

DATE: January 8, 2021
UPDATE: January 14, 2021
UPDATE: January 27, 2021

Emergency Rental Assistance Program

On December 21, 2020, the U.S. House of Representatives and U.S. Senate passed a massive legislative package that included all twelve FY2021 Appropriations Bills, COVID-19 relief legislation, the Energy Act of 2020, and the Water Resources Development Act of 2020, as well as other legislative provisions. This \$2.3 trillion package is titled the *Consolidated Appropriations Act of 2021* ([Public Law \[P.L.\] 116-260](#)). For background information on P.L. 116-260, please see [TFG's Special Report](#).

This brief provides detailed information on the Emergency Rental Assistance Program authorized by Section 501 of the package entitled, "Emergency Rental Assistance".

Background

The program provides \$25 billion to states, the District of Columbia, and eligible units of local government for FY 2021 (through September 30, 2021) "to help families and individuals pay their rent and utility bills and remain stably housed, while also helping rental property owners of all sizes continue to cover their costs, including the costs necessary to ensure residents' health and safety." Units of local government (including municipalities and counties) with populations greater than 200,000 (based on 2019 Census estimates) are eligible to receive direct funding from the U.S. Department of the Treasury.

Distribution of Funding

According to the National Council of State Housing Agencies (NCSHA):

Funding will be distributed to states based on the state's proportional rate of the total U.S. population according to 2019 Census data. 45 percent of a state's allocation may be accessed by local governments above population of 200,000. States will receive no less than \$200 million.

*The Treasury Department must disburse payments to grantees within 30 days of enactment of the law (i.e., the deadline for disbursement is Tuesday, January 26th, 2021). States will receive at least 55 percent of the funds for their state at that time. **Localities seeking a direct payment must provide the Treasury Secretary with a certification signed by the chief executive of the locality by January 12, 2021.** If qualified localities do not seek a direct grant from the Treasury Department or otherwise decline the full allocation available to them, Treasury will provide the funds to which those localities would have been otherwise eligible to the applicable states. Treasury will make those funds available to the applicable states within 15 days following the close of the initial 30-day period.*

The funding allocation to states and eligible units of local government is based off 2019 Census data and the [structuring](#) of the CARES Act's Coronavirus Relief Fund (although this new law also includes DC as a state instead of as a territory). A list of the local governments eligible to receive funding can be found [here](#) but the formula to determine how much funding each state and locality will receive is a bit cumbersome and complicated. The National Association of Counties (NACo) released its [estimates](#) on the amount of funding available to qualifying counties on January 8th. As of the date of this memo, estimates have not been released for cities.

Accessing Funding

The U.S. Department of Treasury issued information on the Emergency Rental Assistance Program and how to access the funding. Here are a couple of notes:

- **Direct allocation recipients have until January 12, 2021 to [submit](#) paperwork to the Department of Treasury accepting the funding.** Again, please see the [list](#) of eligible recipients.
- Funding will be available through December 31, 2021.
- States and local governments receiving the funding will be required to establish programs to distribute the assistance to households.
- Individual households and/or landlords will be required to submit applications for assistance to the granting agency.
- Funds will be paid directly to landlords and utility service providers.

Use of Funds

Additional specific details regarding what kind of assistance renters will receive from this funding, how renters would go about applying for and receiving the assistance, and which households are eligible to receive the assistance may be found [here](#). Of note:

- Eligible households are limited to those with rental households only.
- The program establishes guidelines for household eligibility based on status of employment, income level, and financial loss experienced during the COVID-19 pandemic. In general, the household must:
 - Qualify for unemployment or have experienced a reduction in household income, incurred significant costs or experienced a financial hardship due to COVID-19;
 - Demonstrate a risk of experiencing homeless or housing instability; and
 - Have a household income at or below 80 percent of the area median income (AMI).
- Not less than 90 percent of the funds received by an eligible entity will be distributed to eligible households.
- **Financial assistance under the program can be used for rent and utilities and home energy costs, including those costs in arrears.** Other expenses related to housing incurred due to the COVID-19 pandemic are also eligible.
- In general, assistance will be provided for a period of 12 months. Grantees may provide assistance for an additional 3 months beyond that to ensure housing stability if funding is available.

Impact to Local Governments, Public Agencies, and Special Districts

Direct Recipients

Local governments with populations over 200,000 will be required to establish and administer programs to distribute funding to individual households and serve as the granting agency. In this regard, a portion of the recipients' allocation, up to 10%, can be used for administrative purposes and case management.

Furthermore, the granting agency can utilize a subcontractor to assist in the administration of the program.

Indirect Recipients

Cities, counties, and utility providers serving populations under 200,000 are not able to access funding directly but can benefit from assistance to their individual customers and households. Agencies in this scenario should track the development of their granting agency's program to understand how funding can be accessed for utility assistance. TFG encourages contacting your granting agency in this regard to provide information about the status of utility payments from customers and assistance that is needed.

Applying for Utility Assistance

Based on the information that has been released so far on the program, it is unclear if utility providers (either as direct recipients or indirect recipients) will be able to apply directly for assistance on behalf of a household. The law specifically states that landlords can apply for assistance on behalf of households but does not mention the ability for utility providers to do so. Nor does the law mention if the landlord's request will cover utility information. Furthermore, it is not clear if applications can be made for utility assistance alone or if they must be tied to rental assistance. TFG will work to help clarify these questions as additional information is released on the program.

1/14/21 Update: Allocations

On January 11, the U.S. Department of Treasury released [allocations](#) for each state and territories under the program. The amount each county and city over 200,000 will receive is based on the state allocations from Treasury.

1/27/21 Update: U.S. Department of Treasury Guidance

On January 19, the Treasury Department issued the first set of [guidance](#) on the development of the ERA program. While additional guidance is expected from Treasury, key points include:

- Clarifies that rental payments beginning after March 13, 2020, the date of the national emergency declaration for the coronavirus pandemic, are covered under the program.
- Mandates that assistance only be provided to households obligated to pay rent on a residential dwelling, meaning mortgage assistance is not eligible under the program.
- Defines which utilities are covered under the program, including electricity, gas, water, sewer, trash removal, and energy costs such as fuel oil. Telecommunications services, such as telephone, cable, and internet, are not covered under the program. Utilities that are paid for by the landlord that are included as part of the rent will be treated as rental assistance, not utility assistance.
- Clarifies that rental and utility assistance are not tied together, meaning a household can receive assistance for rent and/or utilities.

Some uncertainty remains as to how information will be collected on utility costs for households when the utility itself is not able to apply directly for assistance on behalf of the household. While not establishing a protocol for a standardized application process, the guidance does provide details on what information and data a grantee shall expect to collect for each household. This data includes information on the utility and home energy costs for the household as well as the name and identification information for the utility provider. Treasury is expected to provide additional instructions in future guidance.