



OFFICE OF
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OIG-CA-25-030

December 18, 2024

Emergency Rental Assistance (ERA1) Program Notice of Recoupment – State of Alaska

Summary

The ERA1 statute (Division N, Title V, Subtitle A, § 501, of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260), Dec. 27, 2020, and codified at 15 USC § 9058a) directs the Department of the Treasury (Treasury) to make allocations and payments to eligible grantees such as States and local governments, who in-turn, make funding available in the form of rental assistance to eligible households. The statute also directs the Treasury Office of Inspector General (OIG) to conduct monitoring and oversight of the receipt, disbursement, and use of funds made available to grantees. As part of this oversight authority, if OIG determines that a grantee failed to comply with the use of funds requirements in the statute, the amount equal to the amount of funds used in violation shall be booked as a debt of such entity owed to the Federal Government.

The State of Alaska is a recipient of funds under the ERA1 statute through its component unit Alaska Housing Finance Corporation (AHFC). In September 2022, we made an inquiry to AHFC regarding an allegation of fraud reported to the OIG Hotline that two individuals acting as a landlord and a tenant enrolled and applied fraudulently to receive rental assistance funds. Based on the information obtained in response to our inquiry, we determined that AHFC paid out ERA1 funds in the amount of \$16,698.52 in violation of the ERA1 statute because the funds were disbursed to an ineligible household. On December 11, 2024, Treasury's Bureau of the Fiscal Service issued an invoice for \$16,698.52 to the State of Alaska, establishing a debt to the Federal Government.

The following document is OIG's Notice of Recoupment (Notice) that established this debt. The State of Alaska was given an opportunity to provide a written response to a draft of the Notice and its written response and our evaluation of that response is also included in the Notice.

We conducted our review of this ERA case from September 2022 to December 2024. We inquired of the grantee and other relevant parties, reviewed related documentation, and performed other appropriate procedures. We believe the evidence obtained is sufficient and appropriate to provide a reasonable basis for our determination in this Notice.

In conducting our review, we followed the OIG's system of quality management for ensuring that the information in this report is accurate. We also followed the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Federal Offices of Inspector General* which require that our work adheres to its general standards for integrity to include objectivity, independence, professional judgement, and confidentiality as well as its general standard for receiving and reviewing allegations.

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Notice of Recoupment

Emergency Rental Assistance

**Division N, Title V, Subtitle A, § 501 of the Consolidated Appropriations Act, 2021
(Pub. L. No. 116-260), Dec. 27, 2020, and codified at 15 USC § 9058a (ERA1)**

December 3, 2024

Grantee: State of Alaska

Point of Contact: Donald Gotchal, Planner I
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Federal Award Identification Number: ERA0428

Recoupment Amount: \$16,698.52

Background/Legal Authority

Under the ERA1 statute at 15 U.S.C. § 9058a(c), Use of Funds, an eligible grantee shall only use ERA1 award funds to provide financial assistance and housing stability services to eligible households. The financial assistance includes: the payment of rent; rent arrears; utilities and home energy costs; utilities and home energy costs arrears; and other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak, as defined by the Secretary of the Department of the Treasury (Treasury). Such assistance shall be provided for a period not to exceed 12 months except that grantees may provide assistance for an additional 3 months to ensure housing stability (subject to availability of funds). The ERA1 statute at 15 U.S.C. § 9058a(c)(2)(B)(i) allows for up to 3 months (with exceptions) for prospective rent payments within the 12 or 15 months total assistance limitation.

The ERA1 statute at 15 U.S.C. § 9058a(k)(3) defines eligible household as a household of 1 or more individuals who are obligated to pay rent on a residential

dwelling and that (1) 1 or more individuals within the household has qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the COVID-19 outbreak, which the applicant shall attest in writing; (2) 1 or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability, which may include a past due utility or rent notice or eviction notice; unsafe or unhealthy living conditions; or any other evidence of such risk, as determined by the eligible grantee involved; and (3) the household has a household income that is not more than 80 percent of the area median income for the household. The grantee must also ensure that, to the extent feasible, any rental assistance provided to an eligible household is not duplicative of any other federally funded rental assistance provided to such household.

Pursuant to the ERA1 statute at 15 U.S.C. § 9058a(e)(2), the last day of the period of performance for grantees that received ERA1 reallocated funds is December 29, 2022.

The ERA1 statute at 15 U.S.C. § 9058a(i), Inspector General Oversight; Recoupment, directs that the Treasury Office of Inspector General (OIG) conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under the ERA1 program. As part of this authority, if OIG determines that a grantee failed to comply with the use of funds requirements in the ERA1 statute (15 U.S.C. § 9058a(c)), the amount equal to the amount of funds used in violation of 15 U.S.C. § 9058a(c) shall be booked as a debt of such entity owed to the Federal Government.

Facts and Analysis

On September 13, 2022, we made an inquiry to the Alaska Housing Finance Corporation (AHFC), a component unit of the State of Alaska (Grantee) that administers the ERA1 program, about a complaint (allegation of fraud) reported to the OIG Hotline. The complaint alleged two individuals acting as a landlord and a tenant enrolled and applied fraudulently to receive rental assistance funds. In its September 22, 2022, response to our inquiry, AHFC reported a violation of its policy that the person posing as the landlord in the complaint was not the owner of record for the rental property. Further, AHFC paid \$16,698.52 in ERA1 assistance to the person posing as the landlord for the period August 2020 through August 2021. On January 10, 2023, AHFC further confirmed the person posing as the landlord was unable to produce sufficient documentation to establish ownership of the rental property at the time for which rental assistance was provided.

Based on the evidence obtained in response to our inquiry, we determined that the State of Alaska, through AHFC, paid a total of \$16,698.52 in ERA1 funds in violation of the ERA1 statute at 15 U.S.C. § 9058a(c), Use of Funds, because the

funds were disbursed to an ineligible household. Accordingly, these funds are required to be returned to the Federal Government.

Grantee Response

We provided the State of Alaska an opportunity to respond to our Proposed Notice of Recoupment. On July 10, 2024, AHFC provided its written response which is included as Appendix 1 to this Notice.¹

AHFC does not concur that the facts underlying this record support the proposed recoupment. According to AHFC, its administration of the ERA1 program required tenants to submit applications for relief. These applications were required to include income documentation, photo identification, and copies of the lease/utility bills. All materials were reviewed by processing teams for completeness prior to the application advancing for payment; payments were made directly to utility providers or landlords; landlords and utility providers were required to register separately from the underlying applicants and to provide payment and taxpayer identification information for reporting.

Additionally, AHFC explained the proposed recoupment involves a case where: The individual applied for rent relief funding, the individual provided photo identification that was reviewed and approved, the individual provided income information that was reviewed and approved, the individual provided a lease that was reviewed and approved, the individual identified a landlord, the landlord registered separately and provided their taxpayer identification number. All the key controls that AHFC set in place, many of which exceeded the allowable review requirements promulgated and encouraged by Treasury, were followed, i.e., no step was skipped or overlooked by AHFC staff or processing teams.

Per AHFC, the proposed recoupment does not appear to be supported for three reasons.

- The Standard of Review and Grantee Liability

A key distinction is needed for policy violations and fraud. Treasury OIG indicates that AHFC reported a violation of its policy. The allegation in this case is that a landlord fraudulently misrepresented themselves as the owner. This is distinct from a violation of policies and procedures. In this case,

¹ AHFC in its response referenced several ERA Frequently Asked Questions (FAQs) published by Treasury. These FAQs provide guidance for ERA1 and ERA2 requirements. The FAQs are available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/faqs>.

AHFC procedures and policies were followed in the processing of this application. Violations of policy examples would include staff not reviewing income documents, not reviewing the file to ensure there was a valid lease, etc. In those hypotheticals, there would be a material violation of AHFC policy from within the AHFC team. If the team had approved an application for a household whose documented income exceeded the allowable limits, there also would have been a material violation of AHFC's policy. There is no such instance of AHFC's controls, policies or procedures not being followed in the facts. The guidance from Treasury establishes a standard of review that is inconsistent with the triggering event for the proposed recoupment.

With respect to fraud and abuse, Treasury's Frequently Asked Questions (FAQs) in FAQ1 requires that grantees establish controls to prevent fraud. However, Treasury explicitly qualifies at the close of FAQ1 that "Grantees must have in place reasonable validation or fraud prevention procedures to prevent abuse." The first five topics addressed in the FAQs explicitly allow for, and in several cases encourage, reliance on self-attestations to document program eligibility.

The FAQs encourage to Grantees to "avoid establishing documentation requirements that are likely to be barriers to participation" (see FAQ1). With respect to landlords, Treasury's FAQs in 1, 12, and 31 allow for attestations and payments to tenants in the absence of landlord participation. The guidance explicitly states that Grantees may use unvalidated and fallible self-attestations and fact-based proxies in the same space that it outlines a requirement for reasonable abuse and fraud prevention measures.

Grantees are neither implicitly nor explicitly tasked with indemnifying Treasury and the Program against all instances of waste, fraud or abuse. Holding Grantees to a 100% indemnity standard in all cases of fraud is inconsistent with Treasury's published guidance. The provision for Treasury's Recoupment of ERA funds from the Grantee is addressed in FAQ35 for instances where " ... the grantee does not comply with the applicable limitations on the use of those funds." In this case, the policies and procedures in place for the ERA program administration were followed, and all policies and procedures were consistent with the Treasury guidance for program administration. AHFC had robust provisions to prevent waste, fraud and abuse that exceeded many of the minimum requirements that were being encouraged by Treasury. Consequently, AHFC complied with the applicable limitations for processing the application that were provided by

Treasury in the written guidance. [OIG Note: The FAQ quoted by AHFC is in FAQ25, not FAQ35.]

- The Underlying Facts

Although coordinated fraud between the applicant and landlord was alleged, the only definitive conclusion of the investigation was that ownership of the unit by the person represented to be the landlord could not be completely verified. The attestations and documentation provided by the tenant, while called into question, were not definitively disproven. The focus in Treasury's guidance on delivering relief to the underlying household resulted in 100% proof of ownership not being a requirement for processing rental assistance. Allowances for written attestations and provisions for unresponsive landlords appear in FAQ12 and FAQ31. The status of tenant rights and obligations to continue occupancy of the unit, even if the person identified as the landlord was not the owner, was never disproven.

- The Alternative Recourse Available to Treasury

We are unaware of any limitation placed on Treasury that would prevent an attempted recoupment of funds from the underlying person that received funding on the applicant's behalf if fraud is established.

OIG Evaluation

We considered AHFC's response in finalizing this notice. Overall, we find that AHFC's response did not provide support that the assistance in question was eligible. It should be noted that, it was AFHC, in its written response to our request for a review of the allegation at hand, that informed OIG the landlord was not the owner of record for the property in question and characterized that lapse as an "AFHC policy violation." It now asserts, in its written response to a draft of this Notice, that a definitive conclusion of its investigation was that ownership of the unit by the person represented to be the landlord could not be "completely verified." It must be remembered that the grantee has the duty to demonstrate the eligible use of funds. Although the tenant's attestations and supporting documentation may not have raised any questions during the review process, upon learning there was significant doubt of ownership, AHFC should have taken steps

to verify ownership.² Its response did not state whether it attempted to further verify the landlord's interest in the property, and no documentation of property ownership was provided by AHFC with its response.

In its written response, the AHFC makes reference to several of Treasury's ERA FAQs that are not contextually accurate or applicable. Specifically:

- AHFC asserts, with respect to landlords, Treasury's FAQs in 1, 12, and 31 allow for attestations and payments to tenants in the absence of landlord participation. According to AHFC, this guidance explicitly states that Grantees may use unvalidated and fallible self-attestations and fact-based proxies in the same space that it outlines a requirement for reasonable abuse and fraud prevention measures. The implication here is that either (1) Treasury guidance is inconsistent – allowing unvalidated self-attestations but requiring reasonable abuse and fraud prevention measures – or (2) Treasury guidance negates any expectation that self-attestations be validated. We reject either implication.

In FAQ1, Treasury states that grantees may be flexible as to the particular form of documentation they require to determine eligibility, including by permitting photocopies or digital photographs of documents, e-mails, or attestations from employers, landlords, caseworkers, or others with knowledge of the household's circumstances. Treasury also directs that all applications for assistance include an attestation from the applicant that the information included is correct and complete. In short, this FAQ requires the eligibility to be documented, with attestations as to the veracity of the information provided. We do note that FAQ1 permits grantees to rely on self-attestations alone for the provision of housing stability services.³ Also, Treasury's FAQ4 does provide for grantees to rely on self-attestations of a household's income if the household is unable to provide income documentation; however, Treasury directs in this situation that the grantee must reassess the household's income every 3 months, by obtaining appropriate documentation or a new self-attestation.

² While not directly related to this case, Treasury's ERA guidance does reference circumstances where a landlord's interest in a property should be verified. Specifically, FAQ5 addresses instances where applicants are unable to provide a lease or other typical evidence of residence. Among suggested alternative documentation is a written attestation by a landlord who can be verified as the legitimate owner or management agent of the unit. (Emphasis added.)

³ According to Treasury's FAQ1: "When housing stability services represent the only ERA1 assistance a household will receive (i.e., no payments using ERA1 funds will be made either to the household, to the landlord, or to a utility provider), grantees are encouraged to rely on a household's self-attestations for purposes of confirming eligibility."

- FAQ12 is not applicable to this case as the FAQ provides guidance for situations where a landlord does not participate in the program and the outreach efforts expected of the grantee to attempt to secure participation by the landlord. AFHC reported to Treasury that the ineligible assistance payment was made to the landlord; therefore, the landlord was a program participant.
- FAQ31 is applicable to this case but not in the manner presented by AHFC. The FAQ provides guidance to grantees as to their responsibility to ensure recipients of funds under ERA programs, including tenants and landlords, use the funds for their intended purpose. Specifically, grantees should require recipients of funds under ERA programs, including tenants and landlords, to commit in writing to use ERA assistance only for the intended purpose. However, grantees are not required to obtain documentation evidencing the use of ERA program funds by tenants and landlords. That said, the FAQ states: “Grantees are expected to apply reasonable fraud prevention procedures and to investigate and address potential instances of fraud or the misuse of funds that they become aware of.” (Emphasis added.) Clearly, this guidance puts the onus on AHFC to reach a definitive determination of the property ownership in this case.

AHFC is also incorrect that (1) grantees are neither implicitly nor explicitly tasked with indemnifying Treasury and the ERA program against all instances of waste, fraud or abuse; and (2) holding grantees to a 100% indemnity standard in all cases of fraud is inconsistent with Treasury's published guidance. The ERA statutes require that funds only be used for eligible purposes and eligible households; there are no exceptions for waste, fraud, or abuse.⁴

Finally, AHFC's response suggests that Treasury could go after the landlord in this case “if fraud is established.” Treasury did not approve or make the ineligible payment; this was done by AFHC, who was solely responsible to ensure the eligibility of payment.

⁴ Of note, an October 2024 Treasury and Treasury OIG Joint Notice states that “Grantees are expected to reimburse Treasury [for ERA1] or their own ERA programs [for ERA2] with their jurisdiction's own non-ERA funds for ERA award funds that were disbursed due to fraud.” See “Joint Notice, U.S. Department of the Treasury and the Treasury Office of Inspector General Reminding All Emergency Rental Assistance Financial Assistance Award Recipients of Responsibilities and Requirements for Reporting Fraud and Reimbursing Fraud Losses and Unallowable Costs,” Oct. 4, 2024, available at <https://home.treasury.gov/system/files/136/ERA-Joint-Treasury-OIG-Notice.docx> or <https://oig.treasury.gov/sites/oig/files/2024-10/ERA-Joint-Treasury-OIG-Notice.pdf>.

Grantee Response



SENT VIA EMAIL

July 10, 2024

Bob Taylor, Executive Advisor
Department of the Treasury, Office of Inspector General
Address
Address

Dear Mr. Taylor:

Thank you for the letter dated June 12, 2024 and the teleconference on June 25, 2024 to review the proposed recoupment of \$16,698.52 of Emergency Rental Assistance 1 Program funds (ERA-1).

Our collective understanding from the correspondence and teleconference is that the proposed recoupment is based on the following:

- 1) A complaint was received alleging that two individuals acting as a landlord and tenant fraudulently applied to receive ERA-1 funding;
- 2) The person representing themselves to be the tenant’s landlord received ERA-1 funding;
- 3) During Alaska Housing Finance Corporation’s (AHFC’s) investigation, conclusive evidence demonstrating ownership of the rental unit was requested but not ultimately provided.

AHFC acknowledges the facts above and the referenced recoupment provisions in ERA-1, Section 501(i) stating if “...a grantee failed to comply with the use of funds requirements in the Act (Section 501(c)), the amount equal to the amount of funds used in violation shall be booked as a debt of such entity owed to the Federal Government.”

AHFC staff have reviewed the applicant record, the AHFC ERA-1 program policies and procedures and the Treasury Guidance available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/faqs> .

Based on our review of the applicant record and program materials (AHFC and Treasury), we do not concur that the facts underlying this record support the proposed recoupment from AHFC to Treasury.



Grantee Response

I. Summary of Key Facts

- a) AHFC's administration of the ERA-1 program required tenants to submit applications for relief. These applications were required to include income documentation, photo identification and copies of the lease / utility bills. All materials were reviewed by processing teams for completeness prior to the application advancing for payment;
- b) Payments were made directly to utility providers or landlords;
- c) Landlords and utility providers were required to register separately from the underlying applicants and to provide payment and taxpayer identification information for reporting.
- d) The proposed recoupment involves a case where:
 - i. The individual applied for rent relief funding,
 - ii. The individual provided photo identification that was reviewed and approved,
 - iii. The individual provided income information that was reviewed and approved,
 - iv. The individual provided a lease that was reviewed and approved,
 - v. The individual identified a landlord,
 - vi. The landlord registered separately and provided their taxpayer identification number.
 - vii. All the key controls that AHFC set in place, many of which exceeded the allowable review requirements promulgated and encouraged by Treasury, were followed i.e. no step was skipped or overlooked by our staff or processing teams.

II. The Proposed Recoupment does not Appear to be Supported for Three (3) Reasons

- 1) The Standard of Review and Grantee Liability
 - a. A key distinction is needed for policy violations and fraud. The June 12 letter from Treasury indicates on page two (2) that AHFC reported a violation of its policy.
 - b. The allegation in this case is that a landlord fraudulently misrepresented themselves as the owner. This is distinct from a violation of policies and procedures.
 - c. In this case, all of the AHFC procedures and policies were followed in the processing of this application.
 - d. Violations of policy examples would include staff not reviewing income documents, not reviewing the file to ensure there was a valid lease, etc.. In those hypotheticals, there would be a material violation of AHFC policy from within the AHFC team. If the team had approved an application for a household whose documented income exceeded the allowable limits, there also would have been a material violation of AHFC's policy. There is no such instance of AHFC's controls, policies or procedures not being followed in the facts.
 - e. The guidance from Treasury establishes a standard of review that is inconsistent with the triggering event for the proposed recoupment noted in the June 12 letter.
 - i. With respect to fraud and abuse, Treasury's Frequently Asked Questions (FAQs) in #1 requires that Grantees establish controls to prevent fraud. However, Treasury explicitly qualifies at the close of FAQ #1 that "Grantees must have in place reasonable validation or fraud prevention procedures to prevent abuse."

Grantee Response

- ii. The first five (5) topics addressed in the FAQs guidance for the ERA program explicitly allow for, and in several cases encourage, reliance on self-attestations to document program eligibility. These points were emphasized repeatedly during the first half of 2021 by Treasury officials to encourage timely pandemic relief.
- iii. The FAQs encourage to Grantees to “avoid establishing documentation requirements that are likely to be barriers to participation” (see FAQ #1).
- iv. With respect to landlords, Treasury’s FAQs in #1, #12 and #31 allow for attestations and payments to tenants in the absence of landlord participation.

The guidance explicitly states that Grantees may use unvalidated and fallible self-attestations and fact-based proxies in the same space that it outlines a requirement for **reasonable** abuse and fraud prevention measures.

Grantees are neither implicitly nor explicitly tasked with indemnifying Treasury and the Program against all instances of waste, fraud or abuse. Holding Grantees to a 100% indemnity standard in all cases of fraud is inconsistent with Treasury’s published guidance.

The provision for Treasury’s Recoupment of ERA funds from the Grantee is addressed in FAQ #35 for instances where “...the grantee does not comply with the applicable limitations on the use of those funds.”

In this case, the policies and procedures in place for the ERA program administration were followed, and all policies and procedures were consistent with the Treasury guidance for program administration. AHFC had robust provisions to prevent waste, fraud and abuse that exceeded many of the minimum requirements that were being encouraged by Treasury. Consequently, AHFC complied with the applicable limitations for processing the application that were provided by Treasury in the written guidance.

2) The Underlying Facts


- a. Although coordinated fraud between the applicant and landlord was alleged, the only definitive conclusion of the investigation was that ownership of the unit by the person represented to be the landlord could not be completely verified.
- b. The attestations and documentation provided by the tenant, while called into question, were not definitively disproven.
- c. The focus in Treasury’s guidance on delivering relief to the underlying household resulted in 100% proof of ownership not being a requirement for processing rental assistance. Allowances for written attestations and provisions for unresponsive landlords appear in FAQ #12 and #31.
- d. The status of tenant rights and obligations to continue occupancy of the unit, even in the event that the person identified as the landlord was not the owner, was never disproven.

Grantee Response

- 3) The Alternative Recourse Available to Treasury
 - a. We are unaware of any limitation placed on Treasury that would prevent an attempted recoupment of funds from the underlying person that received funding on the applicant's behalf if fraud is established.

If there are any questions, concerns or points of clarification that I can address regarding this letter, please let me know and I will follow up in greater detail.

Sincerely,


Daniel Denno, Director
Planning and Program Development
Alaska Housing Finance Corporation

Cc: R. Kevin Tune, AHFC, Internal Audit Director
Eugene Hickey, Esq, State of Alaska, Senior Assistant Attorney General