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Treasury Updates ERA FAQ and Award Terms for Indirect Costs and Housing Stability Services

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April 2021

Community Action Agencies (CAAs) concerned about bearing the costs of running Emergency Rental Assistance (ERA) programs and offering more robust housing stability services recently received welcome guidance from the U.S. Department of Treasury (Treasury). On March 26, 2021, Treasury updated its Grant Award Terms (Grant Terms) and Emergency Rental Assistance Frequently Asked Questions (FAQ) to clarify that indirect costs may be recovered, indirect cost rates may be used, and housing stability services are not solely administrative costs.

The ERA program under the Consolidated Appropriations Act, 2021 (Act), signed into law on December 27, 2020, provides financial assistance and housing stability services to eligible households[1] experiencing financial hardship during the COVID-19 pandemic.

The Act appropriated $25 billion to the ERA program for FY2021 to be awarded to eligible grantees[2] and directs grantees to use no less than 90% of ERA funds received to assist eligible households in paying rent, utilities and home energy costs, and other housing expenses ("financial services"). The Act instructs eligible grantees to use no more than 10% of ERA funds received to provide eligible households with case management and other services related to COVID-19 to promote housing stability during the pandemic ("housing stability services"). The Act also states that not more than 10% of total ERA funds received by a grantee may be used for administrative costs incurred in providing ERA financial assistance and housing stability services, including costs associated with ERA data collection and reporting requirements.

The prior Grant Terms prohibited grantees from recovering indirect costs and using indirect cost rates, and further treated housing stability services costs solely as administrative costs. The updates to the Grant Terms, which are explained in the FAQ, follow the language in the Act and provide grantees and subrecipients (a group that includes many CAAs) with the ability to more fully recover costs and provide services that support longer-term change in their communities.

First, the Grant Terms are now clear that administrative costs include both direct and indirect costs and newly added FAQ 29 explains that grantees may apply indirect cost rates. Grantees are instructed to be mindful that while rates may be applied, the total amount of administrative costs that the grantee is able to recover, both indirect and direct, must not exceed 10% of the total amount of the award. The FAQ explains further that grantees may permit subrecipients to recover administrative costs that exceed 10% of their ERA *subaward* so long as the total of all administrative costs incurred by the grantee (i.e., all indirect and direct costs incurred by the grantee and all subrecipients) does not exceed 10% of the total award provided to the grantee from Treasury. Subrecipients, including CAAs, will need to work with recipients, i.e., state agencies, to determine the total amount of administrative costs they may recover.

Second, Treasury in FAQ 29 clarifies that housing stability services are not the equivalent of administrative costs, but rather are a separate category of assistance. Thus, grantees will allocate costs between two categories of assistance: financial assistance and housing stability services. Furthermore, administrative costs may be recovered from both categories, up to 10% of the total award. A grantee must allocate direct and indirect administrative costs to the appropriate category (i.e., either financial assistance or housing stability services). The Treasury FAQ added that where these costs could not be readily allocated, a grantee could assume an administrative cost allocation of 90% to financial assistance and 10% to housing stability services.

Additional information about the Treasury ERA program can be accessed here.

[1] To be eligible for assistance under this program, a household (i.e., one of more individuals obligated to pay rent on a residential dwelling) must meet the following qualifications:

- One or more individuals in the household has—(a) qualified for unemployment benefits; or (b) experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic;
- One or more individuals in the household can demonstrate a risk of experiencing homelessness or housing instability; and
- The household is a low-income family under the United States Housing Act of 1937, meaning their income does not exceed 80% of the area median income.

See Sec. 501(k)(3) of the Act.

[2] Eligible grantees for purposes of this program include all 50 U.S. states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa, as well as tribes and units of local government.

This publication is part of the CARES CSBG Legal T/TA Center. It was created by CAPLAW in the performance of the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services Cooperative Agreement – Grant Award Number 90ET0467-03-02. Any opinion, findings, conclusions, or recommendations expressed in these materials are those of the author(s) and do not necessarily reflect the views of HHS and ACF. The contents of this publication are intended to convey general information only and do not constitute legal advice. Any communication through this publication or through CAPLAW's website does not constitute or create an attorney-client relationship. If you need legal advice, please contact CAPLAW or another attorney directly.