NATIONAL LOW INCOME HOUSING COALITION

MAY 2022

BALANCING ACT

An Analysis of Remaining Emergency Rental Assistance Funds, Reallocation, and Outstanding Need

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EXECUTIVE SUMMARY

When the COVID-19 pandemic brought about widescale job losses that threatened the housing stability of millions of renters, Congress responded by passing two pieces of legislation to fund short-term rental assistance programs: the "Consolidated Appropriations Act of 2021" (ERA1) and the "American Rescue Plan Act of 2021" (ERA2). ERA1 and ERA2 provided a combined $46.55 billion in desperately needed assistance for low-income renters and created an Emergency Rental Assistance (ERA) program administered by the U.S. Department of the Treasury (Treasury). The largest short-term rental assistance program in the U.S., ERA became operational at a moment when the COVID-19 pandemic was economically devastating low-income households, particularly Black and Latino households, who were in many cases struggling to afford rent even before the pandemic.

In the year since ERA was first implemented, state and local grantees have disbursed tens of billions of dollars to renters who were facing housing instability. Treasury estimates that "well over" $30 billion of ERA has been spent or obligated (Treasury, 2022a). The National Low Income Housing Coalition (NLIHC) projects that several ERA state grantees and many of the largest local grantees will disburse their entire ERA1 and ERA2 allocations in 2022.

Despite Treasury's statutory obligation to reallocate ERA funds from slow-spending grantees to fast-spending grantees, initial data suggest that reallocation cannot fully address the disparities between grantees' remaining ERA funds and their outstanding need for assistance. Moreover, while ERA assistance has been critical for millions of households, the program was designed to provide short-term assistance during the pandemic and not to address long-term housing needs. To adequately address the long-term housing needs of renters with the lowest incomes, Congress must ensure that any new reconciliation package contains the historic housing investments included in the House-passed "Build Back Better Act": $25 billion to expand rental assistance, $65 billion to preserve public housing, and $15 billion for the national Housing Trust Fund.

Congress should also draw on lessons learned through the implementation of ERA to authorize and fund a permanent program to support households experiencing financial shocks, such as the program envisioned in the "Eviction Crisis Act" co-sponsored by Senators Michael Bennet (D-CO) and Rob Portman (R-OH).

This brief summarizes ERA spending trends thus far, projects when state and large local grantees will exhaust their ERA1 and ERA2 funds, and predicts which grantees will not expend their full ERA1 and ERA2 allocations by the statutory deadlines, based on current spending rates. The brief also estimates the amount of funding Treasury could reallocate from slow-spending to fast-spending grantees and the impact reallocation could have on the capacity of states to address the outstanding need for rental assistance.

KEY FINDINGS

The brief's key findings include the following:

- The current trajectory of several small-state grantees suggests they may be able to serve a high proportion of low-income renter households and still retain a significant share of their ERA1 allocation. Vermont, for example, has spent 13% of its allocation, but ERA recipients represent 49% of the state's cost-burdened, low-income (CBLI) renters. [1]
- Twenty-two state grantees and the District of Columbia will expend their ERA1 funds by the end of May 2022, if current spending patterns continue and grantees do not receive additional reallocated funds. The District of Columbia and six additional state grantees will expend both their ERA1 and ERA2 funds in that same period. By December 2022, the number of state grantees that will have exhausted their ERA1 and ERA2 funds will increase to 23. Conversely, three state grantees could have ERA2 funds remaining at the time of the statutory deadline of September 2025, if current spending patterns continue and no reallocations occur.

1 A "cost-burdened household" is a household that spends more than 30% of its income on housing and utilities. A "low-income household" is a household whose income does not exceed 80% of the area median income (AMI).

- In 22 of the 40 states with local grantees, the local grantee will exhaust its direct ERA allocation before the state grantee. This situation could leave eligible households in some jurisdictions with few options for assistance, particularly if a state grantee does not serve jurisdictions that received a direct allocation.
- The ERA allocation formula provided a disproportionate amount of funding to low-population states. The percentage of CBLI renters that can be served by grantees within a state based on initial ERA1 and ERA2 allocations ranges between 14% (New York) and 874% (Vermont), with a median of 69%.
- Based on data from the U.S. Census Bureau's Household Pulse Survey, there are significant differences between states in terms of ERA funds per renter household behind on rent. As of March 2022, the amount of ERA funds remaining per renter household behind on rent ranges from $1,372 in New York to nearly $39,800 in Vermont. The significance of this disparity increases when one considers the relatively lower cost of housing in states like Vermont compared to states like New York.
- In each of five states – California, Illinois, New Jersey, New York, and Texas – more than $1 billion of additional ERA funds is needed to serve the estimated number of renter households behind on rent. Among these states, the gap in ERA funds needed to serve all renter households behind on rent ranges from $1.3 billion in New Jersey to $7.2 billion in New York. NLIHC estimates that without additional reallocated funds, the state-level grantee in each of these states will exhaust its ERA funds by May 2022.
- NLIHC estimates that between $4.1 billion and $5.1 billion of ERA1 and ERA2 could be reallocated based on current guidance and available data.
- The large proportion of reallocated ERA1 funds that remained within the state to which they were originally allocated prevented allocation disparities between states from being addressed. For example, based on initial ERA1 and ERA2 allocations, New York has the lowest funding per CBLI renter household in the nation, at $1,667. After the first round of ERA1 reallocation, the funding per CBLI renter household in New York increased by only $95.
- Treasury is limiting the power of the ERA2 reallocation process to address disparities in need by prohibiting grantees from voluntarily reallocating more than 60% of their ERA2 allocations. In effect, this prohibition ensures that each grantee will have at least 40% of its ERA2 allocation for use until 2025 – much longer than was intended by the program. For example, based on average assistance per household served, Vermont would need an additional $7.5 million to serve all renter households behind on rent; 40% of its ERA2 allocation is nearly seven times the required amount. Eight other state grantees could serve 100% of renter households behind on rent with less than 40% of their ERA2 allocations.

BACKGROUND

The "Consolidated Appropriations Act of 2021" and the "American Rescue Plan Act" required that the majority of ERA funds be used to provide financial assistance to renter households. A portion of ERA funds can also be used for housing stability services (e.g., case management or eviction diversion supports) and administrative expenses. After October 1, 2022, the American Rescue Plan Act allows grantees to use a portion of their unobligated ERA2 funds to support other affordable rental housing and eviction prevention activities so long as they have obligated at least 75% of their total ERA2 funds by that date.

Treasury was statutorily required to base a state's maximum ERA allocation on its share of the U.S. population, with a minimum state allocation reserved for low-population states ($200 million for ERA1 and $152 million for ERA2). Unlike ERA1, ERA2 included a $2.5 billion set-aside for high-need grantees (Table 1). The minimum state allocation provided a greater relative per capita allocation to small states (NLIHC, 2021a). For example, while New York received $1,667 in ERA funds per CBLI household, Wyoming received $14,411.

Local jurisdictions with populations over 200,000 were eligible to receive a portion of their state's maximum allocation directly. These direct allocations were capped at 45% of the local jurisdiction's population share of the state's maximum allocation. The 45% cap resulted in state grantees having a higher per capita allocation than local grantees within the same state. To adjust this disproportionality, some state grantees sub-allocated a portion of their funds to local grantees.

TABLE 1: INITIAL ERA ALLOCATION BY STATE AND LOCAL GRANTEES

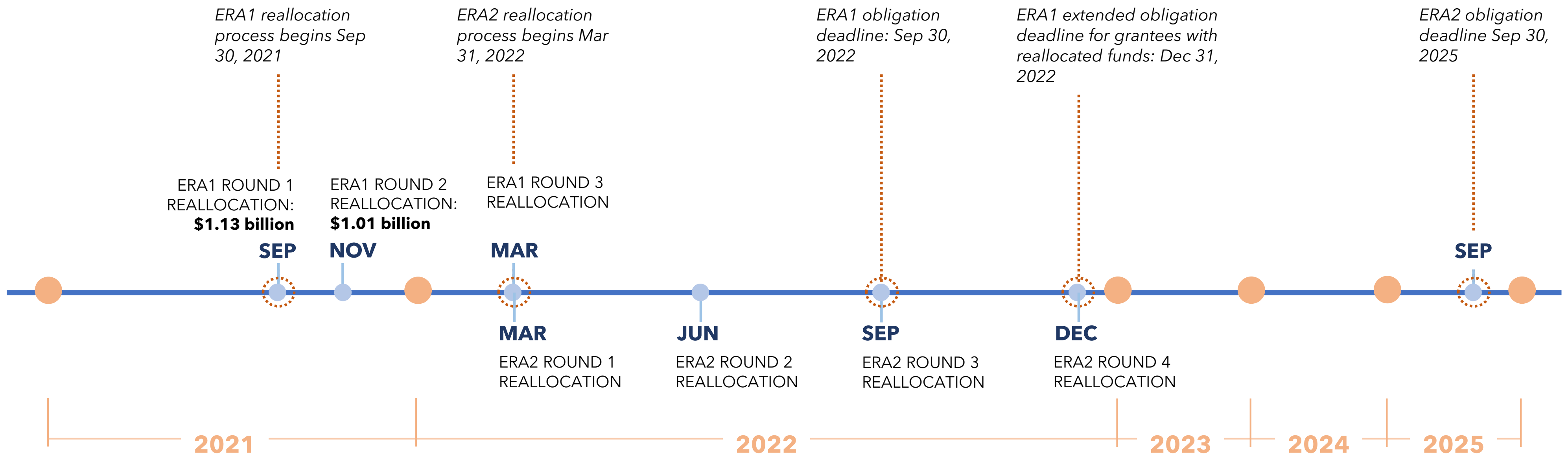
	ERA1 ALLOCATION	ERA2 ALLOCATION	ERA2 HIGH-NEED ALLOCATION
STATE GRANTEES	$17.7 BILLION	$13.4 BILLION	$779 MILLION
LOCAL GRANTEES	$6.1 BILLION	$5.3 BILLION	$1.7 BILLION

Grantees received their full ERA1 allocations in January 2021 and must obligate these funds by September 2022 (Figure 1). Grantees' ERA2 allocations are disbursed by Treasury in tranches, with the first tranche comprising 40% of grantees' total ERA2 allocations. Initially, grantees were eligible for the remaining 60% of their ERA2 allocations after they had "substantially expended their ERA1 allocation and obligated at least 75% of the initial 40% disbursement" (Treasury, 2021, paragraph 3). However, in February 2022, Treasury revised its guidance and decided to disburse ERA2 in three tranches: 40%, 30%, and 30%. Grantees are eligible for subsequent tranches after having obligated 75% of their previous tranche. Grantees had until May 16, 2022, to accept their ERA2 allocation, and they have until September 2025 to obligate these funds. Notably, two state grantees – Arkansas and Nebraska – did not accept their allocations of ERA2 funds, despite there being remaining need in both states.

REALLOCATION

Treasury was statutorily required to reallocate ERA funds from grantees with "excess" funds to grantees in need of additional resources beginning on September 30, 2021, for ERA1, and March 31, 2022, for ERA2. Treasury released initial ERA1 reallocation guidance on October 4, 2021, and ERA2 reallocation guidance on March 30, 2022.

FIGURE 1. KEY DATES IN EMERGENCY RENTAL ASSISTANCE PROGRAM



According to ERA1 reallocation guidance, grantees that had not obligated 65% of their initial ERA1 allocations on financial assistance by September 30, 2021, were required to meet a gradually increasing expenditure benchmark to avoid having "excess" funds reallocated. Treasury evaluated whether grantees met the required expenditure benchmark twice, basing its determinations on expenditures through September and November 2021. Treasury provided grantees with several options for mitigating reallocation in the first evaluation (detailed here.) Grantees were also allowed to voluntarily reallocate a portion of their ERA1 funds to another grantee in the same state or to a general pool. To receive reallocated ERA1 funds, grantees were required to have obligated at least 65% of their initial ERA1 allocation. After March 31, 2022, Treasury intends to reallocate a portion of unobligated funds from grantees, leaving grantees with the amount of ERA1 funds they had spent in their strongest quarter (Treasury, 2022b). After June 30, 2022, Treasury will consider whether additional recapture of unobligated funds is appropriate to help ensure ERA1 funds are distributed by the statutory deadline (Treasury, 2022b). Treasury did not identify the factors that would be considered.

As with ERA1, grantees are required to meet an increasing expenditure benchmark to avoid having ERA2 funds reallocated (Table 2). The expenditure benchmark for ERA2 is based on funds disbursed for financial assistance and housing stability services. Any funds determined to be in excess will be reallocated from the tranches of ERA2 funds yet to be disbursed to grantees, as required by statute. Grantees may voluntarily reallocate up to 60% of their initial ERA2 allocation to another grantee within the same state that has spent or obligated at least 50% of its own initial ERA2 allocation or to a general pool.

TABLE 2: ERA1 AND ERA2 REALLOCATION COMPONENTS

	ERA1 REALLOCATION	ERA2 REALLOCATION
ASSESSMENT PERIOD	Approximately every 2 months	Quarterly
ASSESSMENT CRITERIA	Funds disbursed for financial assistance	Funds disbursed for financial assistance and housing stability services
EXPENDITURE BENCHMARK	Starts at 30%, increases 5% each month	Starts at 20%, increases 20% each quarter
FUNDS SUBJECT TO REALLOCATION	Any funds deemed "excess"	Any funds deemed "excess" and not yet disbursed from Treasury to grantees
VOLUNTARY REALLOCATION	Allowed	Allowed, up to 60% of initial ERA2 allocation
ELIGIBLE RECIPIENTS OF REALLOCATED FUNDS	Spent or obligated 65% of initial ERA1 allocation	Spent or obligated 50% of initial ERA2 allocation
REALLOCATION PERIOD	September 31, 2021, to March 31, 2022	March 31, 2022, to December 31, 2022

SPENDING TRENDS AND PROJECTIONS

Since the beginning of ERA implementation, grantees have disbursed their ERA funds at various rates. Grantees' rates of disbursal are influenced by the initial allocation formula, which was based on population share and did not consider need within jurisdictions (NLIHC, 2021a), as well as program implementation features. Previous research by NLIHC and the Housing Initiative at Penn (HIP) found that grantees that instituted flexible documentation requirements – such as applicant self-attestation for COVID-19-related hardship and income – disbursed funds more rapidly, on average (Aiken et al., 2021). However, grantees also faced persistent challenges throughout 2021, including difficulties related to staff capacity and technology and landlord and tenant responsiveness (Aiken et al., 2022).

SPENDING TRENDS

In recent months, the pace of ERA1 and ERA2 spending has slowed nationally. This pattern likely indicates uneven expenditure rates between grantees: many slow-spending grantees continue to spend a combination of ERA1 and ERA2 funds slowly, while fast-spending grantees have nearly exhausted both their ERA1 and ERA2 allocations.

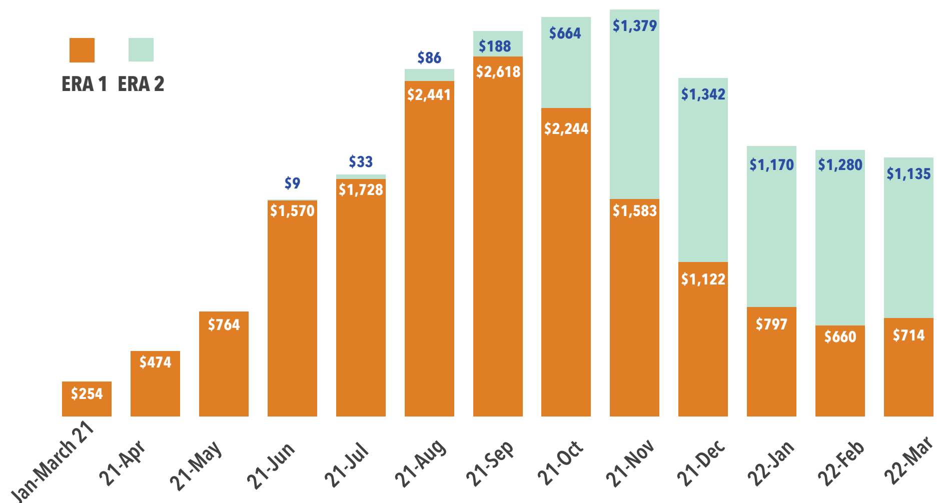
By the end of March 2022, ERA grantees had disbursed $17.0 billion (68%) of ERA1 and $7.3 billion (34%) of ERA2 to more than 3.2 million unique households (Treasury, 2022c).[2] As seen in Figure 2, ERA1 spending increased each month between April and September 2021, with significant increases occurring in the late spring and early summer of 2021. Since October 2021, ERA1 spending has decreased. Very little ERA2 was spent between June and September 2021, but ERA2 spending drastically increased between October and November 2021. ERA2 spending tapered off between December 2021 and January 2022 and has yet to return to November spending levels.

SPENDING PROJECTIONS

To determine when grantees may exhaust their ERA funds, NLIHC evaluated ERA1 and ERA2 spending trends for all state grantees and the local grantee within each state that received the largest direct allocation from Treasury. We limited our analysis to the largest local grantee within each state due to collection and reporting inconsistencies among other local grantees.

Spending data indicate that by the end of March 2022, three state grantees had expended 90% or more of their ERA1 funds. Because grantees are allowed to use up to 10% of their ERA1 allocations on administrative expenses, these grantees have likely exhausted nearly all their ERA1 funds. The

Figure 2
Amount of ERA1 and ERA2 Funds Expended January 2021-March 2022, in millions



2 ERA2 data have been adjusted from raw data to correct for presumed data errors.

District of Columbia had expended more than 85% of its ERA2 funds by the end of March 2022. Like ERA1, ERA2 grantees are allowed to use up to 15% of their ERA2 allocations on administrative expenses. NLIHC estimates that most grantees included in the analysis will exhaust their ERA1 and ERA2 funds long before the statutory obligation deadlines of September 2022 and September 2025, respectively. Three slow-spending state grantees will have ERA funds remaining at the end of September 2025, contingent on current spending rates and without additional funds being reallocated.

NLIHC estimates that 22 state grantees, the District of Columbia, and 60% of local grantees included in the analysis will exhaust their current ERA1 funds by the end of May 2022 unless they receive additional ERA1 funds through reallocation. Six state grantees – Minnesota, New Jersey, New York, North Carolina, Oregon, and Texas – and the District of Columbia will exhaust both their ERA1 and ERA2 funds by the end of May 2022 unless they receive additional ERA funds through reallocation. NLIHC projects that, by the end of 2022, 23 state grantees and the District of Columbia will have exhausted all their ERA funds (Figure 3). Grantees may want to "hold back" some ERA2 funds so that they can be used for other affordable housing activities, as allowed by statute. However, grantees should first ensure that ERA2 is first made available for use as emergency rental assistance.[3]

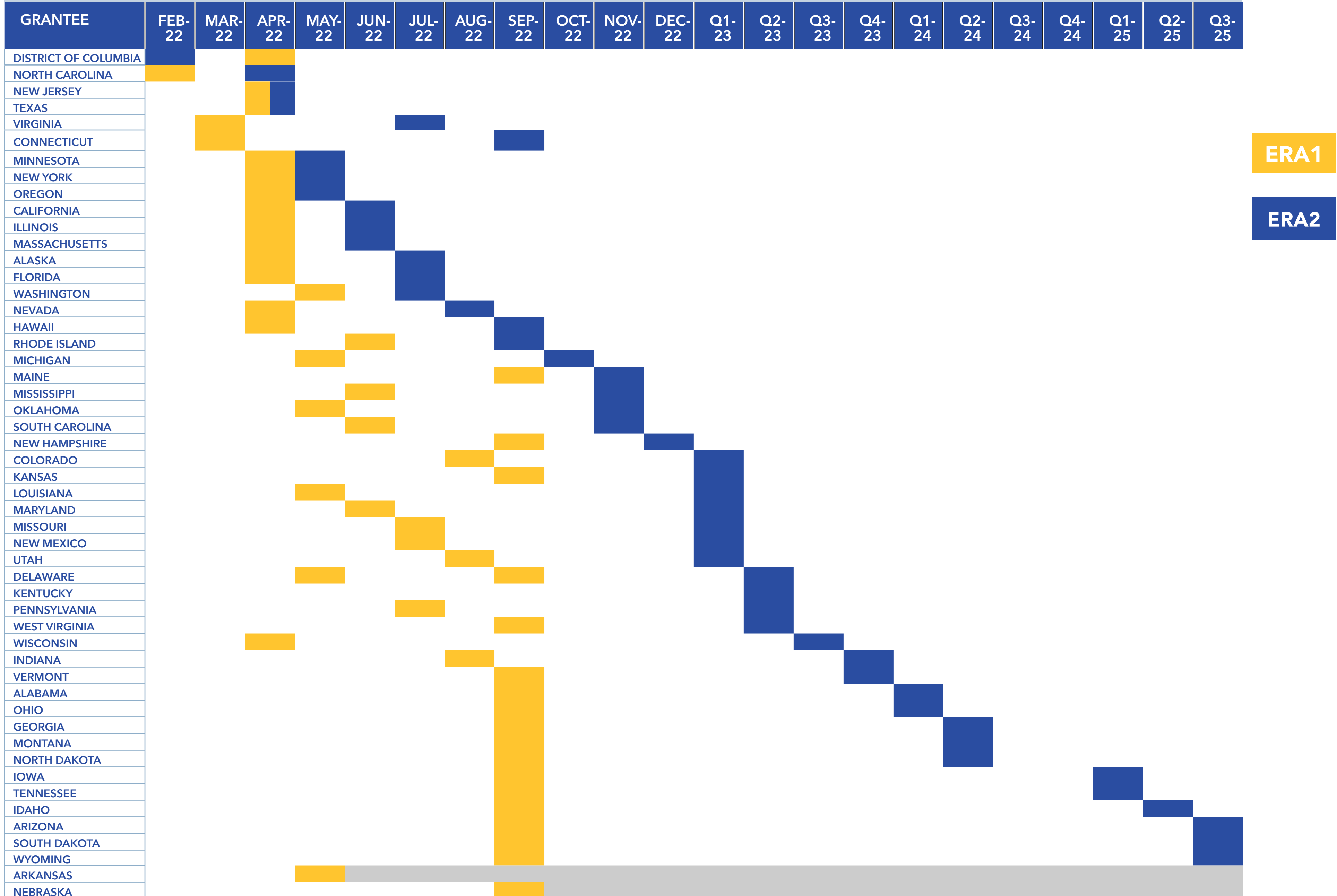
In 26 of the 40 states with local grantees, the local grantee will exhaust its direct ERA allocation before the state grantee. This could leave eligible households in those jurisdictions with few options for assistance. For example, Tennessee's state grantee is projected to exhaust its funds in 2025, but Memphis, the largest local grantee in Tennessee, is projected to exhaust its funds by the end of 2022. Similarly, Ada County, Idaho, is projected to exhaust its funds in the fall of 2022, while Idaho's state grantee is projected to exhaust its funds in 2025. Several state grantees, including those in Tennessee and Idaho, do not allow renters who live in a city or county that received a direct allocation from Treasury to apply to their state programs. Some state grantees allocated a portion of their funds to local jurisdictions that would allow them to continue to serve renters in their communities. State and local grantees should work together to ensure that renters have access to ERA funds for as long as possible.

Even if a grantee's funds are not exhausted, some programs have chosen to close their application portals, having obligated a significant share of their funds. For example, 22% of grantees included in the analysis are projected to exhaust their ERA funds by the end of May 2022. Of these grantees, more than half have already closed their program to new applicants. Thus, eligible households may be without assistance even earlier than NLIHC predicts ERA funds will be exhausted.

Data from NLIHC's ERA Database indicate that as of May 17, 2022, 89 state and local ERA grantees are not accepting new applicants due to limited remaining funds. If grantees are holding back obligated funds due to lack of landlord response, they should endeavor to pay the funds directly to tenants as allowed by ERA1 guidance and required by ERA2 guidance. Many tenants who are waiting to receive their payment may be facing eviction or may already have been evicted due to these delays.

3 This analysis excludes Arkansas and Nebraska because the state grantee in each state did not accept ERA2 funds.

FIGURE 3: ESTIMATES OF THE DISTRICT OF COLUMBIA & STATE GRANTEES' ERA1 & ERA2 FUND EXHAUSTION



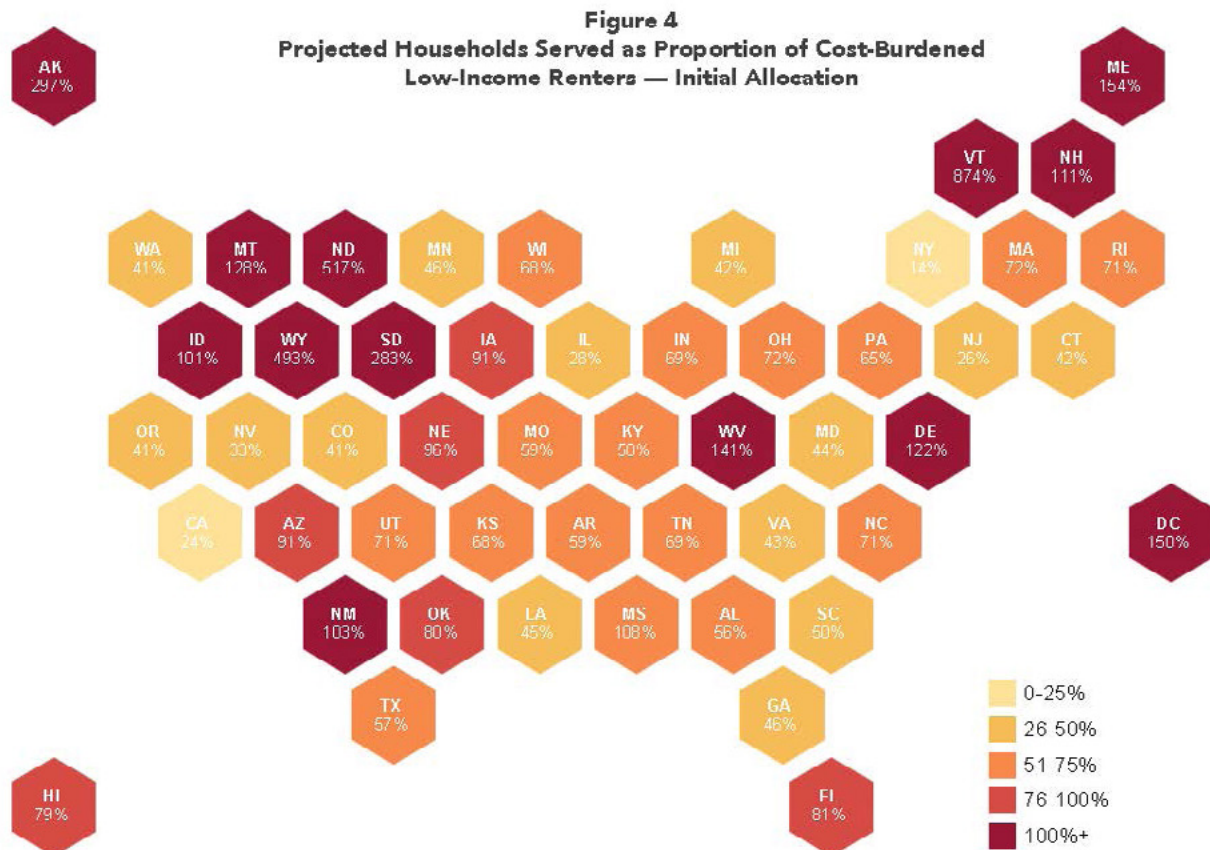
Note: The state grantees in Arkansas and Nebraska did not accept ERA2 funds.

NEED ESTIMATES

As discussed above, the uneven exhaustion of ERA funds among state and local grantees is partially the result of basing the initial allocation formula on population rather than need among renters. Treasury based the maximum allocation each state was eligible to receive on its share of the U.S. population, with the provision that no state be allocated less than $200 million for ERA1 and $152 million for ERA2. The minimum allocation disproportionately benefited small states that have, for the most part, disproportionately fewer renters and lower housing costs compared to more populous states. This disparity in states' maximum ERA allocations has hampered the capacities of some grantees to serve households seeking assistance.

IMBALANCE BETWEEN INITIAL ALLOCATION AND NEED

Every low-population state that received the minimum allocation (except for Rhode Island) could serve over 100% of CBLI households with its initial ERA1 and ERA2 allocations, while grantees in larger states with greater shares of renters could serve far fewer of their CBLI households (Department of Housing and Urban Development, 2021). Although ERA assistance is not limited to CBLI renter households, such households are an appropriate proxy for households that would qualify for assistance under the income eligibility requirements and that are potentially at risk of housing instability. Considering statewide average ERA expenditures per household, NLIHC projects that the share of CBLI renter households that grantees could serve using a state's maximum allocation ranges from 14% (New York) to 874% (Vermont), with a median of 69% (Figure 4).



OUTSTANDING NEED

Pre-pandemic Comprehensive Housing Affordability Strategy (CHAS) data can be used to generate an estimate of households that may have needed housing assistance during the pandemic and could be eligible for ERA. However, millions of renter households lost employment income and fell behind on their rent during the pandemic – a development that is not reflected in the CHAS data. The U.S. Census Bureau's Household Pulse Survey provides a more time-sensitive estimate of renter households who are behind on paying their rent. Comparing this data to the amount of ERA funds grantees had remaining at the end of March 2022, NLIHC finds significant disparities in grantees' resources and abilities to satisfy the outstanding need in their states (Table 1A, page 15).

Four of the five states with the most remaining ERA funds per household behind on rent are low-population states (Table 3). Among these five states, the remaining ERA funds per household behind on rent range from $39,800 in Vermont to $19,367 in Wyoming. The states with the lowest remaining ERA funds per renter household behind on rent are New York ($1,372), California ($1,643), Texas ($1,886), North Carolina ($1,901), and New Jersey ($1,921) (Table 3). Given the average amount of ERA assistance disbursed per household, none of these five states will be able to serve all renter households estimated to be behind on rent with its remaining funds. The significance of this disproportion in the abilities of states to assist renter households behind on renter is exacerbated when one considers the relatively low cost of housing in states like Vermont and Wyoming compared to the high housing costs in New York and California (NLIHC, 2021b).

In each of five states – California, Illinois, New Jersey, New York, and Texas – more than $1 billion of additional ERA funds is needed to serve the estimated number of renter households behind on rent, given the average ERA assistance distributed per household served. The gap in ERA funds needed to serve all renter households behind on rent ranges from $1.3 billion in New Jersey to $7.2 billion in New York. NLIHC estimates that without additional reallocated funds, the state-level grantee in each of these states will exhaust its ERA funds by the end of June 2022.

TABLE 3: STATES WITH THE LEAST AND MOST REMAINING ERA FUNDS PER RENTER HOUSEHOLDS BEHIND ON RENT, AS OF MARCH 2022

STATE	REMAINING ERA FUNDS
NEW YORK	$ 1,372
CALIFORNIA	$1,643
TEXAS	$1,886
NORTH CAROLINA	$1,901
NEW JERSEY	$1,921
WYOMING	$19,367
SOUTH DAKOTA	$19,744
IDAHO	$22,500
MONTANA	$ 22,890
VERMONT	$ 39,800

REALLOCATION

To an extent, Treasury can address disparities created by the initial allocation formula and better balance grantees' remaining funds with outstanding needs through the reallocation of ERA1 and ERA2 funds. For state and local grantees that will exhaust their ERA1 and ERA2 funds by the end of 2022, reallocation is currently the only way they can receive additional federal ERA funds to continue their programs. For grantees that have excess funds, reallocation provides an opportunity to "right-size" their allocation relative to outstanding need or transfer funds to grantees that are better equipped to disburse the funds efficiently.

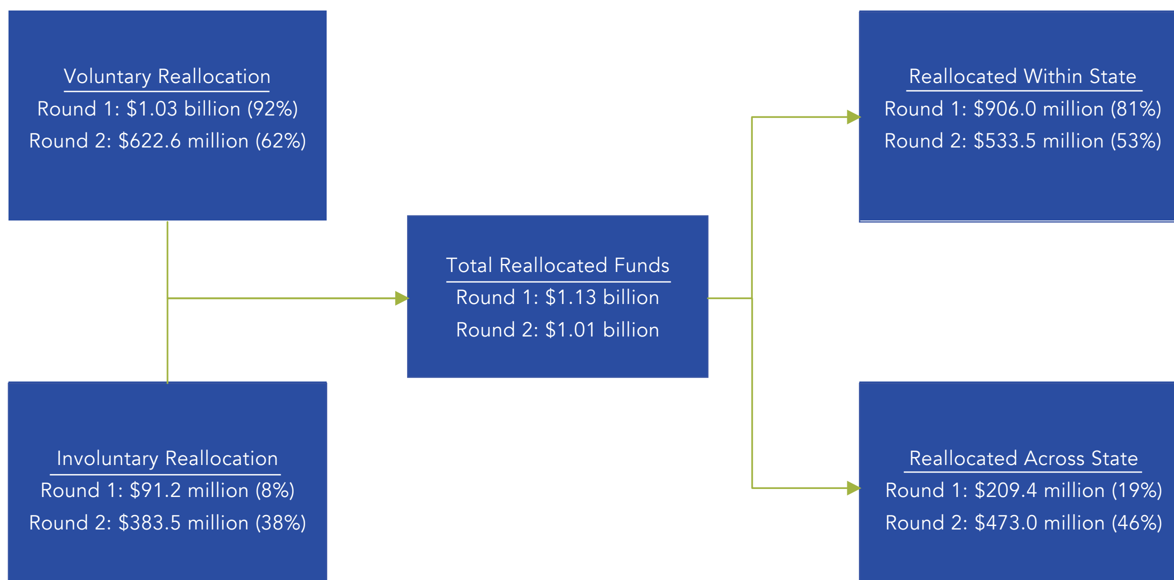
FIRST AND SECOND ROUNDS OF ERA1 REALLOCATION

In the first round of reallocations, Treasury reallocated $1.13 billion of ERA1 funds from 38 grantees (Treasury, 2022d). Ninety-two percent of the first-round reallocations were voluntary, resulting in 81% of reallocated funds remaining in the same state. In the second round of reallocations, over $1.0 billion was reallocated, 62% of which was voluntary. Just over 50% of reallocated funds in the second round remained with grantees in the same state (Figure 5).

Between the first two rounds of reallocation, five local grantees and four state grantees voluntarily or involuntarily reallocated over 50% of their initial ERA1 allocations. The local grantees that reallocated over 50% of their initial ERA1 allocations include Merced County, CA (61%); Tarrant County, TX (62%); Stanislaus County, CA (72%); San Joaquin County, CA (74%); and Okaloosa County, FL (91%). The state grantees that reallocated over 50% of their initial ERA1 allocations include Wisconsin (51%), Nebraska (61%), North Dakota (76%), and Wyoming (84%).

The large amount of funds voluntarily reallocated from state to local grantees helped correct the initial allocation formula, which gave a disproportionate amount of funding to state grantees compared to local grantees. The largest adjustment between state and local grantees was in Nebraska. Initially, Nebraska's state grantee received 79% of the entire state's ERA1 allocation, while local grantees received 21%. After the first and second rounds of reallocation, this ratio was flipped, with Nebraska's state grantee's allocation comprising 31% of the entire state's ERA1 allocation and the local grantees' allocations comprising 69%. The reallocation of ERA1 funds from the state grantee to local grantees allowed local grantees to continue assisting households. For example, Omaha, Nebraska, expended 96% of its ERA1 funds by the end of September 2021. After receiving $30 million in the

Figure 5
First and Second Rounds of ERA1 Reallocation



first round of ERA1 reallocation, Omaha was able to continue to serve households into 2022 with ERA1 funds. Adjustments between allocations for the state grantee and local grantees are especially important if the state does not serve cities and counties that received a direct allocation from Treasury, as Nebraska does not.

The large proportion of funds remaining within the same state prevented allocation disparities between states from being addressed. For example, based on initial ERA1 and ERA2 allocations, New York has the lowest funding per CBLI renter household in the nation, at $1,667. After the first round of reallocation, the funding per CBLI renter household increased by only $95.

In a March 2022 press release, Treasury announced that the final round of ERA1 reallocation would "recapture a portion of unobligated funds from grantees, leaving grantees with the amount of ERA1 funds they have spent in their strongest quarter to date." Based on this statement and the limited reallocation guidance previously released, NLIHC estimates that as much as $743 million could be reallocated in the final round of ERA1 reallocation. Because grantees do not regularly report on obligated amounts, we have limited public data regarding grantees' unobligated amounts. Therefore, it is difficult to estimate precisely how much could be reallocated in the final round, and the amount could be higher or lower than our projections. Given these considerations, NLIHC estimates that the total amount of ERA1 funds that could be reallocated across all three rounds is between $2.1 billion and $2.9 billion.

ERA2 REALLOCATION PROJECTIONS

As of April 29, 2022, Treasury had yet to disburse $6.3 billion of ERA2 funds. Of this amount, NLIHC estimates that between $1.9 billion and $2.2 billion could be reallocated throughout 2022. The estimated amount that could be reallocated could be less or more depending on how quickly grantees obligate ERA2 funds and become eligible for additional tranches of their ERA2 allocation. This amount is insufficient to fully address the disparity between grantees' remaining ERA funds and outstanding need, leaving grantees that have exhausted their ERA funds with limited options to continue providing assistance. ERA2 reallocation cannot address this disparity due in part to the statutory requirement that Treasury cannot reallocate any funds disbursed to grantees and Treasury's requirement that grantees cannot voluntarily reallocate more than 60% of their allocation.

The American Rescue Plan Act prohibits Treasury from reallocating funds which have already been disbursed from Treasury to grantees. This prohibition prevents Treasury from fully leveraging the reallocation process to address discrepancies between grantees' outstanding need and remaining funds. NLIHC projects that in the first round of ERA2 reallocation, Treasury is prevented from reallocating funds from eight grantees due to this requirement. Treasury further limited the ability of ERA2 reallocation to address the disparity in need by prohibiting grantees to voluntarily reallocate more than 60% of their ERA2 allocation. In effect, this ensures that each grantee will have at least 40% of its ERA2 allocation for use until 2025 – much longer than was intended for the program. For example, based on average assistance disbursed per household served, Vermont would need an additional $7.5 million to serve all renter households behind on rent; 40% of its ERA2 allocation is over eight times the required amount. Eight other state grantees could serve 100% of renter households behind on rent with less than 40% of their ERA2 allocations.

Because current reallocation guidance is limited, decisions about which grantees are recipients of reallocated funds are critically important. NLIHC estimates that of the 133 state and local grantees that received reallocated ERA1 funds – an indicator that the grantee spent ERA1 funds quickly – 17 could have ERA2 funds reallocated in the first round of ERA2 reallocation. Several of these grantees received a reallocation amount that was over 75% of its initial ERA1 allocation, which may indicate that the timeline governing the ERA1 and ERA2 reallocation processes will make it difficult for some grantees to disburse all their funds. Treasury should take into consideration such difficulties when determining recipients of reallocated ERA2 funds and approving voluntarily reallocated funds between grantees in a single state.

RECOMMENDATIONS

Initial data suggest that the current reallocation process will only be able to address in limited ways the disparities between grantees' remaining funds and the continued need for assistance among renters. Therefore, Treasury should quickly reallocate ERA to ensure that the finite amount of remaining funds are distributed to those grantees with the highest need. Furthermore, while assistance has been impactful for millions of households, ERA was designed to provide short-term financial assistance during the COVID-19 pandemic and cannot address the long-standing housing crisis in America.

Treasury Should Reallocate ERA Funds Efficiently

Treasury is constrained in addressing the disparity in the initial ERA allocation through the current reallocation process, especially given the statutory requirement that Treasury cannot reallocate any ERA2 funds disbursed to grantees. Treasury should encourage grantees with relatively low needs to voluntarily reallocate funds. Treasury should also consider revising ERA2 reallocation guidance to allow grantees to voluntarily reallocate more than 60% of their ERA2 allocations.

Given the constraints faced by Treasury, difficult decisions regarding the recipients of reallocated funds will need to be made. Treasury should prioritize grantees in jurisdictions with large numbers of unserved CBLI renter households. Prioritizing such recipients may require Treasury to use discretion when approving voluntarily reallocated funds in cases where a proposed recipient grantee has a lower need compared to other eligible grantees.

Treasury Should Increase Reallocation Transparency

Treasury should increase the transparency of its reallocation determination process. As their funds run out, many grantees are beginning to consider next steps for their ERA programs. Because the reallocation process occurs on a rolling basis, these grantees are unsure of the scale of additional funds – if any – they could receive in the future. Grantees will have to make difficult decisions about maintaining their infrastructure and communicating with eligible households about the likelihood of additional funds. To help grantees plan, Treasury should increase the transparency of the reallocation process by making public the formula by which reallocation amounts are determined. Treasury should also brief grantees on the amount of funding that could become available in future rounds of reallocation.

Treasury Should Limit the Use of ERA2 Funds for Other Affordable Housing Purposes

While NLIHC consistently advocates for increased federal investment to expand and preserve the supply of affordable and available rental homes to the lowest-income households, ERA2 is not the appropriate source of funds for this activity. Given the ongoing need for ERA2 funds to help keep renters stably housed, Treasury should strictly interpret the statute and issue guidance to make clear that in order for grantees to use ERA2 funds for other affordable housing purposes, grantees must meet the requirement to obligate 75% of total allocated funds by October 1, 2022, as opposed to any time after October 1, 2022. This interpretation would ensure that ERA2 funds are first made available to grantees for use as emergency rental assistance.

ERA Grantees Should Use Other Federal Funding Streams to Extend ERA Programs

ERA grantees running low on funds may be able to use other emergency funds to help meet their need. For example, the "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act) provided $5 billion for the Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG)

program to states and localities to provide emergency housing and homelessness assistance through the Community Development Block Grant-Coronavirus (CDBG-CV) program. CDBG-CV funds may be allocated for short-term emergency financial assistance for rent, mortgage, and utilities, as well as for legal support such as right to counsel for tenants facing eviction. HUD's Notice of Program Rules for CDBG-CV grants clarifies that any grantee may reassign any unobligated funds by submitting an amendment to its existing annual action plan. Unobligated CDBG-CV funds can be put towards rental assistance programs as ERA funds are exhausted. Grantees should make determinations at the state and local levels to use any pending CDBG-CV funds to sustain ERA programs while waiting for additional reallocated funds.

Grantees may also be able to use their Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to supplement ERA programs. The SLFRF program made available $350 billion to states, localities, and Native American tribes to support pandemic-related response and recovery. Treasury's Final Rule clarified eligible uses of SLFRF funds, including for allowing affordable housing development, providing permanent supportive housing, and supporting other efforts – like short-term rental assistance and eviction mediation – that would improve access to stable, affordable housing for individuals who are homeless and households that have been impacted by the pandemic.

Congress Should Enact a Permanent Emergency Rental Assistance Program and Ensure Long-Term Housing Solutions

ERA has been essential for addressing acute financial hardships resulting from the pandemic, but the program cannot be used as a substitute for long-term housing solutions. Prior to the pandemic, nearly 82% of very low-income renters were housing cost-burdened. Worse, over 7.5 million households were extremely low-income (earning less than 30% of area median income) and severely housing cost-burdened, spending more than half their income on rent (NLIHC, 2022). Analysis from the Household Pulse Survey indicates that by March 2021, 7% of households that had not lost income during the pandemic were behind on rent, while 21% of households that had lost income were behind on rent (NLIHC, 2022). In March 2022, approximately 10% of households that had not lost income in the prior four weeks were still behind on rent, while 32% of households that had lost income were behind on rent, indicating that a large proportion of renters routinely struggle to pay rent.

To address a housing crisis that pre-existed the pandemic, was exacerbated by its disruptions, and will continue to persist after COVID-19 subsides, Congress must enact permanent housing solutions and provide further support to the Housing Choice Voucher program, public housing, and the national Housing Trust Fund. In particular, Congress must ensure that any reconciliation package contains the housing supports included in the House-passed Build Back Better Act: $25 billion to expand rental assistance, $65 billion to preserve public housing, and $15 billion for the national Housing Trust Fund. Congress should also authorize and fund a permanent program to support households that experience financial shocks, such as the program envisioned in the Eviction Crisis Act. If enacted, these investments would increase the stock of affordable housing, reduce the cost burdens faced by renters, and provide emergency aid to prevent evictions, ensuring that extremely low-income households throughout the country have the support they need to remain stably housed.

TABLE 1A: REMAINING ERA FUNDS PER RENTER HOUSEHOLD BEHIND ON RENT BY STATE

STATE	ESTIMATE, HOUSEHOLDS BEHIND ON RENT (WEEKS 42-44)	TOTAL REMAINING ERA FUNDS AS OF MAR 2022	REMAINING ERA FUNDS PER HOUSEHOLD BEHIND ON RENT
VERMONT	6,023	$239,730,771	$39,800
MONTANA	10,856	$248,491,334	$22,890
IDAHO	11,125	$250,307,486	$22,500
SOUTH DAKOTA	12,699	$250,732,893	$19,744
WYOMING	8,235	$159,483,980	$19,367
NORTH DAKOTA	11,525	$169,588,939	$14,715
NEBRASKA	19,216	$260,047,426	$13,533
NEW HAMPSHIRE	14,855	$199,971,880	$13,461
DELAWARE	17,291	$218,317,379	$12,626
MAINE	15,413	$169,757,054	$11,014
ALASKA	13,145	$125,086,634	$9,516
UTAH	24,593	$232,761,950	$9,465
IOWA	32,311	$290,523,267	$8,992
RHODE ISLAND	22,243	$178,091,512	$8,006
ARIZONA	77,541	$616,577,970	$7,952
WEST VIRGINIA	31,219	$229,961,531	$7,366
HAWAII	25,100	$171,136,042	$6,818
GEORGIA	149,633	$991,488,894	$6,626
TENNESSEE	101,265	$642,678,138	$6,346
COLORADO	65,214	$409,613,990	$6,281
NEW MEXICO	36,864	$225,528,327	$6,118
KENTUCKY	62,477	$337,834,331	$5,407
OHIO	206,845	$1,101,408,828	$5,325
INDIANA	120,191	$559,584,670	$4,656
WISCONSIN	106,298	$490,870,420	$4,618
KANSAS	46,151	$190,317,319	$4,124
SOUTH CAROLINA	94,484	$381,352,972	$4,036
PENNSYLVANIA	219,810	$874,866,705	$3,980
MISSOURI	117,614	$468,085,677	$3,980
ALABAMA	110,953	$417,787,382	$3,765
ARKANSAS	63,714	$229,364,988	$3,600
MICHIGAN	179,031	$622,678,400	$3,478
OKLAHOMA	79,881	$271,874,062	$3,403
DISTRICT OF COLUMBIA	20,442	$66,429,059	$3,250
WASHINGTON	103,530	$335,427,593	$3,240
MARYLAND	132,954	$417,629,181	$3,141
VIRGINIA	125,447	$357,576,560	$2,850
CONNECTICUT	80,242	$221,352,687	$2,759
LOUISIANA	125,571	$340,759,884	$2,714
FLORIDA	444,864	$1,185,330,574	$2,664
OREGON	67,688	$172,380,932	$2,547
NEVADA	73,984	$182,465,356	$2,466
MISSISSIPPI	86,239	$202,717,346	$2,351
MINNESOTA	89,075	$199,124,070	$2,235
MASSACHUSETTS	143,548	$309,058,528	$2,153
ILLINOIS	298,108	$583,242,381	$1,956
NEW JERSEY	220,871	$424,232,771	$1,921
NORTH CAROLINA	165,136	$313,984,255	$1,901
TEXAS	549,814	$1,037,139,693	$1,886
CALIFORNIA	805,125	$1,322,871,332	$1,643
NEW YORK	702,777	$964,328,627	$1,372

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