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CHAIRWOMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

PATRICK MCHENRY, NC
RANKING MEMBER

February 14, 2022

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

Dear Secretary Yellen:

I write to you concerning the Department of Treasury's (Treasury) continued mismanagement of two COVID-19 emergency rental assistance (ERA) programs. Congress's effort to provide relief for renters affected by COVID-19 has been undermined by Treasury's inability to establish clear, consistent, or conclusive rules regarding the operation of the original Emergency Rental Assistance program (ERA1) established in the Consolidated Appropriations Act of 2021 (P.L. #116-260) in December 2020 and the second Emergency Rental Assistance program (ERA2) established in the American Rescue Plan Act of 2021 (P.L. #117-2) in March 2021. As a result, absent additional action by Treasury, there is an increased likelihood that limited ERA dollars will be wasted instead of used for their intended purpose of eliminating the back rent of COVID-impacted low-income renters.

Of particular concern is Treasury's inability or refusal to establish essential basic anti-fraud and auditability controls governing the use of funds by eligible grantees. This problem has been well-known for some time. Last month, the Government Accountability Office (GAO) released its 9th comprehensive report on the federal government's COVID-19 response entitled "COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies" (the Report).

Among other recommendations to enhance the quality and accountability of federal COVID-19 pandemic response, the Report cited Treasury's failure to remediate the risk of fraud. Specifically, GAO found Treasury had "*not yet designed processes to identify and recover overpayments made by grantees.*"[1] Treasury's approach to managing ERA runs contrary to existing government program norms, limits accountability by preventing auditors from identifying and mitigating risks, and renders investigators' capacity to consistently identify and prevent fraud as "*delayed or impossible.*"[2] Treasury's failures with respect to these programs are courting future disaster, and must be corrected through prompt action.

[1] GAO Report GAO-22-105291, "COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies," published January 27, 2022, available at: https://www.gao.gov/products/gao-22-105291, page 36.
[2] GAO Report, page 36.

Exacerbating these concerns are several statutory deficiencies present in the $21.55 billion ERA2 program that are not present in the initial $25 billion ERA1 program. These deficiencies mean there is less clarity, transparency, and accountability in ERA2, placing those dollars at a heightened risk of fraud and creating an urgent need to prevent it.

First, unlike the ERA1 program that contained clear statutory authority for the Inspector General of the Department of the Treasury (Inspector General) to monitor the receipt, disbursement, and use of program funds, ERA2 contains no such provision. While the Inspector General maintains its general oversight authority over the operations of the Department, absent specific authority similar to ERA1, the Inspector General may not readily have access to all data pertaining to the ERA2 program such as the use of funds received by eligible grantees.

Second, the "Reporting Requirements" provision in subsection (g)(4) of ERA1 requires each eligible grantee that receives funding to establish both data privacy and security requirements for the personally identifiable information of participating individuals and households. There is no such similar statutory requirement under ERA2. Third, ERA1 also required in subsection (k)(3)(B) eligible grantees to ensure that any rental assistance through the program was "*not duplicative of any other Federally funded rental assistance.*" There is no such similar statutory requirement under ERA2. Lastly, under ERA2 there was a 50 percent increase in the administrative costs that eligible grantees may retain for their own expenses over the allowable costs under ERA1. Administrative costs are inherently less transparent than other expenditures and often require greater scrutiny to verify their eligibility and accuracy.

Given the documented lack of processes within the ERA programs to allow for timely identification of potential fraud and efforts to mitigate those risks, it is incumbent upon Treasury to take several steps to ensure payment integrity and increase auditing of grantee compliance. To enable the Committee to better understand how and when Treasury will address these deficiencies, please provide written responses to the following questions:

1) Will Treasury promptly design and implement processes to help ensure timely identification and recovery of overpayments made by grantees to households, landlords, or utility providers, as recommended by GAO in its Report?

2) Will Treasury commit to make available to the Inspector General all documents, data, and access to information regarding the receipt, disbursement, and use of program funds under ERA2 under the same terms as ERA1?

3) Will Treasury *require*, not merely encourage, all eligible grantees receiving ERA2 funds to establish data privacy and security requirements for information they collect under the same terms as ERA1?

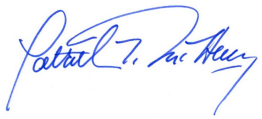
4) Will Treasury *require*, not merely encourage, all eligible grantees receiving ERA2 funds to ensure assistance does not duplicate any other assistance, including federal, state, or local assistance provided for the same costs under the same terms as ERA1?

5) Will Treasury provide enhanced scrutiny of an eligible grantee's ERA2 administrative costs exceeding 10 percent to ensure their eligibility and accuracy in providing financial assistance and housing stability services to eligible households?

Emergency Rental Assistance program funds are critical for households who are facing rental arrearage hardships as a result of the pandemic. Treasury was charged by Congress with implementing the ERA programs and has a responsibility to those families, taxpayers, and Congress to establish clear and consistent rules to ensure those programs function as intended. I look forward to your prompt answers to these important questions. Please contact Ed Skala at Edward.Skala@mail.house.gov or Jonathan Skladany Jon.Skladany@mail.house.gov with any questions about this request.

Thank you for your attention to this important matter.

Sincerely,



Patrick McHenry
Ranking Member