U.S. DEPARTMENT OF THE TREASURY
EMERGENCY RENTAL ASSISTANCE (ERA2):
REAL PROPERTY DISPOSITION POLICY – FREQUENTLY ASKED QUESTIONS

1. What are the use and disposition requirements for real property acquired and/or improved with ERA2 award funds?

Grantees may continue to use real property acquired and/or improved with ERA2 award funds for eligible affordable rental housing purposes serving very low-income families as described in ERA FAQ 46 for the duration of the 20-year Federal Interest Period (FIP) set by Treasury.

Treasury's 20-year FIP on real property acquired and/or improved with an ERA2 award will end on September 30, 2046 unless Treasury releases its federal interest on an earlier date due to the expiration of the Affordability Period (as defined below) which is included in the grantees' use agreements. Treasury's FIP is consistent with the requirement in ERA FAQ 46 that stipulates the income limitation set forth in 42 USC 1437a(b)(2)(B) for very low-income families, which is income that does not exceed 50% of the median family income for the area, must be imposed on occupants of affordable rental housing properties funded by the ERA2 award through a covenant, land use restriction agreement (LURA), or other enforceable legal requirement for at least 20 years (Affordability Period). The Affordability Period starts either at the time the affordable housing project is completed or at the time the project receives its Certificate of Occupancy (CO) and may depend on the requirements of the applicable federal housing assistance program(s) listed in FAQ 46 with which the affordable housing project is aligned.

Treasury recognizes that in some cases the FIP and the Affordability Period will not align. After expiration of the 20-year FIP, grantees may retain, transfer, or otherwise dispose of the real property acquired and/or improved with ERA2 award without further obligation to Treasury. Note that grantees remain responsible for continuing to impose the ERA2 statutory income limitation on occupants of the units constructed or improved using ERA2 award funds through a covenant, LURA, or other enforceable legal requirement for a period of at least 20 years consistent with the ERA2 program requirements and the requirements of the applicable housing assistance program(s) listed in FAQ 46 with which the grantee aligned its affordable housing project.

If a grantee seeks to transfer, retain, and use for other purposes, encumber, convert, or otherwise dispose of the real property acquired and/or improved with the ERA2 award during the FIP, the grantee must first obtain approval and disposition instructions from Treasury in accordance with 2 CFR 200.311(c), and as described in FAQ 6 titled "How do I request approval and disposition instructions from Treasury?"

Additionally, if the Affordability Period expires before September 30, 2046, the grantee may request to be released from reporting obligations to Treasury by submitting an SF-429-C

(Disposition or Encumbrance Request) form to Treasury. Grantees must provide justification for the request along with supporting documentation that indicates that the Affordability Period has expired. Grantees should refer to FAQ 6 for guidance on what should be included in the SF-429-C form.

2. Which eligible affordable rental housing purposes outlined in FAQ 46 are subject to the federal interest period under the ERA2 program?

The eligible affordable rental housing purposes outlined in ERA FAQ 46 that are subject to the 20-year federal interest period set by Treasury include:

- the construction, rehabilitation, or preservation of affordable rental housing projects serving very low-income families; and
- the acquisition of real property for the purpose of constructing, rehabilitating, or preserving affordable rental housing projects serving very low-income families.

The following eligible affordable rental housing purposes set forth in ERA FAQ 46 are not subject to the 20-year federal interest period set by Treasury:

- predevelopment activities associated with eligible affordable rental housing projects; and
- the operation of affordable rental housing projects serving very low-income families that were constructed, rehabilitated, or preserved using ERA2 funds.

3. What reporting requirements apply to real property acquired and/or improved with the ERA2 award?

Grantees that used ERA2 award funds to acquire and/or improve (construct, rehabilitate, or preserve) real property must submit an SF-429 Real Property Status Report to Treasury as part of the ERA2 award closeout process.

Grantees must report on the status of real property acquired and/or improved with ERA2 award funds at five-year intervals from the date that Treasury closed out of the ERA2 award until September 30, 2046. Treasury will rely on the real property status information submitted with the grantee's ERA2 Final Closeout Report as the initial SF-429 Real Property Status Report for the period through September 30, 2026. Thereafter, grantees must submit an SF-429 Real Property Status Report for each five-year reporting period ending on the following dates:

- September 30, 2031;
- September 30, 2036;
- September 30, 2041; and
- September 30, 2046.

Each SF-429 Real Property Status Report must be submitted to Treasury within 30 calendar days following the end date of the applicable reporting period.

Grantees must continue to submit the SF-429 report to Treasury on the dates identified above during the FIP unless Treasury's federal interest in the real property acquired and/or improved with the ERA2 award has been released.

4. Are there separate reporting requirements for projects involving real property acquired and/or improved with an ERA2 award that were not completed as of the end date of the period of performance for the ERA2 award, September 30, 2025?

If a project involving real property acquired and/or improved with an ERA2 award is not completed by September 30, 2025, Treasury will require the grantee to submit an SF-429A form upon project completion to Treasury.

For example, if a project is completed on August 31, 2030, the completion date falls after the ERA2 award period of performance end date of September 30, 2025, but before the end of the first five-year reporting period on September 30, 2031. In this case, the grantee must submit an off-cycle SF-429A form to Treasury upon project completion. This submission is separate from, and does not replace, the requirement to submit an SF-429 Real Property Status Report for the first five-year reporting period ending September 30, 2031, within 30 calendar days after the end date of that reporting period.

5. What happens if a grantee wants to dispose of real property acquired and/or improved with the ERA2 award during Treasury's 20-year Federal Interest Period (FIP)?

If a grantee seeks to sell, transfer, encumber, or otherwise dispose of real property acquired and/or improved with an ERA2 award during the FIP (before September 30, 2046, and Treasury has not otherwise released its federal interest), the grantee must request approval and disposition instructions from Treasury before undertaking such action.

Treasury may authorize the grantee to take one of the following disposition options consistent with 2 CFR 200.311(c):

1. Retain title after compensating Treasury for its federal interest in the real property which is calculated by applying Treasury's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property;
2. Sell the property and compensate Treasury for its federal interest in the real property which is calculated by applying Treasury's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses; or
3. Transfer title to Treasury or to a third party designated or approved by Treasury. The grantee is entitled to be paid an amount calculated by applying the grantee's percentage of

participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

If the real property acquired and/or improved with the ERA2 award is converted to an ineligible use during the FIP, the grantee will be required to compensate Treasury for its federal interest in the real property in accordance with option 1 listed above.

6. How do I request approval and disposition instructions from Treasury?

A grantee seeking to transfer, retain and use for other purposes, encumber, convert, or otherwise dispose of the real property acquired and/or improved with ERA2 award funds during the FIP (before September 30, 2046, and Treasury has not otherwise released its federal interest) must submit an SF-429-C (Disposition or Encumbrance Request) form to Treasury.

The SF-429-C form must include the following information about the real property:

- the address and description of the real property;
- the proposed disposition or encumbrance;
- the current appraised value of the property based on the appraisal requirements described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), 42 USC § 4601(13), and the implementing regulations at 49 CFR § 24.2(a)(3);
- Treasury's percentage of participation in the project; and
- other information required by the SF-429-C form and applicable federal requirements.

Grantees must not proceed with disposition activities until Treasury provides written approval and disposition instructions.

Treasury will provide additional guidance regarding submission procedures, including whether forms must be submitted through Treasury's systems or via email to Treasury.

7. What is "real property" for purposes of these FAQs?

Consistent with 2 CFR 200.1, real property means land, including land improvements, structures, and appurtenances thereto.

8. Does Treasury's federal interest apply to all eligible affordable rental housing purposes outlined in ERA FAQ 46?

No. Treasury's federal interest applies to real property acquired, and/or constructed, rehabilitated, or preserved with the ERA2 award.

Certain other eligible affordable housing purposes identified in ERA FAQ 46 — such as predevelopment costs or operating expenses — do not independently create a continuing federal interest in real property.

9. Do the real property use and disposition requirements apply to subrecipients?

Yes. Grantees are responsible for ensuring that subrecipients comply with applicable ERA2 real property requirements, including eligible use restrictions, reporting obligations, and disposition requirements.

When a subrecipient is managing real property acquired and/or improved with ERA2 award funds, the subrecipient must provide the grantee with the information necessary to satisfy the applicable real property reporting requirements. The grantee is responsible for collecting this information and reporting to Treasury on the status of the real property acquired and/or improved with the ERA2 award for the duration of the FIP. Subrecipients should not submit real property status reports directly to Treasury.

Grantees must maintain appropriate oversight of subrecipients in accordance with 2 CFR 200.332 and ensure that required information regarding real property acquired and/or improved with ERA2 award funds is available to Treasury upon request.

10. What happens after the 20-year Federal Interest Period expires?

After the expiration of the 20-year FIP, grantees are no longer required to:

- submit ongoing SF-429 reports to Treasury about the status of the real property acquired and/or improved with an ERA2 award; or
- request Treasury's approval and disposition instructions before transferring or otherwise disposing of the real property acquired and/improved with the ERA2 award; or
- compensate Treasury for retention of title to or sale of real property acquired and/or improved with an ERA2 award.

Grantees may then retain or dispose of the real property without further obligation to Treasury. Note that grantees remain responsible for continuing to impose the ERA2 statutory income limitation on occupants of the units constructed or improved using ERA2 award funds through a covenant, land use restriction agreement (LURA), or other enforceable legal requirement for a period of at least 20 years consistent with the ERA2 program requirements and requirements of the applicable housing assistance program(s) listed in FAQ 46 with which the grantee aligned its affordable housing project.

11. What records must grantees retain for ERA2-funded real property?

Grantees must maintain records sufficient to document the grantee and its subrecipients' compliance with ERA2 award requirements, including compliance with the income limitation set forth in 42 USC 1437a(b)(2)(B) for very low-income families that occupy the affordable rental housing projects for a period of at least 20 years, submission of the real property status reports to Treasury at the frequency required, and request Treasury's prior approval and disposition instruction for real property acquired and/or improved with the ERA2 award prior to taking any disposition actions.

The ERA2 Award Terms require grantees to maintain records for five years after the end date of the period of performance for ERA2 awards, September 30, 2025. Additionally, consistent with 2 CFR 200.334(c), records for real property must generally be retained for three years after final disposition of the property or the termination of Treasury's federal interest, whichever occurs first.

12. How must grantees treat loan repayments, interest earnings, or other program income generated from ERA2-funded affordable rental housing activities?

In accordance with ERA FAQ 46 and applicable program requirements, any proceeds, repayments, interest earnings, or other program income received by a grantee after September 30, 2025, from loans, interest subsidies, or other similar financial arrangements made with ERA2 award funds must continue to be used only for:

- affordable rental housing purposes; or
- eviction prevention purposes

Grantees may not retain or redirect such proceeds or income for purposes unrelated to eligible ERA2 activities.