial assistance under P.L. 117-2 for ERA-2 is nearly identical, except when it comes to other expenses related to housing; ERA-2 does not require that the expenses be related to the COVID-19 outbreak.

Treasury issued an FAQ in January 2021 clarifying that telecommunications services are not considered utilities under this program.[24] However, Treasury revised the FAQ in February 2021 to define "other expenses" eligible for assistance to include internet service, if it allows renters to engage in distance learning, telework, and telemedicine and obtain government services.[25] Additional "other expenses" identified in the FAQ include relocation expenses and rental fees (if a household has been displaced due to COVID-19), and accrued late fees.

### *Length of Assistance*

Under ERA-1, assistance could be provided for no more than 12 months, with the possibility of one 3-month extension. Payments made for prospective rent were subject to additional limitations; they could only be provided in 3-month increments and only if rental arrearages were addressed.

Under the terms of P.L. 117-2, recipients can receive no more than 18 months of assistance under both rounds of ERA combined, with ERA-1 assistance still limited to no more than 15 months.

Treasury's May 7, 2021 FAQs clarified that grantees must prohibit landlords from evicting tenants for nonpayment of rent during the period for which they have received prospective rent payments or for which rental arrearages were paid. Treasury's guidance also encourages grantees to set policies prohibiting landlords who receive payment for rental arrearages from evicting tenants for nonpayment of rent for some period, consistent with applicable law.[26]

### *Payments*

P.L. 116-260 directed that ERA-1 payments be made directly to landlords or utility providers, but it allowed payments to be made directly to tenants if landlords or utility providers were unwilling to accept such payments. In its May 7, 2021, FAQs, Treasury reduced the amount of time grantees

[24] January 9, 2021, FAQ #1, https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-1-19-21.pdf.

[25] February 22, 2021, FAQ #7, https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-2-22-21.pdf.

[26] May 7, 2021, FAQ #32, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

under ERA-1 were required to wait for landlords or utility providers to respond to outreach efforts before making payments directly to tenants.[27]

ERA-1 guidance clarified that landlords are permitted to aid their tenants in applying for assistance, or they may apply directly. Landlords who apply directly must meet certain conditions (including obtaining tenant signatures, notifying tenants of the application, and ensuring any funds received are applied to tenants' rental obligations).

The requirements in P.L. 117-2 for ERA-2 are not as specific about landlord involvement, and, according to guidance in the May 7, 2021 FAQs, grantees may use their ERA-2 funding to offer assistance directly to tenants without first attempting to contact landlords or utility providers.[28]

Additionally, a revision to the FAQs issued on June 24, 2021, permitted grantees under both ERA-1 and ERA-2 to enter into data sharing agreements and bulk payment arrangements for large landlords and utility providers.[29] The August 25, 2021, revisions to the FAQs allow grantees to make bulk payments to landlords and utility providers in advance of tenant eligibility determination, as long as application and documentation requirements are met within six months.[30]

The August 2021 FAQs further allow that, upon the request of a tenant, a grantee may provide both ERA-1 and ERA-2 assistance for rental and utility arrears after an otherwise eligible tenant has vacated a unit.[31]

### Administrative Costs and Housing Stability Services

For ERA-1, grantees were authorized to use up to 10% of grant amounts each for housing stability services and administrative costs.[32]

P.L. 116-260 defined "housing stability services" as case management and other services related to COVID-19, to be defined by the Secretary, that are intended to keep tenants stably housed. It restricted administrative expenses to those tied to providing financial assistance and housing stability services, including for data collection and reporting requirements.

For ERA-2, P.L. 117-2 established a cap of up to 15% of total grant funding for administrative expenses and up to 10% for housing stability services. The law defined "housing stability services" as case management and other services intended to keep households stably housed, without reference to COVID-19. It defined "administrative expenses" as those included under P.L. 116-260, as well as costs associated with other affordable rental housing and eviction prevention activities.

## Individual Eligibility and Prioritization

For ERA-1, P.L. 116-260 established a three-part eligibility test based on income level, income loss or other financial hardship, and risk of homelessness or housing instability. It also established

[27] May 7, 2021, FAQ #12, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

[28] Ibid.

[29] June 24, 2021, FAQ #38, https://home.treasury.gov/system/files/136/ERA_FAQs_6-24-21.pdf.

[30] August 25, 2021, FAQ #38, https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf.

[31] August 25, 2021, FAQ #40, https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf.

[32] March 25, 2021, FAQ #29, https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-3-16-21.pdf.

a set of income targeting requirements to guide states and localities in prioritizing assistance. P.L. 117-2 largely adopted the same requirements for ERA-2, but with some changes.

### Eligibility

Under ERA-1, to be eligible for direct financial assistance or housing stability services, households must be renters and

- low-income, defined (consistent with federal housing law) as having income at or below 80% of local area median income as established by the Department of Housing and Urban Development (HUD);
- experiencing financial hardship, as evidenced by receipt of unemployment benefits or a written attestation of other financial hardship (income loss or increased expenses) related directly or indirectly to the COVID-19 pandemic; and
- have at least one member at risk of homelessness or housing instability, as evidenced by past due rent or utility notices (including eviction notices), unsafe living conditions, or other evidence as established by the grantee.

The eligibility definition for ERA-2 is largely the same, although it does not include the detail as to how an individual can demonstrate a risk of homelessness or housing insecurity that was included for ERA-1; nor does ERA-2 require that financial hardship be related to the COVID-19 pandemic. A household is eligible for assistance under ERA-2 as long as hardship has occurred due to *or* during the pandemic.

Neither ERA-1 nor ERA-2 addresses noncitizen eligibility for assistance under the ERA program.[33]

### Prioritization

Under both ERA-1 and ERA-2, grantees are to prioritize the following individuals for direct financial assistance and housing stability services:

- very low-income tenants, defined (consistent with federal housing law) as having income at or below 50% of local area median income as established by HUD; and
- applicants who are unemployed and have been unemployed for the prior 90 days.

The law permits states and localities to further establish their own prioritization policies.

### Documentation

P.L. 116-260 specified that for ERA-1, grantees may determine an applicant's income eligibility based on annual income or current monthly income (subject to three-month recertification).

P.L. 117-2 does not include provisions related to income determination for ERA-2.

[33] Some questions have arisen as to whether noncitizen eligibility restrictions under the Personal Responsibility and Work Responsibility Act of 1996 (PRWORA; Title IV of P.L. 104-193, as amended) apply to assistance under the ERA program. To date, Treasury has not issued guidance on the applicability of PRWORA noncitizen restrictions to these funds. For more information about PRWORA's restrictions, see CRS Report R46510, *PRWORA's Restrictions on Noncitizen Eligibility for Federal Public Benefits: Legal Issues*.

Treasury's May 7, 2021 FAQs encouraged grantees to be flexible in establishing eligibility for both ERA-1 and ERA-2. The FAQs state: "Treasury strongly encourages grantees to avoid establishing documentation requirements that are likely to be barriers to participation for eligible households."[34] For example, the FAQs say a grantee may rely on an applicant's self-attestation of income under certain circumstances as well as financial hardship related to COVID-19.[35] Treasury also authorized the use of categorical eligibility and fact-specific proxies for confirming eligibility.[36]

## Reporting Requirements

The Treasury Secretary, in consultation with the Secretary of Housing and Urban Development, is required under P.L. 116-260 to provide quarterly reports on a number of specified ERA-1 program indicators, including the number of households served by the program, their income profiles, the acceptance rate of applicants, and the types and amounts of assistance. Grantees must establish data privacy guidelines for collecting information. Treasury publishes data from these reports on its website.[37]

P.L. 117-2 did not contain reporting requirements for ERA-2. Treasury's May 7, 2021 FAQs encouraged ERA-2 grantees to comply with the data privacy and security requirements established for ERA-1.[38] Treasury subsequently released reporting guidance applicable to both ERA-1 and ERA-2 grantees.[39]

# Program Performance and Future Considerations

ERA was unique in the context of federal housing assistance programs in that it was implemented rapidly, and on a large scale, effectively from scratch. HUD has announced it is funding research to better understand how the program functioned in its goal of preventing eviction and housing instability among low-income households during the COVID-19 pandemic.[40] While findings from that research will not be available for several years, data and information are available that provide some indication of how the program has functioned and who it has served.

## Funding Distribution and Reallocation

The formula that was used to allocate ERA-1 funding was based solely on population. The same formula was used to distribute ERA-2 funding, although a portion of funds were set aside to be

[34] May 7, 2021, FAQ #1, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

[35] May 7, 2021, FAQ #4, #2, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

[36] May 7, 2021, FAQ #4, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

[37] See https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program.

[38] May 7, 2021, FAQ # 14, https://home.treasury.gov/system/files/136/ERA2FAQs%205-6-21.pdf.

[39] See ERA Reporting Guidance, issued June 30, 2021, at https://home.treasury.gov/system/files/136/ERA-Reporting-Guidance.pdf.

[40] U.S. Department of Housing and Urban Development, *Notice of Funding Opportunity*, Impact Evaluation of the Emergency Rental Assistance (ERA) Program, August 25, 2022, https://www.hud.gov/sites/dfiles/SPM/documents/ImpactEvaluationofTheEmergencyAssistanceERAProgramV.2FY22_NOFO.pdf and U.S. Department of Housing and Urban Development, "HUD Awards $2 Million to Assess the Impact of Emergency Rental Assistance on Housing Stability," press release, November 3, 2022, https://www.hud.gov/press/press_releases_media_advisories/hud_no_22_226.

distributed to jurisdictions considered to have "high needs" based on factors including rental market costs and high cost burdens among low-income renter households. The formula included a small state minimum, which meant that low population states (those that received the small state minimum) were given larger per-capita allocations than large population states.[41]

Observers have critiqued the formula for directing too much funding to smaller states with relatively fewer renters in need and not enough to states with the highest proportion of vulnerable renters. For example, Abt Associates released a report in January 2022 based on a study of eight states, in which they report: "representatives from the less populous states noted that their allocations were likely too large given the need for rental assistance in their states."[42] A December 2022 Government Accountability (GAO) report had similar findings, noting that 4 of the 21 grantees they interviewed reported that funding in excess of the needs of eligible renters was an obstacle to their spending.[43]

The GAO report compared initial ERA-1 allocations to the number of low-income renters in each state and found the total amount of funding available to low-income renters varied significantly across states, from as low as $602 per low-income renter in New York to $4,588 per low-income renter in Wyoming.[44]

As noted earlier, $3.1 billion, or 12.6%, of ERA-1 funding was ultimately redistributed from relatively slower-spending grantees to relatively faster-spending grantees. Some of that funding moved between grantees within states and some moved across states.

**Table 2** presents information on ERA-1 redistribution amounts across states, tribes, and territories. The state-level figures presented reflect the aggregated totals for all grantees within a state (both state and local grantees, but not tribes within a state). The states are sorted by amount of redistributed funding received within or forfeited outside of the state; states receiving the small state minimum are italicized. (Because ERA-2 reallocations are still taking place, that information is not included.)

**Table 2. ERA-1 Reallocation**

| State | ERA-1 Initial Allocation ($ in millions) | Change in ERA-1 Total Funding Based on Reallocation ($ in millions) | Relative Change in ERA-1 Total Funding Based on Reallocation (%) |
|---|---|---|---|
| California | 2,611 | 406 | 16% |
| New York | 1,282 | 298 | 23% |
| Texas | 1,947 | 148 | 8% |
| New Jersey | 589 | 140 | 24% |
| Illinois | 835 | 38 | 5% |

[41] U.S. Government Accountability Office (GAO), *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, GAO-23-105410, December 2022, p. 15, https://www.gao.gov/assets/gao-23-105410.pdf (hereinafter, *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*).

[42] Abt Associates, *Lessons from Eight States Regarding Factors That Have Contributed to States' ERA1 Spending Rates*, January 18, 2022, pp. 3-4, https://www.abtassociates.com/files/insights/reports/2022/era-findings-from-8-states_abt-2021.pdf (hereinafter, *Lessons from Eight States Regarding Factors That Have Contributed to States' ERA1 Spending Rates*).

[43] *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, p. 15.

[44] *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, pp. 17-18.

| | | | |
|---|---|---|---|
| *District of Columbia* | 200 | 33 | 17% |
| Minnesota | 375 | 33 | 9% |
| Pennsylvania | 848 | 27 | 3% |
| Oregon | 281 | 21 | 7% |
| Washington | 510 | 20 | 4% |
| Florida | 1,441 | 19 | 1% |
| Virginia | 570 | 16 | 3% |
| North Carolina | 703 | 15 | 2% |
| Colorado | 385 | 12 | 3% |
| Louisiana | 308 | 8 | 3% |
| *Hawaii* | 200 | 7 | 3% |
| Nevada | 208 | 6 | 3% |
| Massachusetts | 457 | 5 | 1% |
| *Nebraska* | 200 | 3 | 2% |
| Maryland | 402 | 3 | 1% |
| Connecticut | 236 | 3 | 1% |
| Georgia | 710 | 2 | 0% |
| Arizona | 492 | 2 | 0% |
| Missouri | 408 | 2 | 0% |
| Oklahoma | 264 | 1 | 1% |
| *Kansas* | 200 | 1 | 1% |
| *Alaska* | 200 | 1 | 1% |
| South Carolina | 346 | 0 | 0% |
| *New Mexico* | 200 | 0 | 0% |
| Michigan | 661 | 0 | 0% |
| Iowa | 210 | - | 0% |
| *Maine* | 200 | - | 0% |
| *Rhode Island* | 200 | - | 0% |
| Wisconsin | 387 | (0) | 0% |
| Indiana | 448 | (4) | -1% |
| Arkansas | 201 | (9) | -4% |
| Ohio | 775 | (11) | -1% |
| Utah | 216 | (19) | -9% |
| Kentucky | 297 | (20) | -7% |
| *Mississippi* | 200 | (25) | -12% |
| *Vermont* | 200 | (31) | -16% |
| *New Hampshire* | 200 | (57) | -29% |
| Tennessee | 457 | (72) | -16% |

| | | | |
|---|---|---|---|
| *Delaware* | 200 | (74) | -37% |
| *Idaho* | 200 | (77) | -38% |
| *West Virginia* | 200 | (91) | -46% |
| Alabama | 326 | (110) | -34% |
| *Montana* | 200 | (137) | -69% |
| *North Dakota* | 200 | (151) | -76% |
| *Wyoming* | 200 | (168) | -84% |
| *South Dakota* | 200 | (183) | -91% |
| American Samoa | 10 | (6) | -64% |
| Guam | 34 | (7) | -21% |
| Northern Mariana Islands | 10 | - | 0% |
| Puerto Rico | 325 | (85) | -26% |
| Virgin Islands | 21 | (16) | -77% |
| Tribal Governments | 800 | 47 | 6% |

**Source:** Prepared by CRS based on data reported by the U.S. Department of the Treasury.

**Notes:** The 50 states and the District of Columbia are ordered from largest dollar reallocation received to largest dollar recapture.

Grantees in small states (a total of 18 states, defined as those that received the small state minimum) accounted for a disproportionate share of funding that was redistributed. Nearly 33% ($994 million) of the $3.1 billion in ERA-1 funding that was ultimately redistributed came from grantees in 10 of those small states. Grantees in those 10 states, in aggregate, had 50% of their overall initial allocation redistributed to other states; individual states' losses ranged from 12% (Mississippi) to 91% (South Dakota) of their overall allocations.

Five larger population states (California, New York, Texas, New Jersey, and Illinois) combined received more than $1.0 billion in addition to their initial ERA-1 allocations. Together, they received more than 33% of all reallocated funding. Although large states received the largest share of reallocated funds, six small states were net recipients of reallocated funding, in aggregate receiving $45 million, or about 1% of all reallocated funding. Individual small state gains relative to their overall allocations ranged from less than 0.2% (New Mexico) to 16.5% (District of Columbia).

While **Table 2** presents information about how money moved, in aggregate, across states, territories, and tribal governments, it does not show how much money moved between grantees *within* states. As noted earlier, Treasury prioritized in-state reallocation of ERA funding in two ways: (1) grantees at risk of having funds recaptured could voluntarily reallocate all or a portion of their excess funding to other grantees in the state; and (2) for funds that were involuntarily recaptured, Treasury prioritized first reallocation to grantees within a state before out-of-state reallocations, where possible.

As shown in **Table 3**, the majority of reallocated ERA-1 funding was reallocated between grantees within the same state. Of the within-state redistribution, the vast majority of funds (89%) were voluntarily reallocated by grantees to other designated entities within their state. Often, these voluntary reallocations happened between states and local governments or between local governments; but in some cases, state and local governments transferred funding to tribal governments (which is part of the reason for the increase in tribal funding shown in **Table 2**).

**Table 3. ERA-1 Reallocation**

(dollars in billions)

| | Total | Share |
|---|---|---|
| Reallocation Within State | 1.820 | 58% |
| *Voluntary Reallocation to Designated In-State Entity* | *1.624* | *89%* |
| Reallocation Out of State | 1.293 | 42% |
| **Total Reallocated Funding** | **3.113** | **100%** |

**Source:** Prepared by CRS based on reallocation information publicly released by the U.S. Department of the Treasury.

While redistribution may have addressed some of the shortcomings of the initial ERA-1 allocation formula by allowing funding to move from grantees that were unable to use it to those that could, Treasury's decision to prioritize in-state reallocation limited the ability of reallocation to fully rebalance funding disparities in the program. According to GAO's analysis, "large differences in the amount of funding per low-income renter in each state remained after reallocation, especially in states that received relatively low allocations."[45]

Limitations in the ERA-1 funding distribution formula may have played a role in the relatively slow spending and large redistribution of ERA-1 funding; however, other factors are also likely at play. For example, demand for assistance likely varied across geographies, which may be related to the proportion of renters in the state relative to population. Further, grantees had different degrees of administrative challenges in implementing their programs (which is discussed in the next section of this report).

## Program Design and Administration

When the ERA program was created, there was strong evidence that renters nationwide were in need of assistance.[46] Yet the process of directing ERA funds to households was relatively slow to get underway. ERA was a new program for both Treasury, which administered funds at the federal level, and for many of the state, local, and tribal jurisdictions that administered funds to households. While the ERA enacting laws established some program parameters, many aspects of ERA were governed by Treasury guidance, which was initially minimal, and subsequently updated a number of times over the course of the program.

Through May 2021, almost six months after funds had been made available to grantees, $1.5 billion (about 6% of total ERA-1 funds) had been expended on rent and utility payments, an expenditure rate that was generally considered to be too slow.[47] In addition to potential

[45] *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, p. 22.

[46] For example, see Davin Reed and Eileen Divringi, *Household Rental Debt During COVID-19*, Federal Reserve Bank of Philadelphia, October 2020, https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/household-rental-debt-during-covid-19.pdf; and Stout, Risius Ross LLC, *Analysis of Current and Expected Rental Shortfall and Potential Eviction Filings in the U.S.*, National Council of State Housing Finance Agencies, September 25, 2020, https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-US_Stout_FINAL.pdf.

[47] See, for example, U.S. Department of the Treasury, "Emergency Rental Assistance Data Shows Programs Ramping Up, but States and Localities Must Do More to Accelerate Aid," https://home.treasury.gov/system/files/136/2021-07-02-ERA-Data-Blog-Post-vF.pdf. See also *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment* (reporting that as of May 2021, 22% of grantees had made no payments at all).

mismatches in the geographic distribution of funds, the design and implementation of state and local programs may have contributed to slow spending rates.

Factors that may have contributed to the ability of jurisdictions to distribute funding expeditiously include the following:

- **Previous experience administering pandemic rental assistance.** As described earlier in this report, some jurisdictions used CARES Act appropriations for programs such as CDBG and CRF to establish rental assistance programs. Jurisdictions that had already established an administrative process to distribute rental assistance and had experience doing so may have been in a better position to begin distributing ERA-1 funds quickly.[48]
- **Outreach and communication.** Efforts to advertise and conduct community outreach may have affected initial awareness of available rental assistance, particularly among hard-to-reach populations.[49] Further, outreach to landlords may have influenced their willingness to participate in the program.[50]
- **Documentation requirements.** There is evidence that applicant failure to complete rental assistance applications often occurred at the point where they had to provide documentation to verify eligibility.[51] In its May 7, 2021, FAQs, Treasury made clear that applicants could self-certify for certain ERA requirements including income and financial hardship (see the "Documentation" section of this report). Adopting these flexibilities may have contributed to increased program expenditures.[52] After the FAQ release, in June 2021, ERA-1 expenditures doubled compared to May 2021, and they continued to increase each month through September 2021.[53] Treasury's reported application acceptance rate also began to increase.[54]

ERA grantee jurisdictions also had to balance quickly spending funds (and avoiding recapture) with concerns over fraudulent applications. Treasury FAQs stated that in cases of applicant self-attestation, "grantees must have in place reasonable validation or fraud-prevention procedures to

[48] *Lessons from Eight States Regarding Factors That Have Contributed to States' ERA1 Spending Rates*, p. 9 ("States that had previous experience managing an emergency rental assistance program, typically using Coronavirus Relief Fund money, gained valuable experience that carried over to their ERA1-funded programs, despite the need to redesign the programs to meet Treasury's requirements.").

[49] See, for example, Claudia Aiken, Vincent Reina, and Julia Verbrugge et al., *Learning from Emergency Rental Assistance Programs Lessons from Fifteen Case Studies*, Housing Initiative at Penn, National Low Income Housing Coalition, and NYU Furman Center, March 10, 2021, https://furmancenter.org/files/ERA_Programs_Case_Study_-_Final.pdf (hereinafter, *Learning from Emergency Rental Assistance Programs Lessons from Fifteen Case Studies*).

[50] See U.S. Department of the Treasury, *Intentional Landlord Engagement*, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/promising-practices/landlord-engagement.

[51] *Learning from Emergency Rental Assistance Programs Lessons from Fifteen Case Studies*, p. 9 and *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, p. 12.

[52] See, for example, Claudia Aiken, Isabel Harner, and Vincent Reina et al., *Treasury Emergency Rental Assistance Programs in 2021: Preliminary Analysis of Program Features and Spending Performance*, Housing Initiative at Penn and National Low Income Housing Coalition, December 2021, p. 2, https://www.housinginitiative.org/uploads/1/3/2/9/132946414/2021_treasury_era_program_features_and_spending_report.pdf.

[53] See June ERA Report, https://home.treasury.gov/system/files/136/June-2022-ERA-Monthly-Data.xlsx.

[54] See ERA1 & ERA2 Quarterly Demographic Data for Q1 2021 through Q2 2022, https://home.treasury.gov/system/files/136/Q1-2021-Q2-2022-ERA-Demographic-Data.xlsx. Note that Treasury indicates that some reported data may need to be updated.

prevent abuse."[55] This tension may have made some grantees reluctant to allow for self-certification. GAO released a report in February 2022 in which it noted that "because some grantees remain uncertain about how Treasury will evaluate their payments and controls, they may face a difficult tradeoff between adopting the administrative flexibilities to avoid recapture and managing the potential risk of improper payments and recoupment."[56]

## Households Served

Grantees have reported some basic information to Treasury on how they have spent ERA funding and who they have served. As shown in **Table 4**, from the first quarter of 2021 through the second quarter of 2022, grantees provided ERA assistance to 5.35 million unique households, the majority of which had incomes at or below 30% of local area median income. Roughly 70% of those served received rental assistance and about 64% received assistance with rental arrears. About 14% received utility assistance and 27% received assistance with utility arrears.

**Table 4. Data on Households Served by the ERA Program**

Data as of June 2022

| | ERA-1 | ERA-2 | Combined |
|---|---|---|---|
| Unique Households Served | 3,395,745 | 1,953,567 | 5,349,312 |
| Share of Households, Income Below 30% AMI | 64.3% | 62.9% | 63.8% |
| Share of Households Served Receiving: | | | |
| Rent Assistance | 69% | 72% | 70% |
| Assistance with Rental Arrears | 64% | 63% | 64% |
| Utility Assistance | 15% | 13% | 14% |
| Assistance with Utility Arrears | 29% | 24% | 27% |
| Other Housing Assistance | 11% | 5% | 9% |

**Source:** Prepared by CRS based on Treasury data contained in Emergency Rental Assistance Quarterly Demographic Data: Q1 2021 – Q2, 2022, available at https://home.treasury.gov/system/files/136/Q1-2021-Q2-2022-ERA-Demographic-Data.xlsx.

**Notes:** Data are based on reporting by state, local, tribal, and territorial governments. Some grantees did not report data or may have reported inaccurately, so data may be subject to change.

The December 2022 GAO report compared grantees self-reported data to low-income renter populations and found that, for grantees with available data, ERA funds served from 0.4% to 15.6% of estimated low-income renters.[57]

While this descriptive information helps explain how ERA resources have been used, it does not answer questions about the effectiveness and efficiency of the program in promoting housing stability and reducing evictions. In order to address those questions, the federal government is funding research to better understand the range of impacts the ERA program has had on program

[55] May 7, 2021, FAQ #1, https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-3-16-21.pdf.

[56] U.S. Government Accountability Office, *Emergency Rental Assistance: Grantee Monitoring Needed to Manage Known Risks*, February 10, 2022, p. 8, https://www.gao.gov/assets/gao-22-105490.pdf.

[57] *Emergency Rental Assistance: Treasury's Oversight is Limited by Incomplete Data and Risk Assessment*, p. 26. Figures represent 5th and 95th percentiles.

participants and their communities. In November 2022, HUD announced an award of $2 million to three research organizations to conduct an impact evaluation of the ERA program, with a focus on housing stability and eviction outcomes.[58] The estimated project end date is October 2024, after which time findings may become available.

## Future of Emergency Rental Assistance

As communities exhaust their federal ERA program funding, questions have been raised about the future of emergency rental assistance, both generally and in anticipation of future economic shocks or downturns.

As noted earlier, some communities leveraged other pandemic relief funding prior to the creation of the ERA program to create their own emergency rental assistance programs. Further, Treasury has encouraged grantees to consider using another source of temporary pandemic aid—State and Local Fiscal Recovery Fund (SLFRF)—to meet emergency rental assistance needs once ERA funding is exhausted.[59] However, like ERA, SLFRF is temporary, as obligations must be incurred by December 31, 2024.

Some states and localities have begun looking for ways to continue to provide some form of emergency rental assistance for families at risk of eviction after ERA funds are expended. Sources of regular federal funding, such as CDBG or Emergency Solutions Grants, can be used for eviction prevention or emergency rental assistance.[60] However, these funds can be also be used for other purposes and they are much smaller in scale than the federal ERA program. States and localities can also use their own funds for eviction prevention or emergency rental assistance. For example, California provided nearly $2 billion in its state budget for emergency rental assistance, although this funding was only sufficient to serve families who had already applied for assistance but were unable to be served because federal ERA funding had been exhausted.[61]

Legislation has also been introduced in Congress to fund a permanent emergency rental assistance program. For example, in the 117th Congress, the Eviction Crisis Act (S. 2182) and the Stable Families Act (H.R. 8327 ) both would have created a grant program to provide federal funding to states and localities to prevent evictions, homelessness, and other housing instability, modeled on the ERA program. Both would have authorized funding at $3 billion annually through FY2026 and at such sums as may be necessary thereafter.

[58] U.S. Department of Housing and Urban Development, "HUD Awards $2 Million to Assess the Impact of Emergency Rental Assistance on Housing Stability," press release, November 3, 2022, https://www.hud.gov/press/press_releases_media_advisories/hud_no_22_226.

[59] U.S. Department of the Treasury, "Treasury Announces $30 Billion in Emergency Rental Assistance Spent or Obligated with Over 4.7 Million Payments Made to Households Through February 2022," press release, March 30, 2022, https://home.treasury.gov/news/press-releases/jy0688.

[60] For more information, see CRS Report R47204, *Federal Role in Preventing Evictions*.

[61] Office of Governor Gavin Newsom, "Governor Newsom Signs Budget Putting Money Back in Californians' Pockets and Investing in State's Future," press release, June 30, 2022, https://www.gov.ca.gov/2022/06/30/governor-newsom-signs-budget-putting-money-back-in-californians-pockets-and-investing-in-states-future/.

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