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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

Mr. Richard K. Delmar
Deputy Inspector General
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Dear Mr. Delmar:

Congress entrusted your office with a broad array of oversight responsibilities with respect to the administration of COVID-19 relief programs, including the first iteration of the Emergency Rental Assistance program (ERA1). Pursuant to the bipartisan Consolidated Appropriations Act of 2021, which was signed into law in December 2020, the Office of Inspector General is empowered to engage in oversight, monitoring, and recoupment activities for the $25 billion that Congress appropriated to assist vulnerable rental households unable to pay rent, utilities, and other housing-related expenses and arrears due to the COVID-19 pandemic. The second tranche of $21.55 billion of Emergency Rental Assistance (ERA2), which was included in the partisan American Rescue Plan Act enacted in March 2021, was not similarly subject to recoupment activities by your office, among other things.

In light of recent findings by the Government Accountability Office (GAO) highlighting fraud risks associated with the emergency rental assistance programs, I am writing to request that you conduct similar oversight, including the recoupment of ERA2 funds as appropriate and commensurate with ERA1. Relatedly, I have issued a request to the Secretary of the Treasury to cooperate on a voluntary basis and in a manner that will allow your office to conduct oversight of ERA2 using the same tools and data that were made available for ERA1.

Last month, GAO released its ninth 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 cited the Treasury Department's failure to remediate the risk of fraud in several relief programs, including the ERA program. Among other things, GAO found Treasury had "not yet designed processes to identify and recover overpayments made by grantees."[1]

More recently, GAO concluded that additional grantee monitoring is needed to manage risks of waste, fraud, and abuse in ERA1 and ERA2. GAO's findings indicate Treasury revised its ERA guidance to encourage grantees to adopt administrative flexibilities in the interest of speed but failed to implement or impose a corresponding framework for monitoring and

[1] Gov't Accountability Office, Report GAO-22-105291, "COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies," Jan. 27, 2022, *available at* https://www.gao.gov/products/gao-22-105291, p. 36.

oversight of those funds. Specifically, GAO stated "Treasury has yet to implement monitoring procedures needed to manage increased risks associated with these administrative flexibilities [which] potentially expose Treasury and grantees to significant risks, such as improper payments and noncompliance with laws and agency guidance."

In its report, GAO referred to various risky strategies that Treasury authorized to allow grantees to determine applicant eligibility without supporting documentation. These so-called "flexibilities" include self-attestations, categorical eligibility, and fact-specific proxies. The risks associated with widespread use of those policies seem obvious, but according to GAO, Treasury "disagreed that the administrative flexibilities it introduced increased risks."

For the ERA1 program, your office is responsible for monitoring the receipt, disbursement and use of emergency rental assistance funds.[2] If the Inspector General finds that a grantee failed to properly use funds under the requirements of the Consolidated Appropriations Act of 2021, the Inspector General is directed to make the exact amount of funds used in violation of that Section a debt on the entity.[3] In addition, the CARES Act appropriated $6.5 million to the Treasury Office of Inspector General for the purposes of operating oversight of the ERA program and recouping improperly used funds from the program.[4] Unlike the bipartisan CARES Act, the American Rescue Plan did not appropriate further funding for the Inspector General to carry out its required oversight and monitoring of ERA spending.[5]

The discrepancies between the oversight frameworks for ERA1 and ERA2 (and the fact that ERA2 funds were made available through September 30, 2025) raised concerns that Democrats in Congress intended to position the Biden Administration to bestow emergency rental assistance funds on grantees to use for purposes beyond those enumerated in the statute. Since then, Treasury has failed to implement processes for grantee monitoring. Moreover, it has taken a position that denies the correlation between administrative flexibilities and risk. The Department's posture towards oversight of emergency rental assistance grantees supports our concerns.

Please advise as to whether your office has access to the data and resources it needs to conduct oversight and recoupment activities for ERA2 funds in a manner similar to ERA1, and whether your office intends to do so. Thank you for your attention to this important matter.

Sincerely,

Patrick McHenry
Ranking Member

[2] P.L. 116-260.
[3] *Id.*
[4] *Id*.
[5] P.L. 117-2.