



February 26, 2021

The Honorable Janet L. Yellen  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

The Honorable Marcia Fudge  
Secretary Nominee  
U.S. Department of Housing and Urban  
Development  
451 Seventh Street, S.W.  
Washington, DC 20410

Dear Dr. Yellen and Congresswoman Fudge:

The COVID-19 relief legislation signed into law in late December allows America’s renters and housing providers access to immediate support. The undersigned national associations that represent for-profit and non-profit owners, developers, managers, housing cooperatives, lenders and housing agencies involved in providing affordable rental and cooperative housing to millions of American families are pleased Congress approved COVID-19 relief that includes rental assistance, which protects renters from losing their homes and ensures the owners’ ability to maintain the viability of the rental housing stock.

We appreciate the February 22 update to the U.S. Treasury Department [Frequently Asked Questions \(FAQ\)](#) document regarding program requirements of the \$25 billion Emergency Rental Assistance Program (ERAP), approved in the COVID-19 relief package. The additional clarity and flexibility should facilitate getting the much-needed rental assistance out to help renters in need. For example, we are pleased the Department supported our recommendation allowing residents to self-certify that they meet eligibility criteria to participate in the program and are pleased the FAQs address some communication concerns. The ability to use mail, email, text and phone addresses pandemic communication concerns.

Despite the considerable additional guidance provided by the new FAQs, however, there are a few areas that we urge you to consider addressing. This includes reconsidering the shortened timelines for mail outreach to a landlord of utility provider (14 days after mailing), given U.S. mail challenges, and the absence of guidance for housing providers applying for assistance on behalf of residents when they are unable to retain written consent from the resident.

In addition, while we are pleased that the FAQs acknowledge that “full payment of arrears is allowed up to the 12-month limit established by the statute,” we remain concerned with language advising that “A grantee may structure a program to provide less than full coverage of arrears.” Advising grantees that they can pay “less than full coverage of arrears,” particularly with no guidelines or standards, could destabilize rental housing communities, jeopardizing the financial solvency of many in the rental housing industry, including thousands of small, “mom and pop” housing operators.

As you develop additional guidance, we urge that you continue to further Congressional intent and stress the importance of ensuring that funds be distributed swiftly, efficiently and in a manner that allows for flexibility that gets assistance to all of those in need. Importantly, Congress saw the great need for rental assistance across the nation and across income levels and required that 90% of the funds be used for rental and utility assistance. Attempts to divert funding away from efforts that are not intended to directly address rental and utility arrears and current rent and utility obligations are well-intentioned but will continue to threaten housing stability of millions of renters who are in great need. Furthermore, as Congress continues to address future pandemic relief assistance programs, we think it imperative that program administration be consistent and streamlined, to maximize states' and localities' ability to get much needed assistance into the hands of eligible recipients. Creating multiple programs with different rules will damage housing stability efforts and cause unnecessary confusion. We urge the Administration to prioritize rent relief to as wide a population as possible that have been impacted by the pandemic and to clarify and address the following issues:

**Ensure Housing Stability** - Eliminate placing the resident in the position of accruing debt too great to ever be repaid ensuring the continued viability and stability of rental housing.

### **Rental Arrears**

- Administering entities should further Congressional intent and provide full payment of arrears and prospective rent.
- No funds should be disbursed for initiatives or expenses that are outside the scope of the statute. With limited funds, the rental assistance program must focus on paying arrears which have financially burdened both tenants and properties for the past 11 months.
- Grantees, the Administration and Congress must work together to fully reimburse housing providers for unpaid rent to ensure residents remain in safe, stable housing and housing providers can meet their own financial obligations. The future of investment in the multifamily industry and the underwriting for multifamily mortgages is based on assumptions that the property will collect certain levels of rental income. The property must collect these rents to cover its debt service and other financial obligations.
- Arrears nation-wide have reached staggering levels. The [U.S. Census Bureau's Household Pulse Survey](#) showed that in the week ending February 1 approximately 30% of renters responding were either deferring their rent or had no/slight confidence in their ability to pay next month's rent. Anecdotal reports from some housing providers across the country show that arrears for individual households exceed \$10,000.

### **Methods for Income Determination**

Income determination should ensure those impacted by the pandemic across all income spectrums have access to assistance. Income determination should not only be based on the household's monthly income at time of application but should also take into consideration the total loss of income as a result of the pandemic.

### **Optimize State/Local Allocations**

- Treasury should clarify in its guidance that state grantees can use their ERAP funds to support rental assistance efforts in local grantee jurisdictions if it is warranted.

**Improve Program Efficiency by Partnering with Housing Providers** - An application for rental assistance may be submitted by either an eligible household or by a landlord on behalf of that eligible household.

- Clarify and streamline the process by which funds can be paid directly to the property owner on behalf of the resident to ensure the financial obligations of the property are met.
- Provide concrete information to owners to apply for assistance on behalf of the resident.
- Allow maximum flexibility and encourage small owner participation. Collect documentation directly from the owner, including copies of the lease, proof of rent in arrears/currently owed, copy of resident CDC declaration, and if applicable: the landlord's W9.
- If an owner has explicitly denied acceptance of the direct payment, clear steps should be provided to the resident as to how to fulfil their obligations under the lease.
- It is common for residents who are significantly behind in rent, with no prospect of repayment, to cut off communication with their landlord for fear of eviction or other penalties. Without communication available, it is essential that landlords are given flexibility in their ability to apply on behalf of a qualified tenant that might otherwise fail to receive the assistance Congress intended.
- Create a central portal providing state and jurisdictional allocations and information as to how to participate in the program for households and owners on the Treasury website with links to administering state and local entities.

### **Manufactured Housing**

- We urge you to include in the upcoming guidance (and/or any revised FAQs) language that makes clear that: "Rent on a residential dwelling may include rent on property on which a residential dwelling is located." Without such language we fear some grantees may misconstrue the current FAQs and deny these renters assistance.

We stand ready to work with you to develop criteria to implement the Emergency Rental Assistance program. As the program is implemented, we request continued conversation and meetings with the Administration and our industry representatives to ensure efforts to administer the rental assistance program and other federal housing resources protect the long-term stability of the rental housing sector.

Sincerely,

CCIM Institute  
Council for Affordable and Rural Housing  
Institute of Real Estate Management  
Manufactured Housing Institute  
Mortgage Bankers Association  
National Affordable Housing Management Association  
National Apartment Association  
National Association of Home Builders  
National Association of Housing Cooperatives  
National Association of REALTORS®

National Leased Housing Association  
National Multifamily Housing Council

cc: Rochelle P. Walensky, MD, MPH, Director, Centers for Disease Control and Prevention  
The U.S. Senate Committee on Banking, Housing, and Urban Development  
The U.S. House Committee on Financial Services