

The background of the entire page is a light blue color with a faint, repeating pattern of microscopic virus particles. The most prominent feature is a large, detailed virus particle in the center-left, showing its spherical structure and numerous protruding spikes. Other smaller, less detailed virus particles are scattered throughout the background.

DIRECT-TO-TENANT PAYMENT IMPLEMENTATION:

*INCREASING FLEXIBILITY AND EQUITY IN
EMERGENCY RENTAL ASSISTANCE PROGRAMS*

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INTRODUCTION

The COVID-19 crisis and the accompanying economic fallout has left millions of low-income renters unable to pay their rent, putting them at risk of eviction and homelessness. As of mid-June, nearly six million renter households were behind on rent, accounting for more than 14% of all renter households.¹ Of households behind on rent, approximately 43.4% reported it was very likely or somewhat likely that they would move in the next month due to eviction.

To respond to this urgent crisis, Congress passed two pieces of legislation to fund emergency rental assistance programs, totaling \$46.55 billion. The 2021 Consolidated Appropriations Act, passed in December 2020, included \$25 billion in urgently needed emergency rental assistance (ERA1) for tenants with low incomes and established the Emergency Rental Assistance program (ERA) administered by the U.S. Department of the Treasury (Treasury). The American Rescue Plan Act, enacted in March 2021, provided an additional \$21.55 billion for emergency rental assistance (ERA2).

Despite this unprecedented amount of funding, renters in need may still have trouble accessing emergency rental assistance due to a variety of factors. This brief focuses on how programs can provide payments directly to tenants whose landlords refuse to participate in ERA programs. Using NLIHC [data from detailed program tracking](#) and from interviews with program administrators, this brief will outline: 1) ERA policy directives regarding direct-to-tenant assistance; 2) an overview of the need for direct-to-tenant payments; and 3) key design features of direct-to-tenant payments. This brief features findings from interviews with four programs implementing direct-to-tenant payments. These programs represent differing program types and sizes, including a highly centralized state program (Texas Rent Relief), a decentralized state program (Maine Emergency Rental Assistance), a large local program (Allegheny County Emergency Rental Assistance), and a mid-sized local program (Cameron County Emergency Rental Assistance). The two state programs are administered by state agencies, Maine State Housing Authority and the Texas Department of Housing and Community Affairs, while the local programs are being administered by community-based organizations, ACTION-Housing in Allegheny County and cdc b | come dream. come build. in Cameron County.

KEY TAKEAWAYS

- 1 Programs should eliminate added burdensome documentation requirements for tenants who receive funding directly. After meeting the eligibility requirements, tenants should not have to provide onerous documentation about proof of rental payments.**
- 2 Programs should make clear on their public documents that direct-to-tenant assistance is available for tenants with landlords who are unwilling to participate. This will prevent tenants with uncooperative landlords from assuming they are ineligible and, therefore, not applying.**
- 3 In addition to direct-to-tenant payments, programs should provide housing stability services to ensure tenants are stably housed after their arrears are paid.**

¹ U.S. Census Bureau. [Household Pulse Survey Week 30 \(May 12-24\) Data Tables](#).

POLICY OVERVIEW

Direct-to-Tenant Guidance in ERA1 and ERA2

Though some program administrators have expressed apprehension about direct-to-tenant payments, [recent guidance](#) from the U.S. Department of Treasury explicitly allows and encourages them. According to federal guidance, ERA1 programs are explicitly permitted to provide direct-to-tenant payments when landlords or utility companies refuse to participate or do not respond to program requests. ERA1 programs must conduct reasonable outreach efforts to obtain landlord and utility company cooperation before providing assistance directly to tenants. These outreach efforts can consist of either a single request for participation by mail or three request attempts by phone, text, or e-mail. Treasury's revised guidance cuts in half the time to determine whether a landlord elects to participate to 7 days when reaching out by mail and 5 days when reaching out by phone, text, or email before providing direct-to-tenant assistance. Payments can be paid immediately if the landlord or utility company confirms their non-participation in writing.

ERA2 programs must provide direct-to-tenant assistance when a landlord refuses to participate. While ERA1 funds are not bound to these same rules, the White House and Treasury have made clear that providing direct-to-tenant assistance when landlords refuse to participate is the preferred policy for ERA1 programs. According to Treasury: "It is unacceptable to allow Americans to suffer eviction or homelessness simply because some landlords are turning down Federal aid on their behalf." In addition, Treasury's guidance allows ERA2 grantees to provide assistance directly to tenants without seeking participation of the landlord. An offer of assistance to tenants "first and immediately" could further speed up the rate at which assistance reaches those most in need. Because grantees are currently focused on spending down ERA1 allocations, this report mostly concerns how programs are approaching direct-to-tenant payments under the ERA1 guidance.

Allowable Housing Stability Services and Other Expenses

While direct-to-tenant assistance is critical to ensure renters' housing stability when their landlords refuse to participate, it can present challenges. Direct-to-tenant assistance makes it unfeasible, for example, for programs to require that landlords not evict tenants for a prescribed number of days or not increase the rent. Recent Treasury guidance prohibits landlords from evicting tenants for nonpayment of rent while ERA payments are being made on their behalf and strongly encourages that grantees set additional restrictions so landlords cannot evict tenants for 30 to 90 days after the period covered by assistance. Most programs require participating landlords to sign a certification that they will abide by the program's terms, but when assistance is provided directly to tenants, there is no possible recourse if landlords do not follow these terms.

To ensure renters are protected when they receive assistance directly, programs should consider offering additional flexibilities and stability services to ensure tenants can remain stably housed. Programs are permitted to use 10% of their funds on housing stability services, which may include eviction prevention and eviction diversion programs, mediation between landlords and tenants, housing navigators, and other services to help households maintain or obtain housing. Programs can use the other 90% of their funds for direct financial assistance, which includes back and forward rent, utility payments, and other housing expenses. Expenses that fall into the "other" category include relocation assistance, prospective rent, security deposits, and temporary hotel accommodations. Treasury's guidance reinforces that providing assistance within these categories can help families who have lost, or are at imminent risk of losing, their housing. Programs offering robust housing services could increase housing stability for tenants, particularly those who are in precarious housing situations. For example, providing relocation assistance could help households who are experiencing landlord retaliation or hostility. Providing mediation between landlords and tenants could resolve minor disputes before a landlord files for eviction. Programs should consider integrating supports and stability services in addition to rental payments to ensure tenants can remain stably housed, even if a landlord acts in bad faith.

DIRECT-TO-TENANT NEED

NLIHC is closely [tracking](#) ERA program implementation, including how many programs offer direct-to-tenant payments. While this tracking captures the number of programs that acknowledge the availability of direct-to-tenant payments in their public facing documents, additional programs may allow direct payments but fail to make this readily known to potential applicants.² As of June 16th, more than one hundred ERA programs (26% of all programs) explicitly allowed for direct-to-tenant assistance, including 24 state programs, 60 local programs, 22 tribal

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Programs utilizing direct-to-tenant payments illustrate how critical this flexibility is. Two programs said their direct-to-tenants payments accounted for approximately 10% to 12% of their payments made, and one program said direct-to-tenant payments made up 32% of all payments made. In Allegheny County, direct-to-tenant payments made up only 1% of payments, though a program administrator noted that landlord participation has increased with the addition of the direct-to-tenant payments because landlords would rather participate than have the payment go directly to tenants. Though these direct-to-tenant payments make up a minority of payments made by the programs, they still make up a significant portion of the number of households served. Without this critical feature, these tenants would be unable to receive assistance.

The need for direct-to-tenant payments has also been observed by program administrators in previous iterations of the program when this flexibility was not offered. Allegheny County noted that during their implementation of a 2020 CARES Rent Relief Program, they had to turn away an estimated 10% of tenant applications because landlords refused to participate. Several large-scale landlords refused to participate outright, so their tenants did not even try to apply. Each of the four programs interviewed noted that providing assistance directly to tenants ultimately helps them better meet the ERA program goals of preventing evictions, keeping renters stably housed, and providing much-needed relief during an unprecedented economic crisis.

Landlord Participation

Research indicates that landlord participation is a prevalent challenge among emergency rental assistance programs. A survey conducted by NLIHC, the Housing Initiative at Penn, and the NYU Furman Center found that of 220 emergency rental assistance programs operating in 2020, nearly 50% identified landlord participation as a barrier.³ In a more recent survey of 64 early implementers of Treasury ERA1 funds, 44% of program administrators continued to identify

² Reina, V. et al. (2021, June). [Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey](#). The Housing Initiative at Penn, NYU Furman Center, and the National Low Income Housing Coalition.

³ Reina, V. et al. (2021, January). [COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs](#). The Housing Initiative at Penn, NYU Furman Center, and the National Low Income Housing Coalition.

landlord responsiveness as a challenge.⁴ Landlords may decline to participate in emergency rental assistance programs for a number of reasons, and landlord participation may be highly variable depending on the location and program. Program administrators in Maine, Cameron County, and Allegheny County noted that landlords who own only a few properties were less likely to participate in their emergency rental assistance programs compared to large, multi-family landlords. Administrators attributed this apprehension to several reasons, including not understanding the tax implications of the program, not wanting to provide a W-9, or not wanting to participate in a government program at all. Small-scale landlords who do not report rental income on their taxes may be particularly wary about providing a W-9 to the program.

Other research suggests that landlords – both large- and small-scale – may decline to participate for other reasons. Research conducted by the Housing Initiative at Penn found that in Philadelphia, landlords with more than 30 units were less likely to participate than those with 1-5 units.⁵ In the city of Los Angeles, both large- and small-scale landlords participated at relatively low rates. Of landlords whose tenants applied to the program, only 63.3% and 41.7% of large- and small-scale landlords participated, respectively.⁶ Reasons for not participating included many landlords had not engaged with government programs before and landlords felt restrictions tied to the program were too strict or unreasonable.

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Renter Need

Providing direct-to-tenant assistance ensures that those disproportionately affected by the COVID-19 pandemic and its economic effects, namely low-income renters and renters of color, are not left out of opportunities for assistance. Though unemployment trends are slowly improving, people of color experienced job losses due to COVID-19 at a higher rate than white households.⁷ As of May 2021, 9.1% of Black and 7.3% of Latino individuals were unemployed compared to 5.8% of the general population.⁸ As of June 2021, renters of color were also more likely to be behind on their rent: 24% of Black renters, 16% of Latino renters, and 16% of Asian renters were behind on their rent compared to 10% of white renters.⁹

4 Reina, V. et al. (2021, June). [Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey](#). The Housing Initiative at Penn, NYU Furman Center, and the National Low Income Housing Coalition.

5 Reina, V. et al. (2020, December). [Residential Rental Property Owner Perspectives and Practices in Philadelphia: Evaluating Challenges during the COVID-19 Pandemic](#). The Housing Initiative at Penn.

6 Reina, V. and Goldstein, S. (2021, March). [Ongoing Challenges for Rental Business Owners in the City of Los Angeles during the COVID-19 Pandemic](#). The Housing Initiative at Penn.

7 Mazzara, A. (2021, June). [Extending Eviction Moratorium Helpful Now, But Long-Term Housing Crisis Requires Voucher Expansion](#). Center on Budget and Policy Priorities.

8 U.S. Bureau of Labor Statistics. (2021). [Employment Situation - June 2021](#). Washington, DC: U.S. Bureau of Labor Statistics.

9 U.S. Census Bureau. [Household Pulse Survey Week 31 \(May 26 - June 7\) Data Tables](#).

Families with children and individuals with disabilities have also been disproportionately impacted.¹⁰ Approximately 21% of households with children report being behind on rent, over double the rate of families without children.¹¹ Additionally, nearly a quarter of renters who report a physical disability are behind on rent.¹²

Providing direct-to-tenant assistance can serve as a bridge to assist tenants whose landlords are apprehensive or wary about participating in the program. Direct-to-tenant assistance may also help households with non-traditional rental arrangements who lack a formal lease, as well as households whose landlords face technological barriers in applying. In doing so, programs can promote equity by ensuring they are serving those most in need, including those with lower incomes, households of color, households with someone experiencing a disability, households with children, and households who are more likely to have been economically impacted by COVID-19.

DIRECT-TO-TENANT PAYMENT DESIGN FEATURES

Providing assistance directly to tenants is a relatively straightforward process, but programs will have to determine several key design features, such as how staff will conduct and track landlord outreach and whether tenants will be required to provide additional documentation to receive funding directly. The following sections detail six steps in the direct-to-tenant payment process: landlord outreach, outreach tracking, program accountability, tenant requirements, tenant payments, and direct-to-tenant transparency.

1. LANDLORD OUTREACH

Once a tenant submits a rental assistance application, administrators begin the process of reaching out to the tenant's landlord to gather necessary documentation. Per Treasury guidelines for ERA1 funds, programs must conduct at least three outreach attempts over phone, email, or text or one outreach attempt by mail before making the payment directly to tenants. At the time of the interviews, Treasury had recently released guidance that cut the amount of time programs had to wait for a landlord response in half. All programs interviewed were waiting at least 10 days before paying the tenant directly if contacting the landlord by phone, email, or text and 14 days if contacting the landlord by email. The state of Texas and Cameron County, however, suggested they would decrease this time to 5 and 7 days based on the most recent Treasury guidance.

Programs did not have strong preferences in the types of outreach methods used to reach landlords. Allegheny County noted that often, only a single piece of contact information for the landlord is provided on the application, so the outreach method is decided for them. Texas requires that program staff make at least one phone call to the landlord, and the rest of the contacts can be made using any of the four methods. Texas also maintains an email template to reach out to landlords to request their participation. Cameron County makes at least one phone call and sends at least one email to ensure they have a documented paper trail. The program in Maine is largely being run by community action agencies across the state, which conduct the outreach and determine the best form of contact within their individual organizations. Though none of the programs mentioned barriers to conducting outreach by mail, the cost of materials, the time required to prepare mailings, and the extended landlord response timeline makes contact-by-mail a less effective option for using resources efficiently and getting payments to tenants quickly.

10 Mazzara, A. (2021, June). [Extending Eviction Moratorium Helpful Now, But Long-Term Housing Crisis Requires Voucher Expansion](#). Center on Budget and Policy Priorities.

11 U.S. Census Bureau. [Household Pulse Survey Week 31 \(May 26 - June 7\) Data Tables](#).

12 Mazzara, A. (2021, June). [Extending Eviction Moratorium Helpful Now, But Long-Term Housing Crisis Requires Voucher Expansion](#). Center on Budget and Policy Priorities.

2. OUTREACH TRACKING

Though the Treasury guidance only requires the final attempted contact to landlords be documented, programs should consider tracking each outreach attempt to ensure they can demonstrate their “reasonable efforts to obtain the cooperation of landlords,” per Treasury guidelines. Each of the four programs interviewed documented each landlord contact, though the technology systems and staffing structure used to record and conduct outreach varied across programs.

The type of technology used to track landlord outreach varied based on the size of the program and their technological capabilities. Allegheny County developed a custom database to track where an application is in the process, and the database is accessible to subgrantees and other government departments. Staff includes notes on each outreach attempt and records payment information in this database. Community action agencies in Maine use EmpowOR software to track the application, make notes on outreach, and record when a payment is made. Texas uses a variety of IT solutions across their program but uses Neighborly as the primary system of record to track outreach attempts and when a payment is made. And Cameron County – the smallest of the four programs – uses JotForm to receive applications and documentation, to document outreach attempts, and to record information on the payment amounts and designated payee.

The programs differ in how staff conducts outreach prior to paying tenants directly. The state of Maine and Cameron County operate under a case management model, where a single staff member sees an application all the way through the process from submission to payment. In Maine, ten community action agencies cover specific areas of the state, each with staff handling cases relevant to their jurisdiction. An administrator for the program noted that it has proven helpful to have all application processors trained in each area of the application, and staff are reallocated to specific tasks depending on where bottlenecks occur. The Cameron County program employs six application processors who see each of their assigned applications through from start to finish.

The state of Texas and Allegheny County, on the other hand, operate on more of an assembly line model, where the application is handed off between staff at specific points in the application process. Texas uses multiple contractors to meet their staffing needs, which have risen to nearly 2,000 individuals at times. Each Texas Rent Relief application undergoes an initial eligibility determination, landlord outreach, a quality control review, and an application payment process. A [flowchart](#) of specific steps in the application process delineates some of these key points. In Allegheny County, ACTION-Housing serves as a lead contractor overseeing the program, but different subcontractors conduct specific program activities. ACTION-Housing conducts the eligibility determination and payment, but Urban League conducts landlord outreach once an applicant is deemed eligible.

Both models have distinct strengths, and programs may choose a model that works best depending on their size and capacity. An assembly line model may work best for programs with a large staff or programs subcontracting out specific activities. This model can be particularly effective because individuals become specialized in their specific roles. Vendors focused on landlord outreach may be able to streamline the outreach process and become skilled landlord negotiators. This model may also be particularly effective if a vendor conducting landlord outreach already has existing relationships with landlords and property management companies in the area. A case management model may be more feasible for smaller programs where it is cost-prohibitive to subcontract out specific tasks. This model also allows case workers to become familiar with the specifics of applications, which could help the program provide more personalized and responsive services.

3. PROGRAM ACCOUNTABILITY

One of the biggest concerns about providing direct-to-tenant payments is ensuring that the assistance goes toward rent payments. While instances of funding misuse thus far have been rare, programs are taking steps to ensure quality assurance measures are in place. Different program stakeholders may have different perceptions of how great of a threat potential fraud poses, and these perceptions can inform program design and implementation. Additionally, the size and capacity of the program might inform how widely program accountability measures are implemented.

In the state of Texas and Maine, programs have hired an individual whose sole role is to oversee fraud prevention efforts and review suspicious cases. The state of Texas has also hired a quality assurance and quality control vendor who will likely interact with the person whose role it is to oversee fraud prevention. Both states also have dedicated hotlines listed on their program websites, which staff and the public can call to report suspected instances of fraud, waste, or abuse.

The two local programs in Cameron and Allegheny Counties rely largely on internal processes to review and audit applications. An administrator in Allegheny County noted that while the program has followed up on several questionable applications – such as mismatched names or addresses – these instances have been few. Cameron County ensures oversight by having the county auditor conduct a second review to ensure applicant names and addresses match before payments go out. This second set of eyes may help prevent oversights or inconsistencies, but the Cameron County program has also experienced very few instances of expected fraud since the program launch.

Programs may vary their approach to providing direct-to-tenant services depending on the level of support or concern regarding direct-to-tenant payments by program stakeholders. Allegheny County, for example, maintains that their role as a program is to provide assistance to those in need and remain diligent about the potential for fraud, but not to serve as fraud investigators. Alternatively, Maine's approach to making direct-to-tenant payments was partially shaped by the administering community action agencies' concerns that paying tenants directly could lead to fraud. The state administrator implemented additional measures, such as proof of payment, to quell potential fears about tenants misusing the funds.

While stakeholder support or opposition may inform the design of direct-to-tenant payments, programs should attempt to limit additional documentation requirements tied to direct-to-tenant payments as much as possible.

4. TENANT REQUIREMENTS

Each of the four programs has different requirements for what tenants must provide outside of the tenant application to receive assistance directly. While stakeholder support or opposition may inform the design of direct-to-tenant payments, programs should attempt to limit additional documentation requirements tied to direct-to-tenant

payments as much as possible. Once tenants are deemed eligible to receive assistance, a signed form certifying that tenant will use the funds to pay owed rent should be sufficient for the payment to be made. Additional requirements tied to direct-to-tenant payments make the process more onerous for tenants who have already demonstrated their eligibility and need.

Allegheny County has the least stringent requirements of the programs interviewed; once it is determined that the tenant will be paid directly, the county sends an [award letter](#) with the payment amount and months paid. The letter includes a statement that the funds should be paid towards rent at the specified address and failure to do so violates federal law, but the county does not require the tenant to sign a statement or prove payment toward rent.

The state of [Texas](#) and [Cameron County](#) require tenants to sign tenant certifications, in which they swear under penalty of perjury that the funds will be used towards rent. The forms have slightly different terms. For example, in Cameron County, tenants certify that they will use the funds within five days to pay their landlord or utility provider. In Texas, beyond certifying that the payment must only be used for eligible costs as identified in the program application, tenants certify that they will repay any duplicate assistance within 10 days and will maintain a copy of the payment to their landlord for seven years, should they be audited.

The state of Maine has implemented additional requirements, requiring tenants to provide a proof of payment to the program within three weeks of receiving the payment directly. As outlined in the state's [program guidance](#), proof of payment could include a receipt, cancelled check, or other proof of transfer to the landlord. The relevant community action agency follows up with the applicant if the agency has not received proof of payment in three weeks. Failure to provide proof of payment disqualifies the tenant from receiving funds in the future, and the application is flagged for an audit. The Maine program also notifies both the tenant and landlord when a direct payment to a tenant is made to hold tenants accountable for paying their rent to the landlord. This approach was informed by local program administrator concerns about the potential for tenants to use funds for something other than their rent.

5. TENANT PAYMENTS

All four programs let tenants choose to receive direct assistance through ACH payments into the tenant's bank account or via a mailed check. One potential challenge of direct-to-tenant payments is that while unbanked individuals can cash a mailed check, they will likely have to pay a fee to do so. Cashing a check at a check-cashing store could be particularly expensive, as the fees charged are often a percentage of the check's amount. These fees could be exorbitant for checks covering thousands of dollars in past-due rent and contradict the purpose of the program to pay the tenant's rent in full.

Administrators should think creatively about how to ensure unbanked tenants paid directly are able to cash the full amount with little or no transaction fees, such as creating partnerships with local credit unions or check-cashing facilities to reduce transaction fees. Some grocery stores and retail stores also provide check cashing options with little or no fees, particularly if the check is government-issued. When sending a mailed check, administrators might consider including a list of local establishments to cash the check where fees will be nominal or non-existent.

6. TRANSPARENCY ABOUT DIRECT-TO-TENANT PAYMENT AVAILABILITY

Though having a direct-to-tenant payment option is critical, it is equally as important to ensure renters seeking assistance know that this option is available. When websites or other publicly available materials do not make clear that tenant payments are an option, tenants may decide not to apply because they know their landlord will not participate. Recent research suggests a significant disconnect exists between programs that offer direct-to-tenant assistance and those that make this information publicly available. A recent survey of early Treasury-ERA implementers found that 69% reported allowing direct-to-tenant payments.¹³ Other research based on public

¹³ Reina, V. et al. (2021, June). [Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey](#). The Housing Initiative at Penn, NYU Furman Center, and the National Low Income Housing Coalition.

documents found that 25% Treasury-ERA programs explicitly acknowledge in applicant-facing documents the availability of direct-to-tenant assistance.¹⁴ Further, of 59 programs surveyed that had a direct match in the NLIHC rental assistance database, 31% reported having a direct-to-tenant option but did not have public-facing information about this on their program website.¹⁵

Programs should make information about direct-to-tenant assistance available on their program websites in a central location, such as the program description or tenant-facing FAQs. Information about this feature should not be buried in lengthy policies and procedures. The Maine ERA program, for example, includes the following in their [Tenant FAQs](#): “What happens if my landlord won’t participate in the program? You can still apply. Even if your landlord won’t participate,

include their contact information in your application. . . . If they do not fill out the documents or contact us, we will work with you and send you the payment.” The Texas [Tenant FAQ](#) page and [Cameron County FAQs](#) also contain relevant information on direct-to-tenant payment availability and the payment process.

Programs should make information about direct-to-tenant assistance available on their program websites in a central location, such as the program description or tenant-facing FAQs.

NEXT STEPS

As the CDC eviction moratorium looms for the nearly six million households still behind on rent, ERA programs must ensure assistance reaches those who need it most. Program administrators and stakeholders considering integrating direct-to-tenant payments should feel reassured that the Department of Treasury strongly encourages this feature for ERA1 and requires it for ERA2. Further, over 100 programs already offering direct-to-tenant assistance can serve as examples on how to implement this critical flexibility. A list of programs providing direct-to-tenant assistance can be found on NLIHC’s [ERA Dashboard](#) and several resources related to direct-to-tenant assistance can be found on NLIHC’s [Resource Hub](#).

¹⁴ National Low Income Housing Coalition. (2021). NLIHC COVID-19 Rental Assistance Database. Washington, DC: National Low Income Housing Coalition.

¹⁵ Reina, V. et al. (2021, June). [Treasury Emergency Rental Assistance Programs in 2021: Analysis of a National Survey](#). The Housing Initiative at Penn, NYU Furman Center, and the National Low Income Housing Coalition.