



EMERGENCY RENTAL ASSISTANCE EVICTION PREVENTION PROGRAM

2023 PROGRAM DESCRIPTION TENNESSEE HOUSING DEVELOPMENT AGENCY

The Tennessee Housing Development Agency (“THDA”) will administer the Emergency Rental Assistance (“ERA”) for the U. S. Department of the Treasury (“Treasury”), as established by Section 3201 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) (“ERA 2”), specifically Paragraphs (d)(1)(A) and (d)(1)(B), through THDA’s ERA Eviction Prevention Program (the “Program”). The purpose of the Program is to provide financial assistance to eligible tenants to help prevent evictions and provide housing stability services to keep households that rent stably housed. The program seeks to:

1. Prevent evictions through strengthening housing stability through financial assistance, legal representation, case management, counseling, and accessing coordinated funding;
2. Collect data to better gauge the scope of the current eviction crisis to inform in the creation of policy solutions; and
3. Build community education and awareness around the need of affordable housing and eviction prevention in our community.

Program funds will be awarded through a set-aside and a competitive application process to nonprofit entities (“Grantees”) with existing Eviction Prevention Programs, including, but not limited to, Community Action Agencies, Housing Counseling Agencies, Legal Aid Societies, and other qualified nonprofit agencies. The Grantees will be responsible for making the Program assistance immediately available to eligible low-income households, as defined below.

A. PROGRAM ALLOCATION.

THDA will make \$25,000,000 of ERA-2 funds available to fund the Program. THDA will retain four percent (4%) or \$1,000,000 of the total allocation for administrative costs. The remaining \$24,000,000 will be used to fund approved Grantees for programmatic and administrative costs. Grantees will be allowed to use up to eleven percent (11%) of their award towards administrative costs to oversee the Program.

- \$12,000,000 of the \$24,000,000 will be set aside to fund the Community Action Agencies (“CAA”) that administer THDA’s Low Income Home Energy Assistance Program

(“LIHEAP”) across Tennessee. The CAA must submit an application to opt-in to participate in the Program. Funds will be allocated to each CAA based on a methodology used to administer LIHEAP.

- The remaining \$12,000,000 will be made available to eligible nonprofit agencies that can apply for a grant of up to \$500,000. The applications will be reviewed and scored on a competitive basis. Funds will be awarded to the top two scoring agencies within each region and the remaining applications will be funded based on their score, from highest to lowest, until the program funding is fully committed.

B. GRANTEE APPLICATION.

Grantee Applications and Application Instructions for Program funds will be posted on THDA’s website on February 6, 2023. Applications will be accepted through THDA’s Electronic Document Transfer (“EDT”) portal as of 9:00 AM CST on February 10, 2023 and must be received by THDA on or before 4:00 PM CST on March 10, 2023. THDA anticipates notifying successful applicants by March 29, 2023.*¹

The Program will have a two (2) year grant term that will begin on August 1, 2023 and end on July 31, 2025. All unexpended funds must be returned to THDA within 45 calendar days of the end of the grant term.

The Program Description, application instructions, and application attachments are available at www.thda.org. Once at the THDA website, click on Programs and then the Program link under Programs for Local Government & Nonprofit Partners.

For questions concerning the applications, contact the Community Programs Division staff at ERA-EPP@thda.org.

C. NONPROFIT GRANTEE APPLICANT REQUIREMENTS.

All Non-profit applicants must:

1. Meet one of the two following criteria:
 - a. Must be organized and existing in the State of Tennessee (as evidenced by a Certificate of Existence from the Tennessee Secretary of State, dated no more than thirty (30) days prior to the application date); or
 - b. Be organized and existing under the laws of another state and be qualified to do business in Tennessee (as evidenced by a Certificate of Existence from the other state’s Secretary of State dated no more than thirty (30) days prior to the application date and by a Certificate of Authorization to do business in Tennessee from the Tennessee Secretary of State dated no more than thirty (30) days prior to the

¹ THDA had remaining funds after the first round of applications, so a Notice of Funding Availability (“NOFA”) was issued, reopening the application portal from March 27, 2023 to March 31, 2023. The applications under this NOFA will not be scored against the applications received under the first application round.

application date).

2. Have an IRS designation under Section 501(c)(3) or Section 501(c)(4) of the federal tax code. A 501(c)(3) non-profit applicant may not submit an application until they have received their designation from the IRS. A 501(c)(4) non-profit applicant must provide documentation satisfactory to THDA, in its sole discretion, that the non-profit has filed the necessary materials with the IRS and received a response from the IRS demonstrating 501(c)(4) status;
3. Currently administering an eviction prevention program and/or can demonstrate a minimum of five (5) years of experience administering an eviction prevention program for low-income households in the state of Tennessee;
4. Have no part of its net earnings inuring to the benefit of any member, founder, contributor or individual;
5. Have among its purposes, the provision of serving low and very low-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws, and/or experience in the provision of housing for low-income households;
6. Have the capacity to administer the fiscal and programmatic requirements of a federal program; and
7. Be in good standing with all programs administered by THDA in which the organization was a past funding recipient.

D. GRANTEE FUNDING.

Program funds are considered an emergency resource. Grantees must put the program funds to use immediately. Failure to expend the Program funds in a timely manner may trigger a recapture of funds.

1. Spend Down Requirements. THDA will review the program expenditure rates on a quarterly basis. Grantees not meeting benchmarks may be subject to recapture. THDA will redistribute funds recaptured to the higher performing Grantees.

Program Term – 2 Years	Spend Down Requirement
At Month 6	15%
At Month 12	40%
At Month 18	75%
At Month 24	100%

2. Advanced Funding Option. THDA will provide eligible Grantees with access to a limited amounts of their grant award in the form of advance payment(s).
 - a. The amount of funds eligible for each advance is subject to the following

limitations:

- 1) Grantees that have administered a THDA-funded program for five (5) consecutive years or more, and are in good standing, will have access to up to \$100,000 or twenty percent (20%) of the grant award, whichever amount is less, per advance;
 - 2) Grantees that have administered a THDA-funded program within the last two (2) years, and are in good standing, will have access to up to \$50,000 or ten percent (10%) of the grant award, whichever is less, per advance;
 - 3) Grantees not currently administering a THDA-funded program are not eligible for advance payment(s) and will be required to follow the reimbursement process; and
 - 4) THDA may further limit the eligible amount of advanced payment(s) permitted or a Grantee's eligibility to even receive advance payment(s) based on the Grantee's subsequent performance in successfully administering this Program and other THDA programs, or other factors, at THDA's sole discretion.
- b. Grantees must maintain advance payments in interest-bearing accounts, unless of the exceptions under 2 CFR 200.305(b)(8) apply.
 - c. Support for how the advanced funds are expended must be retained within each client file and made available upon THDA's request for compliance reviews.
 - d. Advanced funds can be used to cover programmatic and administrative costs. No more than eleven percent (11%) of the advanced funds could be used for administrative costs. The spend-down of administrative costs should align with the direct assistance expenditures, 89% direct assistance/11% administrative costs.
 - e. Grantees will have three (3) months to expend each advance payment. Failure to expend a minimum of 95% of an advance payment within the 3- month deadline will trigger a repayment of funds and the Grantee will be ineligible for advance payments from this Program for the remainder of the Term.
 - f. Grantees that expend a minimum of 90% of an advance payment can request an additional advance payment. The request for an additional advance payment must include a status report that provides a list of the households served and disbursements made with Program funds. THDA will make the status report templates available to Grantees that are eligible for advance payment(s).
 - g. This process will continue until the program ends and/or the Grantee expends 100% of their grant award, whichever occurs first.
 - h. THDA, at its sole discretion, may deem a Grantee ineligible to access advance payment(s) if discrepancies are identified through THDA's Quality Assurance

Reviews.

E. PROGRAM REQUIREMENTS

1. This Program Description is providing the minimum requirements for the administration of the Program. Grantees should consult with THDA and/or refer to the ERA 2 Guidance issued by Treasury for general programmatic questions. The Treasury Guidance is available here: <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program/guidance>.
2. **Eligibility Requirements for Financial Assistance.** Households requesting financial assistance must meet the following eligibility requirements in order to receive financial assistance through the Program:
 - a. One or more individuals within the household must have qualified for unemployment benefits or experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic; and
 - b. One or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and
 - c. The household is a low-income family (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437 a(b)); and
 - d. The household must submit a complete application; and
 - e. The household must provide the appropriate supporting documentation; and
 - f. The household is or has been a tenant of a unit that is located within Tennessee; and
 - g. The household was, is, or will be obligated to pay rent under a lease or agreement.
3. **Eligibility Requirements for Housing Stability.** The provision of Housing Stability is not limited to households eligible for Financial Assistance. If a household will receive both Financial Assistance and Housing Stability, then the household must meet the eligibility requirements above for Financial Assistance. If a household is only going to receive Housing Stability, then the household only needs to comply with the following:
 - a. The household must submit a complete application; and
 - b. The household is or has been a tenant of a unit that is located within Tennessee; and
 - c. The assistance is needed to keep or make the household stably housed.
 - d. Even though Grantee is not required to document a household's eligibility if the

grantee provides the household with no assistance other than housing stability services, Grantee must collect any demographic or other information from the household needed to fulfill the Grantee's reporting obligations.

4. **Income Determination for Financial Assistance.** In establishing the income of a household for purposes of determining such household's eligibility for Financial Assistance under the Program, THDA will consider either:
 - a. **Annual Income.** In determining Annual Income, a Grantee may use HUD's definition of annual income at 24 CFR 5.609 or the adjusted gross income as defined for purposes of reporting under the Internal Revenue Service Form 1040 series for individual federal annual income tax purposes;
 - b. **Monthly Income.** A Grantee may use a household's monthly income to determine income eligibility as long as there is sufficient confirmation of the household's monthly income at the time of application. The Grantee must extrapolate the monthly income provided at application over a 12-month period. For example, if the applicant provides income information for two months, the Grantee should multiply it by six to determine the annual amount. If an applicant qualifies based on monthly income, the Grantee must re-determine the household income eligibility every three months for the duration of assistance; or
 - c. **Categorical Eligibility.** If an applicant's household income has been verified to be at or below 50% AMI in connection with another local, state, or federal government assistance program, a Grantee may rely on a determination letter from the government agency that verified the applicant's household income, provided that such determination is dated within 12 months from the date of the Program application. Certain Categorical Eligibility support may only be used for determining the income of the Head of Household and may require additional support. Such government programs may include, but are not limited to:
 - Supplemental Nutrition Assistance Program ("SNAP")
 - Tennessee Head Start
 - Families First/Temporary Assistance for Needy Families ("TANF") *
 - Women, Infants, and Children benefits ("WIC") *
 - Continuum of Care (CoC) Rental Assistance
 - Housing Choice Voucher Program Rental Assistance
 - VASH Rental Assistance
 - Low Income Home Energy Assistance
5. **Self-Attestation.** Grantees are encouraged to rely on a household's self-attestations for purposes of confirming eligibility. If all eligibility requirements are expressly addressed by the household's self-attestation, the grantee is not required to collect additional income documentation, past due notices, or other eligibility-verification documents as described above or below.
6. **Duplicative Assistance Not Allowed.** To the extent feasible, Grantees must ensure that

any assistance provided is not duplicative of any other federally-funded assistance provided to the household. Applicants can self-attest that duplicative assistance has not been received and the Grantees should have processes in place to review and confirm that duplicative assistance is not provided.

7. **Eligible Programmatic Costs.**

The eligible costs for the Program include, but are not limited to:

a. Financial Assistance.

- 1) Rental Assistance (Must be an eligible household to receive):
 - a). Rental Application/Screening Fees;
 - b). Security Deposits (first and last month's rent);
 - c). Rental Arrearages, including late fees (in accordance with ERA 2 requirements); and
 - d). Prospective Rent. Participants may only receive three (3) months of prospective rent payments at a time. Additional prospective payments are available for eligible applicants so long as the total number of payments, including arrearages and prospective rent, does not exceed a total of 18 months of assistance received through ERA 1 and ERA 2 and the Participant recertifies their income and eligibility every 90 days.
- 2) Utilities and Home Energy Costs for Water, Electric, and Gas Services (Must be an eligible household to receive), which include:
 - a). Utility Deposits;
 - b). Disconnection Fees; and
 - c). Reconnection Fees.
 - d). Payments towards utilities count towards the 18-month maximum assistance allowed combining the total amount received under any ERA 1 and ERA 2 program.

b. Housing Stability Services. A Grantee may use up to 10% of the funds it receives to provide Housing Stability Services to households that rent in Tennessee, and such assistance is not restricted to eligible households.

- 1) Legal Services or Attorney's Fees (related to eviction proceedings and maintaining housing stability);
- 2) Eviction Prevention and Eviction Diversion Programs;

- 3) Mediation between Landlords and Tenants;
 - 4) Housing Counseling;
 - 5) Fair Housing Counseling;
 - 6) Housing Navigators or Promotoras (that help households access ERA programs or find housing);
 - 7) Case Management (related to housing stability);
 - 8) Housing-related Services (for survivors of domestic abuse or human trafficking); and
 - 9) Specialized Services (for individuals with disabilities or seniors that support their ability to access or maintain housing).
- a. Grantees using ERA funds for Housing Stability Services must maintain records regarding such services and the amount of funds provided to a household.
 - b. The Grantee is responsible for determining which costs are eligible, prior to disbursing programmatic funds, and should consult THDA staff to confirm if a cost is appropriate and deemed eligible, when uncertain.
5. Eligible Administrative Costs. The Grantee is responsible for charging the appropriate administrative costs to the Program that include, but are not limited to, personnel salaries, fringe benefits, travel, supplies, marketing, and other direct costs as applicable and appropriate for the administration of the Program. Indirect Costs are not eligible administrative expenses under the Program.
- If the Grantee is uncertain of an administrative expense, it should consult the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200.
6. Form of Assistance. All ERA-EPP assistance must be paid directly to the landlord, property-management company, attorneys, courts, and/or the party to which the fee is due. Program funds may not be paid to a tenant directly, unless a minimum of 3 documented attempts to reach a landlord are made and the attempts and the following are documented:
- a) the landlord is unwilling to participate in the program or accept funds;
 - b) the landlord is unwilling to provide required documentation; or
 - c) the landlord is failing to respond to requests.

The assistance provided on behalf of eligible tenants under the Program is not a loan and does not require repayment, unless a landlord, utility company or payee owes the Grantee

money back for overpayment of assistance or for rent payment(s) for the time period in which a tenant was not occupying or under lease for a covered unit.

The Grantee must retain support of disbursements made in their client files for compliance purposes.

7. Marketing. Grantees are responsible for marketing the Program within their service area in a manner that can reach very low-income households. The Grantee should utilize community and non-profit resources and networks, local media, and other earned media resources to promote the Program. Marketing efforts should be retained within the Grantee's files for compliance purposes.

F. PROGRAM COMPLIANCE

1. Reporting.

Grantees must provide status reports to THDA quarterly. Reports will be used by THDA staff to perform Quality Assurance Review of households approved and denied. THDA will create and furnish the reporting template to the Grantees with the Program Contract. The report template will include, at minimum, the following components. THDA, at its sole discretion, may request additional data or increase the frequency of reporting:

- a. Applicant(s) name, physical address of residence, and contact information
- b. Address of unit (if different from current residence)
- c. Date of application received, approved/denied and funded.
- d. Total amount of assistance provided
- e. Which eligible costs were paid
- f. Which services were provided
- g. Referral resources
- h. Final outcome of household

2. Record Retention.

Grantees must retain all documentation collected from the applicant to support their decision to approve or deny the assistance for a household for a period of five (5) years from the end date of the Program Contract. The case file should contain, at minimum, the following. THDA, at its sole discretion, may request additional documentation from the Grantee.

- a. The completed and signed application;

- b. Copy of lease or agreement to rent;
 - c. Income statements or supporting documentation;
 - d. Utility statement(s);
 - e. Eviction notice(s);
 - f. Correspondence with any entity related to the applicant's case;
 - g. Referrals provided;
 - h. Financial records for disbursement(s) and refund(s).
3. Grantee Compliance.

All Grantees must adhere to, or maintain compliance with the requirements of the Program and, as applicable, other programs administered by THDA. Failure to maintain compliance with any program funded through THDA will result, depending on the egregiousness of the noncompliance, in penalties being assessed in the scoring of future applications and/or the inability to participate in programs administered by THDA for a period to be determined at THDA's sole discretion.

G. REVISIONS TO THIS PROGRAM DESCRIPTION.

THDA's Chief Legal Counsel and Assistant Chief Legal Counsel may at any time make non-substantial changes and substantial changes, if necessary to comply with federal requirements, to this Program Description.

H. APPLICATION AND EVALUATION PROCEDURES

THDA will evaluate each application to determine if the proposal meets threshold criteria. Threshold criteria includes: submission of a complete application; applicant eligibility; evidence of programmatic experience; existing policies and procedures for eviction prevention program; and compliance with THDA-funded programs.

All nonprofit organizations seeking funding under the competitive allocation process must upload all organizational information required to be submitted through THDA's Participant Information Management System (PIMS). Documentation must be submitted along with the completed Checklist to demonstrate that the organization meets threshold requirements and has the capacity to administer the Program.

THDA will provide a limited opportunity of two (2) business days for applicants to correct the following threshold factors:

- Failure to upload all required documents to PIMS.
- Failure to submit a Certificate of Existence that was issued within the required time established by the application instructions.

- Failure to sign the application.

THDA will not provide an opportunity to correct other application items nor will THDA extend the time period for correction of the threshold item beyond the period identified above.

1. Funding Allocation Process. Applications meeting the threshold criteria will be scored and ranked in descending numerical order. The ERA-EPP funds will be awarded to the top two scoring agencies within each Grand Division (West, Middle, and East) of the state. The remaining applications will be funded based on their score in descending order until the program funding is fully committed.
2. Application Score Tiebreaker Process. In the event of a tied score under the Program Funding Matrix, THDA will follow the following tiebreaker review process to select the agency that will receive funding. The application with the highest score for the following categories will be selected in this order, until the tie is broken.
 - a. Program Experience Score;
 - b. Capacity Score; and
 - c. Coordination for Housing Stability.
3. Key Applicant Eligibility Factors.
 - a. Eligible CAA or non-profit agency;
 - b. No outstanding findings or other issues from any program operated by THDA;
 - c. Experience in providing Eviction Prevention assistance;
 - d. Must be able to meet recordkeeping and reporting requirements;
 - e. Must be able to meet program requirements for reporting and tracking client level data over time;
 - f. Must have policies in place to prevent duplication of benefits;
 - g. Must have Policies and Procedures in place for an existing Eviction Prevention Program; and
 - h. Must submit audit or financials dated not more than 12 months prior to the date of the application.

I. ERA–EPP COMPETITIVE ALLOCATON RATING SCALE **100 POINTS**

1. PROGRAM EXPERIENCE **UP TO 50 POINTS**

The degree to which an application demonstrates:

- a. Experience in serving very low-income individuals or households.
- b. Experience in administrating other programs that help prevent evictions and/or homelessness.
- c. Experience of collecting information, completing reports, and tracking outcomes for individuals or households served.
- d. Existing Policies and Procedures, or Guide, which outlines how eligibility is determined and documented for existing programs.
- e. Existing Policies and Procedures, or Guide, that prevent providing duplicative benefits to applicants.
- f. Strategic plan to leverage and support other funding sources to provide housing stability.
- g. Program design meets the objectives of eviction prevention solutions without unnecessary barriers or program requirements.
- h. Degree to which the project tracks outcomes and shows success in connecting individuals with permanent housing stability solutions.

2. CAPACITY **UP TO 30 POINTS**

- a. Relative experience of the individual(s) on staff of the applicant who shall have primary responsibility for the oversight and management of the proposed project.
- b. Relative experience in collaborating with relevant public and/or private entities to obtain appropriate mainstream services on behalf of the population to be served.
- c. Completeness and appropriateness of budget, which includes both the narrative and the budget proposed for the administration of the ERA-EPP for eligible costs to administer the program.
- d. Applicant audit and/or financial records support applicant’s ability to cash-flow an advancement or reimbursement program.

3. COORDINATION FOR HOUSING STABILITY **UP TO 20 POINTS**

THDA will award up to 20 points to an application that administers an Eviction Prevention Program that actively coordinates with another entity to help provide the program recipient with other services that will help them achieve more housing stability through other programs. Those entities can include, but are not limited to counseling agencies, case workers, social workers and other state agency funded programs.