



December 21, 2021

Dr. Lanique Howard, Director  
Office of Community Services  
Administration for Children and Families  
U.S. Department of Health and Human Services  
330 C Street SW 5th Floor West  
Washington, DC 20201

Re: Expedited OMB Review and Public Comment: OCS Data Collection for the Low Income Household Water Assistance Program Reports (New Collection)

Dear Dr. Howard:

The National Consumer Law Center<sup>1</sup> and Natural Resources Defense Council<sup>2</sup> submit these comments in response to the OCS's notice of expedited OMB review of data collection for the Low Income Household Water Assistance Program (LIHWAP) reports.<sup>3</sup> These grantee reports are essential to evaluate progress with program implementation and identify any steps that may be necessary to ensure the program's success. Our organizations, along with other partners, have worked with Congressional leadership to create and fund the LIHWAP program. We are committed to supporting its successful implementation.

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<sup>1</sup> Since 1969, the nonprofit [National Consumer Law Center® \(NCLC®\)](#) has worked for consumer justice and economic security for low-income and other disadvantaged people in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. NCLC advocates for policies and programs to provide low-income households access to safe and affordable water.

<sup>2</sup> Natural Resources Defense Council (NRDC) is an international nonprofit environmental organization with more than 3 million members and online activists. Since 1970, NRDC's lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC advocates across the United States for universal access to safe, affordable water and sanitation services.

<sup>3</sup> See 86 Fed. Reg. 59166 (Oct.26, 2021).

On October 22, 2021 OCS published a Dear Colleague letter to LIHWAP Grant Recipients to prepare them for the upcoming LIHWAP data collection and reporting requirements necessary for administration and oversight of the LIHWAP funds.<sup>4</sup>

OCS has proposed a two-stage process of reporting, with streamlined, brief Quarterly Reports<sup>5</sup> through at least the first year and followed by more detailed Annual Reports.<sup>6</sup> We support the submission of Quarterly reports, which we understand to be atypical for many OCS programs, but which are necessary in the context of this new, emergency program. We offer the following comments on the proposed quarterly and annual reporting.

First, we urge OCS to add key financial metrics to the quarterly reports, which are critical to monitoring the success of the program. The proposed quarterly reports include data on the number of households served, but do not request data on the amount of funds committed or disbursed for household assistance. Although OCS's LIHWAP Terms and Conditions allow grantees three years to spend their funds, it is universally understood that the available funding will not meet even the current, *immediate* need for residential water and sewer arrearage forgiveness. Congress's purpose in creating LIHWAP, as part of COVID-19 relief legislation, was to protect and maintain low-income households' access to essential water services by avoiding service disconnections for nonpayment and restoring service to those previously disconnected. If states do not rapidly stand up their programs and disburse benefits, the program will not serve its intended purpose. Therefore, it is critical that quarterly reports provide a means of tracking states' rates of spending.

Second, OCS should commit to publishing all reported data, including in the form of a public facing tracker or "dashboard." The tracker should present data on both households served and amounts of assistance provided, including sufficient geographic breakdown of data to assess whether funds are being equitably allocated within the states.

Other COVID-19 emergency relief programs have public facing trackers. The FCC's \$3.2 billion Emergency Broadband Benefit (EBB) program has a very detailed tracker that posts weekly households enrolled in the EBB program, the cumulative number of households enrolled on a weekly basis, as well as monthly support claimed and total support claimed. The FCC's EBB tracker also provides a breakout of enrollment by state, zip code and county and also

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<sup>4</sup> See OCS LIHWAP Dear Colleague Letter, LIHWAP-DCL-2022-1 (Oct. 22, 2021) re Preparation for LIHWAP Data Collection and Reporting.

<sup>5</sup> A preview of the LIHWAP Quarterly Report instructions and form are available at <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-dcl-2022-01-report-forms-update-fy2022>.

<sup>6</sup> A preview of the LIHWAP Annual Report instructions and form are available at <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-dcl-2022-01-report-forms-update-fy2022>.

provides demographic data including breakdowns of participants' age, broadband service type, eligibility criteria used by participants (e.g., basis for categorical eligibility), etc.<sup>7</sup>

Treasury is reporting monthly on the Emergency Rental Assistance Program (ERAP). The Treasury ERAP reports provide information on the prior month's number of households served and amount spent on rent, utilities and arrears for the month and cumulative, breakouts of population served by percent of area median income and whether households are receiving ERAP assistance for rent, utilities, rental arrears and utility arrears. The Treasury reporting also included details on state and local ERAP assistance over time.<sup>8</sup>

Ideally, OCS would be providing monthly data reporting, but we understand the challenges in standing up a water assistance program given the sheer number of water and wastewater utilities. Like the FCC and Treasury, HHS's OCS should be transparent about the performance of its emergency COVID-19 low-income assistance program and post the information on its website in a timely fashion, no later than 30 days after the reports are due. We note the frequency and detail of the FCC and Treasury data.

If the LIHWAP data must be aggregated to protect personally identifiable information, the data may be aggregated to balance the public accountability of the operation of LIHWAP programs and the individual's right to privacy. In addition to municipal or county level reporting, the information on the quarterly reports should also be aggregated and reported at the state level on the OCS tracker. The public as well as policy makers will want to know how LIHWAP is performing in their states. This information can also inform the need for targeted outreach in certain parts of a state to increase enrollment in areas that are being underserved. It will be important for the public to know how quickly the funds are being obligated and if there are parts of the country that will be out of funds quickly.

Similarly, the data in the annual LIHWAP reports should also be publically available on the LIHWAP tracker. The individual reports should be publically available and the tracker should post the data in a manner that informs the public about how the program has been performing at the state and local level as well as in the aggregate. We note that HHS has experience preparing state summaries for the LIHEAP program.<sup>9</sup> However, the data from the

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<sup>7</sup> See Emergency Broadband Benefit Enrollment and Claims Tracker, available at <https://www.usac.org/about/emergency-broadband-benefit-program/emergency-broadband-benefit-program-enrollments-and-claims-tracker/>.

<sup>8</sup> See e.g., Treasury press release, Emergency Rental Assistance Program Surpasses 2.5 Million Payments to Renters and Landlords (Nov. 29, 2021), available at <https://home.treasury.gov/news/press-releases/jy0506>. Additional monthly ERAP reports are available at <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program>.

<sup>9</sup> See State Snapshots and Executive Summaries, available at <https://liheappm.acf.hhs.gov/performance-measures/>.

annual LIHWAP report should be posted in a timely manner on the tracker, also within 30 days of the due date. Thus, timely quarterly and annual tracker updates should be filed in a spreadsheet format like Treasury's ERAP monthly reports or on a website like FCC's EBB Tracker.

Third, we encourage HHS to require grantees to report the following information, to the extent not already included in the proposed reporting requirements or in our recommendations above. These recommendations are adapted from a letter we sent to OCS before LIHWAP officially launched.<sup>10</sup> We appreciate that many of the program design recommendations in that letter have been incorporated into the program, and that OCS is encouraging states to implement some of the others.

Quarterly and annual reports should include:

- Program eligibility criteria for households to qualify for assistance
- Number of households that applied for assistance and the number receiving assistance, broken out by owners and renters and by the number of participants whose applications were approved based on categorical eligibility versus documentation of income eligibility
- Average amount of the household support and a copy of the benefit matrix, if applicable
- Number and type of system operators or owners receiving program funds (i.e., drinking water or wastewater, publicly owned or privately owned), sizes of systems receiving funds (e.g., grouped by size of population served<sup>11</sup>), and amount of funds paid out by system type and size
- Total and average amount of funds directed to customer arrears (broken out by drinking water or wastewater and owner versus tenant)
- Total and average amount directed to current bills (broken out by drinking water or wastewater and owner versus tenant)

Further, to the extent that annual reports include certain quantitative metrics that are not included in quarterly reports, the annual report should require a breakdown by quarter. This will allow at least a retrospective assessment of the pace of program implementation in each state during the first year.

Fourth, we recommend that the quarterly reporting continue until all program funds have been obligated and in a timely and transparent basis, rather than sunseting after the first year of the program.

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<sup>10</sup> [https://www.nclc.org/images/pdf/special\\_projects/covid-19/NRDC\\_HHS\\_Emergency\\_Water\\_Assistance\\_Program.pdf](https://www.nclc.org/images/pdf/special_projects/covid-19/NRDC_HHS_Emergency_Water_Assistance_Program.pdf)

<sup>11</sup> For example, EPA has several bins for tracking small water systems under the Safe Drinking Water Act: systems serving 3,301 – 10,000 persons, those serving 501 – 3,300 persons, and those serving 500 persons or fewer.

Finally, we recommend that OCS ask states to include in their reports any available information that would help quantify the immediate need for assistance that cannot be met by available LIHWAP funding, including the universe of customers who did not receive or apply for LIHWAP benefits. For example, the proposed annual report form asks for the number of households “waitlisted for non-availability of funds.” This data point would be extremely valuable to have *during* the first year, in the quarterly reports, in order to inform policymakers of unmet need. For the same reason, reporting on waitlisted households should include data on the amount of funding for which households may have been eligible, to the extent that information is available (e.g., based on the arrearage amount listed on an application).

Additionally, states can be encouraged to gather from vendors and submit to OCS data that includes non-applicant residential customers, such as: the number of residential customers disconnected for non-payment, the number of residential customers eligible for disconnection for non-payment but not yet disconnected, the total dollar amount of residential customer arrears that are at least 60 days overdue, the amount of funding for arrearage forgiveness available from other sources, and availability of and participation rates in deferred payment agreements.

We appreciate the opportunity to comment on the LIHWAP data reporting and we look forward to working with OCS on this important data collection and reporting.

Sincerely,

*//s// Olivia Wein*

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