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Emergency Rental Assistance through the Coronavirus Relief Fund

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Emergency Rental Assistance through the Coronavirus Relief Fund

In response to concerns about the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic on renters and their landlords, Congress created a $25 billion Emergency Rental Assistance (ERA) program in the Consolidated Appropriations Act, 2021 (Division N of P.L. 116-260).

The ERA program is funded through the Coronavirus Relief Fund (CRF) that was established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136) and implemented by the Department of the Treasury. Like the CRF, the ERA directs resources to states and localities via a per capita formula allocation, although the ERA uses a somewhat different formula that treats the District of Columbia as a state and includes a lower threshold for localities to qualify for direct allocations (among other differences). Unlike the CRF, which can be used for a broad set of purposes including rental assistance, the ERA may only be used for financial assistance and housing stability services for renters.

P.L. 116-260 establishes various parameters for how ERA funding can be used. Among other requirements, states and localities must use at least 90% of their funds for financial assistance, which is defined to include rental assistance and utility assistance (including payment of arrearages). The remaining 10% may be used for housing stability services (case management and other supports to help families retain their housing) and administrative expenses. Renters are eligible for assistance if they are low-income, experiencing financial hardship, and at risk of homelessness or housing insecurity. Grantees are directed to prioritize very low-income renters for assistance. The law also establishes expenditure deadlines and imposes various reporting requirements on the Treasury Secretary.

Within the statutory requirements—and any additional guidance established by Treasury—states and localities will have flexibility in designing their rental assistance programs. Many had used CARES Act and other funding to establish earlier rental assistance programs; if those programs are consistent with ERA requirements, they may be available to facilitate relatively rapid distribution of ERA funds.

The ability of states and localities to structure their programs differently will mean that the experience of similarly situated renters seeking assistance will likely vary geographically. Similarly, there may be geographic variability in the degree to which existing resources—both ERA and earlier funds—are adequate to meet demand for rental assistance. Recent estimates that account for ERA suggest that as much as $57 billion in rental and utility debt may be outstanding nationally. This has led for calls for more aid, which may be provided in the form of additional rental assistance, additional direct assistance via stimulus payments and further enhanced unemployment, and/or additional aid to states and localities. President Biden's American Rescue Plan proposes additional assistance in each of these forms.

SUMMARY

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Introduction

The Consolidated Appropriations Act, 2021 (P.L. 116-260) included an appropriation of $25 billion to help low-income households make rent and utility payments through an Emergency Rental Assistance (ERA) program.[1] The ERA is funded through the Coronavirus Relief Fund (CRF), a program created as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), and administered by the Department of the Treasury, to assist state, local, territorial, and tribal governments.[2] While the CARES Act CRF appropriation could be used for multiple purposes, the ERA appropriation in P.L. 116-260 is directed only to rent and utility assistance and housing stability services.

This report briefly describes the need for rental assistance during the Coronavirus Disease 2019 (COVID-19) pandemic, provides information about the allocation of the $25 billion in ERA funds, describes the parameters of the ERA program, and discusses outstanding questions about the program and renter needs.

Background: Rental Assistance During the COVID-19 Pandemic

Even before the onset of the COVID-19 pandemic, low-income renters struggled with housing affordability. In 2020, the Joint Center on Housing Studies reported that nearly half (48%) of all renters were cost burdened (i.e., paying more than 30% of their income in rent), with higher numbers for lower-income (80%), Black (55%), and Hispanic (53%) renters.[3] The pandemic may have made renter housing arrangements even more precarious. Renters have been more likely to lose employment income than homeowners.[4] This is particularly the case for Black and Hispanic renters, who are also estimated to face the greatest threat of eviction during the pandemic.[5] Millions of renters report being behind on their rent and lacking confidence in their ability to pay next month's rent.[6]

Efforts to assist renters include eviction moratoriums at the state and federal levels. A national eviction moratorium issued by the Centers for Disease Control and Prevention took effect on

[1] See Division N, Title V, Section 501 of P.L. 116-260.

[2] For more information about CRF in the CARES Act, see CRS Report R46298, *General State and Local Fiscal Assistance and COVID-19: Background and Available Data*.

[3] Joint Center for Housing Studies, *America's Rental Housing 2020*, January 2020, pp. 26-29, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf.

[4] Alexander Hermann and Sharon Cornelissen, *Using the Census Bureau's Household Pulse Survey to Assess the Economic Impacts of COVID-19 on America's Households*, Harvard Joint Center for Housing Studies, July 2, 2020, https://www.jchs.harvard.edu/blog/using-the-census-bureaus-household-pulse-survey-to-assess-the-economic-impacts-of-covid-19-on-americas-households/.

[5] Whitney Airgood-Obrycki, "The Impact of COVID-19 on Renters and Rental Markets," Harvard Joint Center for Housing Studies virtual event, September 4, 2020, https://www.jchs.harvard.edu/calendar/impact-covid-19-renters-and-rental-markets. See also, Sophia Wedeen, *Black and Hispanic Renters Face Greatest Threat of Eviction in Pandemic*, Harvard Joint Center for Housing Studies, January 11, 2021, https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic.

[6] See Census Bureau Pulse survey data, available at https://www.census.gov/programs-surveys/household-pulse-survey/data.html#phase3.

September 4, 2020, and has been extended thus far through March 31, 2021.[7] While the moratoriums prevent eviction for nonpayment of rent, they do not prevent arrearages from accumulating, which could result in eviction when moratoriums lift. Renter inability to maintain payments also affects landlords. This may particularly result in hardship for smaller landlords, who are estimated to have lower incomes and make up larger shares of Black and Hispanic landlords.[8]

At the outset of the COVID-19 pandemic, states and localities relied on federal funds appropriated as part of the CARES Act, including funds distributed through CRF, to operate rental assistance programs.[9] Households may have drawn on CARES Act stimulus checks, expanded unemployment benefits, and borrowing to cover rent. However, some of these sources of funds may be depleted as the pandemic continues.[10] Recent research estimates that total rental arrears were $57 billion as of the end of January 2021.[11]

Organizations representing both tenants and landlords have advocated for additional federal funds to help tenants pay their rent.[12] Legislation was introduced in the 116th Congress that would have provided as much as $100 billion to help tenants pay rent.[13] Ultimately, Congress appropriated $25 billion for both rent and utility assistance to be funded through the CRF.

State and Local Allocations

P.L. 116-260 provides a total of $25 billion in ERA support to governments in states, territories, and tribal areas. Payments are distributed across these jurisdictions as follows:

- $23.785 billion is allocated for governments in the 50 states and the District of Columbia (DC) based on their populations (as projected by the U.S. Census Bureau for July 2020),[14] with no state receiving less than $0.2 billion;

[7] For more information, see CRS Insight IN11516, *Federal Eviction Moratoriums in Response to the COVID-19 Pandemic*.

[8] Small landlords in the analysis are those owning 2-4 unit properties; Jung Hyun Choi and Caitlin Young, *Owners and Renters of 6.2 Million Units in Small Buildings Are Particularly Vulnerable during the Pandemic*, The Urban Institute, August 10, 2020, https://www.urban.org/urban-wire/owners-and-renters-62-million-units-small-buildings-are-particularly-vulnerable-during-pandemic.

[9] See examples from the National Conference of State Legislatures, which tracks the ways in which states are using their CRF allocations: https://www.ncsl.org/research/fiscal-policy/state-actions-on-coronavirus-relief-funds.aspx.

[10] Jim Parrott and Mark M. Zandi, *Averting an Eviction Crisis*, Urban Institute, January 25, 2021, https://www.urban.org/sites/default/files/publication/103532/averting-an-eviction-crisis.pdf (hereinafter, *Averting an Eviction Crisis*).

[11] Ibid.

[12] See, for example, National Housing Conference, "31 housing organizations tell administration and Congress to immediately return to negotiations," press release, August 21, 2020, https://nhc.org/press-release/31-housing-organizations-tell-administration-and-congress-to-immediately-return-to-negotiations/.

[13] See the Heroes Act (H.R. 6800) and the Emergency Rental Assistance and Rental Market Stabilization Act (H.R. 6820, S. 3685).

[14] U.S. Census Bureau, "Vintage 2020 Population Estimates for the United States and States," December 2020, https://www.census.gov/programs-surveys/popest/technical-documentation/research/evaluation-estimates.html. Allocations are determined by total state populations, including nonrenters; for recent estimates of state renter populations, see U.S. Census Bureau, "American Community Survey 2015-2019 5-Year Data Release," December 2020, https://www.census.gov/newsroom/press-kits/2020/acs-5-year.html.

- $0.8 billion is set aside for governments in tribal areas, with individual government allocations distributed in proportion to relative payments made under the Native American Housing Block Program in FY2020;[15]
- $0.4 billion is allocated to the territories of Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, with $0.325 billion provided to Puerto Rico and $0.075 billion distributed to the remaining territories based on their relative population share; and
- $0.015 billion is set aside to cover federal administrative costs related to program implementation.

ERA payments are generally provided to state (or territorial) governments, though state governments may transfer any funds received to local governments so long as funds are used for eligible purposes. Local governments serving a population of at least 200,000 (as measured by the U.S. Census Bureau in 2019),[16] may elect to receive assistance directly from Treasury. Any payments made directly to localities reduce the allocation made to the state government (keeping the total amount provided across each state constant), and are the product of (1) the state or territorial allocation amount, (2) the percentage of the state or territorial population attributable to the local government, and (3) 45%.

In many cases, populations are served by more than one local government that is eligible for direct assistance from the CRF (e.g., a city with a population of 300,000 located in a county with 200,000 other people and thus having a county population of 500,000). Treasury clarified that in such cases, all overlapping governments are eligible for assistance.[17] However, direct assistance payments to larger localities is calculated using only their unique population, or will be reduced by any amounts also attributable to smaller localities receiving assistance (i.e., in the above example, the county government would only use a population of 200,000 for its direct payment calculation).

Table 1 shows ERA allocations and estimates broken out by state and territory, and government level. Allocations made across states and territories, and localities have been confirmed by Treasury.[18]

Table 1. Emergency Rental Assistance Allocations by State/Territory and Government Level

(All allocations in millions of dollars)

State or Territory	Total Allocation	Direct Local Government Allocation	State Government Allocation
Alabama	326	63	263

[15] For more on the Native American Housing Block Grant program, see CRS Report R43307, *The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA): Background and Funding*, by Katie Jones.

[16] U.S. Census Bureau, "Subcounty Resident Population Estimates: April 1, 2010 to July 1, 2019," May 2020, https://www.census.gov/data/tables/time-series/demo/popest/2010s-total-cities-and-towns.html.

[17] U.S. Treasury, "Emergency Rental Assistance Program: Data and Methodology for State, Local Government, and Territory Allocations," January 2021, https://home.treasury.gov/system/files/136/Emergency-Rental-Assistance-Data-and-Methodology-1-11-21.pdf.

[18] U.S. Treasury, "Emergency Rental Assistance Program: Payments to States and Eligible Units of Local Government," February 2021, https://home.treasury.gov/system/files/136/Emergency-Rental-Assistance-Payments-to-States-and-Eligible-Units-of-Local-Government.pdf.

State or Territory	Total Allocation	Direct Local Government Allocation	State Government Allocation
Alaska	200	35	165
American Samoa	10	0	10
Arizona	492	194	299
Arkansas	201	27	174
California	2,611	1,113	1,498
Colorado	385	137	248
Connecticut	236	0	236
Delaware	200	0	200
District of Columbia	200	0	200
Florida	1,441	570	872
Georgia	710	158	552
Guam	33	0	33
Hawaii	200	75	125
Idaho	200	24	176
Illinois	835	268	566
Indiana	448	76	372
Iowa	210	15	195
Kansas	200	31	169
Kentucky	297	33	264
Louisiana	308	59	249
Maine	200	0	200
Maryland	402	143	258
Massachusetts	457	36	421
Michigan	661	38	623
Minnesota	375	86	289
Mississippi	200	13	187
Missouri	408	84	324
Montana	200	0	200
Nebraska	200	41	159
Nevada	208	83	125
New Hampshire	200	21	179
New Jersey	589	235	354
New Mexico	200	39	161
New York	1,282	481	801
North Carolina	703	156	547
North Dakota	200	0	200

State or Territory	Total Allocation	Direct Local Government Allocation	State Government Allocation
Northern Mariana Islands	10	0	10
Ohio	775	210	565
Oklahoma	264	54	210
Oregon	281	77	204
Pennsylvania	848	278	570
Puerto Rico	325	0	325
Rhode Island	200	0	200
South Carolina	346	74	272
South Dakota	200	0	200
Tennessee	457	73	383
Texas	1,947	639	1,308
U.S. Virgin Islands	21	0	21
Utah	216	65	150
Vermont	200	0	200
Virginia	570	45	525
Washington	510	188	322
West Virginia	200	0	200
Wisconsin	387	65	322
Wyoming	200	0	200
All Tribal Governments	800	0	800
Totals	**24,985**	**6,680**	**18,305**

Source: U.S. Treasury, "Emergency Rental Assistance Program," February 2021, https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program.

Notes: Recipients may choose to transfer funds to governments within their jurisdiction, but are not obligated to do so. For each state or territory, the sum of the direct local government allocation and the state government allocation may not equal the total allocation due to rounding.

ERA Program Parameters

When P.L. 116-260 created the ERA program under the CRF, it established parameters for how the funds can and should be spent. These parameters are relatively broad, but are more prescriptive than what was included in the original CARES Act CRF. Treasury has issued,[19] and may continue to issue, clarifying guidance regarding how certain aspects of the law are to be applied.

As noted, funds are provided from Treasury to states and localities, which can use the funds to design their own rental assistance programs within the requirements of the law and Treasury guidance. Some states and localities may be able to use the new funds to supplement existing

[19] Treasury guidance can be found at https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program.

rental assistance programs created with CARES Act or other funds, to the extent their existing programs align with the emergency rental assistance statutory requirements (which are outlined below).

Eligible Use of Funds

P.L. 116-260 directs that 90% of funds be spent on direct financial assistance and up to 10% may be spent on administrative expenses and housing services.

Financial Assistance

P.L. 116-260 defines financial assistance as assistance to tenants for

- rent and rental arrears,
- utilities and home energy costs and arrears, and
- other expenses related to housing incurred due, directly or indirectly, to the COVID-19 outbreak, as defined by the Treasury Secretary.

Treasury has issued an FAQ document clarifying that telecommunications services are not considered utilities under this program.[20] As of the date of this report, Treasury has not defined "other expenses related to housing."

Length of Assistance

Assistance can be provided for no more than 12 months, with the possibility of one 3-month extension. Payments made for prospective rent are subject to additional limitations; they can only be provided in 3-month increments and only if rental arrearages are addressed.

Payments

P.L. 116-260 directs that payments be made directly to landlords or utility providers, but it allows payments to be made directly to tenants if landlords or utility providers are unwilling to accept such payments.

Landlords are permitted to aid their tenants in applying, or they may apply directly. Landlords who apply directly must meet certain conditions (including obtaining tenant signatures, notifying tenants of the application, and ensuring any funds received are applied to tenants' rental obligations).

Administrative Costs and Housing Stability Services

The remaining 10% of grant funds can be used for grantee administrative costs and housing stability services.

P.L. 116-260 describes "housing stability services" as case management and other services related to COVID-19, to be defined by the Secretary, that are intended to keep tenants stably housed. (As of the date of this report, Treasury has not further defined the term.)

The law restricts administrative expenses to those tied to providing financial assistance and housing stability services, including for data collection and reporting requirements.

[20] See the FAQ at https://home.treasury.gov/system/files/136/ERA-Frequently-Asked-Questions_Pub-1-19-21.pdf.

Individual Eligibility and Prioritization

P.L. 116-260 establishes a three-part eligibility test based on income level, income loss or other financial hardship, and risk of homelessness or housing instability. It also establishes a set of income targeting requirements to guide states and localities in prioritizing assistance.

Eligibility

To be eligible for direct financial assistance or housing stability services, households must be renters and

- low-income, defined (consistent with federal housing law) as having income at or below 80% of local area median income as established by the Department of Housing and Urban Development (HUD);
- experiencing financial hardship, as evidenced by receipt of unemployment benefits or an attestation of other pandemic-related financial hardship (income loss or increased expenses); and
- have at least one member at risk of homelessness or housing instability, as evidenced by past due rent or utility notices (including eviction notices), unsafe living conditions, or other evidence as established by the grantee.

Prioritization

P.L. 116-260 directs grantees to prioritize the following individuals for direct financial assistance and housing stability services:

- very low-income tenants defined (consistent with federal housing law) as having income at or below 50% of local area median income as established by HUD; and
- applicants who are unemployed and have been unemployed for the prior 90 days.

The law permits states and localities to further establish their own prioritization policies.

Documentation

P.L. 116-260 allows grantees to base income eligibility on annual income or current monthly income (subject to three-month recertification).

Funding Availability and Reallocation

P.L. 116-260 makes the funding it provides available to grantees through December 31, 2021. However, beginning September 30, 2021, the Treasury Secretary is directed to recapture any excess unobligated funds (as determined by the Secretary) and to reallocate them to grantees who have obligated at least 65% of their funds for eligible purposes. Grantees receiving reallocated funds may request up to a 90-day extension of the December 31, 2021, availability deadline for those funds.

Reporting Requirements

The Treasury Secretary, in consultation with the Secretary of Housing and Urban Development, is required under P.L. 116-260 to provide quarterly reports on a number of specified program indicators, including the number of households served by the program, their income profiles, the

acceptance rate of applicants, and the types and amounts of assistance. Grantees must establish data privacy guidelines for collecting information.

Outstanding Questions

Several aspects of the ERA program will not be known until grantees receive funds and implement programs at the state and local levels. This section discusses possible questions about the implementation of the ERA program, adequacy of funds, and potential implications if state and local governments were to receive additional funds.

How will local programs be structured?

There is likely to be a great deal of variation across states and localities in terms of how local ERA programs are structured.

As noted earlier, P.L. 116-260 directs Treasury to allocate ERA funds to states and localities. States and localities are then charged with distributing assistance to eligible renters based on a limited set of program parameters. Within those parameters, states and localities will have authority to determine, for example,

- who will administer assistance (i.e., a government entity vs. a nonprofit or community partner);
- how to prioritize among the eligible uses of the funds (e.g., arrears vs. prospective payments; utilities vs. rent);
- how to ration limited benefits (e.g., lotteries for assistance vs. first-come first-served or referral-based processes);
- whether and how to further prioritize applicants (e.g., adopting deeper income targeting than is required by law);
- how much documentation to require of applicants and for recertification periods;
- the amount and duration of benefits provided;
- whether to place conditions on the recipients of assistance (e.g., requiring landlords to accept partial payment to reduce debt obligations); and
- whether and what to provide in terms of housing stability services.

One factor that may influence state and local decisions is the extent to which any existing emergency rental assistance programs they administer may already meet, or may be easily adjusted to meet, the requirements for ERA funding. To the extent states and localities can fund existing programs with their ERA dollars instead of having to establish new programs, the assistance could potentially be distributed more quickly.

The ability of state and local governments to structure their programs differently will mean that the experience of similarly situated renters seeking emergency rental assistance will likely vary geographically. How and whether individual renters are made aware of the availability of ERA funds in their communities; their individual eligibility and likelihood of being assisted; and how to access available assistance are currently uncertain. (As of the date of this report, there is no

central federal repository for information on federally funded emergency rental assistance programs.[21])

Will rental assistance be adequate to prevent loss of housing?

Both the amount and geographic distribution of ERA funds could determine the extent to which renters may be protected from eviction. Additional federal assistance, which could take various forms, could also affect the need for, and adequacy of, ERA funds.

Because there is no definitive estimate of renters in arrears and the amount they owe, it is unknown whether all renters who are behind will be able to receive assistance with available funding. Estimates of the need for rental assistance vary and may depend on the data source and methodology (which are not examined in this report).[22] Research released in January 2021 predicted that ERA rental assistance will be insufficient to meet the needs of all delinquent renters, and that arrears will continue to exceed $30 billion even after ERA funds are expended.[23]

The formula used to allocate funds may also determine the adequacy of funds for a given community. States and counties with greater numbers of low-income renters who qualify for ERA may have more difficulty meeting the needs of their residents than areas with similar populations but fewer residents in need.

The need for rental assistance could also depend on congressional actions. Additional stimulus payments, expanded unemployment assistance, or additional rental assistance may help address renters' needs. All three have been proposed in President Biden's American Rescue Plan.[24] The availability of unspent CARES Act funds or additional support to state and local governments (described in the next section) may also be factors.

Will the federal government provide further assistance to state and local governments?

How state and local governments choose to distribute ERA funds across programs and other governments may depend on the perceived likelihood and timing of further federal assistance during the COVID-19 pandemic. The Congressional Budget Office (CBO) estimated that the federal government provided $291 billion in new fiscal assistance to state and local governments

[21] One national organization, the National Low Income Housing Coalition, has created a repository of local rental assistance programs, funded with a mix of state or local funds and federal funds from various programs. It can be accessed at https://nlihc.org/rental-assistance.

[22] Various estimates made in 2020 predicted arrears of $7 billion, $25-$34 billion, and $70 billion by the end of the year. See Davin Reed and Eileen Divringi, *Household Rental Debt During COVID-19*, Federal Reserve Bank of Philadelphia, October 2020, https://www.philadelphiafed.org/-/media/frbp/assets/community-development/reports/household-rental-debt-during-covid-19.pdf; Stout, Risius Ross LLC, *Analysis of Current and Expected Rental Shortfall and Potential Eviction Filings in the U.S.*, National Council of State Housing Finance Agencies, September 25, 2020, https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-US_Stout_FINAL.pdf; and John Lonski, *Weekly Market Outlook: Markets Avoid Great Recession's Calamities*, Moody's Analytics, August 13, 2020, p. 9, https://www.moodysanalytics.com/-/media/article/2020/weekly-market-outlook-markets-avoid-great-recessions-calamities.pdf.

[23] *Averting an Eviction Crisis*.

[24] The White House, "National Strategy for the COVID-19 Response and Pandemic Preparedness," January 21, 2021, https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf (hereinafter, "National Strategy for the COVID-19 Response and Pandemic Preparedness").

through the four pieces of pandemic relief legislation enacted prior to P.L. 116-260, including policy-specific funding and general purpose assistance through the Coronavirus Relief Fund.[25] CRS estimates that P.L. 116-260 provides an additional $162 billion in policy-specific state and local assistance.[26]

State and local government advocates have sought additional federal fiscal relief to assist with budget shortfalls and new spending on housing, health, education, and other services related to the COVID-19 pandemic until the public health crisis ends and normal economic activity resumes. How much additional relief is anticipated and when any new federal assistance is expected to arrive may affect what types of services are provided with existing money, including ERA funding. President Biden's American Rescue Plan includes a call for $350 billion in general fiscal assistance for state and local governments, with no details provided on state and local support for housing programs.[27]

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[25] Congressional Budget Office (CBO), *An Update to the Budget Outlook: 2020 to 2030, September 2020*, Figure A-2, https://www.cbo.gov/system/files/2020-09/56517-Budget-Outlook.pdf. Estimate does not include $30 billion in increased federal funding for the Supplemental Nutrition Assistance Program, which is implemented by state governments.

[26] Includes funding provided for the ERA, education, transportation, vaccine distribution, contact tracing, testing, and the Disaster Relief Fund. A detailed CBO cost estimate for these funds was not available as of the cover date of this report.

[27] See the "National Strategy for the COVID-19 Response and Pandemic Preparedness."