

U.S. Department of the Treasury
Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021
Addendum to Reallocation Guidance for Tribal Governments
June 1, 2022

I. Overview

On March 30, 2022, the U.S. Department of the Treasury (Treasury) released updated [reallocation guidance](#)¹ regarding the [Emergency Rental Assistance Program](#) (ERA1) authorized by Section 501 of Division N of the Consolidated Appropriations Act, 2021. That guidance applies to all state, territorial, local, and Tribal governments² participating in ERA1 (Grantees).

This document is an addendum to the ERA1 reallocation guidance and includes Treasury's approach to the reallocation of ERA1 funds under the reallocation guidance for Tribal governments.

II. Excess Funds and Recapture

Treasury will reallocate ERA1 funds for Tribal governments after the Q2 2022 reporting period ending on June 30, 2022.

Each Tribal government will be allowed to retain funds from its initial ERA1 award that are unobligated as of June 30, 2022, in an amount equal to the largest amount of ERA1 funds the Tribe has spent on assistance in any quarter. Any unobligated funds beyond that amount will be considered excess funds and subject to recapture.

Treasury will measure ERA1 expenditures (including prior quarters' expenditures) and obligations based on the Q2 2022 report, which is due on July 15, 2022.

Treasury will not recapture funds that a Grantee has obligated. Treasury will consider funds to be obligated if they meet any of the following conditions:

- The funds have actually been spent providing financial assistance or housing stability services for eligible households;
- The funds are needed to pay for assistance promised in a commitment letter issued to induce a landlord to enter a rental agreement with an eligible household under Treasury's ERA FAQ 35; or
- Subject to the conditions described below concerning subrecipients, the Grantee has entered into a binding agreement or funding commitment requiring the Grantee to disburse the funds to a third party for eligible ERA1 purposes (a Contractual Obligation).³

¹ A redlined version showing all amendments to the guidance previously published on October 4, 2021 is available at <https://home.treasury.gov/system/files/136/REDLINED-Updated-ERA1-Reallocation-Guidance-3-30-2022.pdf>

² For the purpose of this document, "Tribal governments" includes all Tribes and Tribally Designated Housing Entities that are participating in the ERA1 program, as well as the Department of Hawaiian Home Lands.

³ See pages 2-3 of the ERA1 reallocation guidance for further details on the criteria applied to determine whether a Grantee has obligated ERA1 funds.

Any funds from the initial ERA1 disbursement (not including funds received through reallocation) that are unobligated on September 30, 2022 must be returned to Treasury at that time. This is a statutory requirement, and Treasury cannot provide flexibility on this deadline.

- Funds that Tribal governments receive through the reallocation process may qualify for a 90-day extension, permitting their use until December 29, 2022. Treasury will provide additional details on this extension in future communications.
- To help ensure that ERA1 funds are used by the statutory deadline, after June 30, 2022, Treasury intends to consider whether additional recapture of unobligated funds, including funds received through reallocation, is appropriate.

III. Reallocation

As the ERA1 statute requires, a Tribal government may request reallocated funds only if it has obligated at least 65% of its own initial ERA1 allocation.

Any ERA1 funds recaptured from Tribal governments will be prioritized for other Tribal governments that request reallocated funds.

In addition to the Tribal reallocation process described in this document, Treasury is currently conducting reallocations with respect to state, local, and territorial ERA1 Grantees. Tribal Governments that wish to receive reallocated funds may submit a request to receive funds recaptured from state, local, and territorial ERA1 Grantees through Treasury's ERA1 Portal.

Reallocation guidance related to Performance Improvement Plans, Excess Funds determinations based on expenditure ratios, and monthly reporting do not apply to Tribes, TDHEs, or the Department of Hawaiian Home Lands.

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If you have any questions, please contact emergencyrentalassistance@treasury.gov and include your ERA1 Grantee number.