



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Monica Nino, County Administrator  
Date: March 2, 2021

Subject: AGREEMENT WITH THE STATE OF CALIFORNIA TO ADMINISTER THE U.S. TREASURY  
EMERGENCY RENTAL ASSISTANCE PROGRAM

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**RECOMMENDATION(S):**

ADOPT Resolution No. 2021/78 approving and authorizing the County Administrator, or designee, to enter into an agreement with the California Business, Consumer Services and Housing Agency for administration of the County's allocation of federal Emergency Rental Assistance Program funds.

**FISCAL IMPACT:**

\$71,669,713; \$34,296,331 from a Federal direct allocation to the County and \$37,373,382 from a State subrecipient allocation to the County. Both sources funded by the Consolidated Appropriations Act of 2021(H.R. 133). CFDA No. 21.023

**BACKGROUND:**

On December 27, 2020, the federal Consolidated Appropriations Act of 2021, a \$900 billion COVID-19 relief bill and continuing resolution, was signed into law and \$25 billion was allocated to the U.S. Treasury for the Emergency Rental Assistance Program (ERAP) to assist households that are unable to pay rent or utilities due to the COVID-19 pandemic. California has been slated to receive a total of \$2.6 billion of the Federal ERAP funds. Of this portion, certain cities and counties within the State with populations over 200,000 were

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

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Action of Board On: **03/02/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 2, 2021

Contact: Timothy Ewell,  
(925) 655-2043

Monica Nino, County Administrator and Clerk of the Board of  
Supervisors

By: Laura Cassell, Deputy

cc:

able to apply for a direct allocation of ERAP funds from the U.S. Treasury. Contra Costa County made application for its share of these funds on January 6, 2021 and received \$34,296,331 million on January 19, 2021.

For the remainder of funds not allocated to cities and counties with populations over 200,000, the State Legislature developed a programmatic framework that eases administrative burden and most efficiently deploys these resources to those most in need statewide. On January 28, 2021 the State Senate and State Assembly passed the COVID-19 Tenant Relief Act (SB 91), which extends eviction protections through June 30, 2021 and creates a mechanism to deploy the state allocation of Federal ERAP funds to assist struggling tenants and landlords impacted by COVID-19. The State framework developed under SB 91 also builds upon the Federal eligibility requirements by further prioritizing the distribution of funds to certain impacted populations. A summary of major Federal and State eligibility requirements are outlined below:

## **BACKGROUND: (CONT'D)**

### **Federal Eligibility Requirements:**

- Funds must be used to support eligible households up to 80% Area Medium Income (AMI), with a priority for those up to 50% AMI with funding focused to ensure rental arrears are addressed to stabilize households and prevent evictions.
- 90% of funds must be used to provide financial assistance, including back and forward rent and utility payments and other housing expenses.
- Payments should be made directly to landlords or utility companies on behalf of renters; if a landlord refuses to accept the rental assistance the assistance may be provided directly to the tenant.
- The US Treasury is required to recapture excess funds not obligated by September 30, 2021 and will re-obligate them to jurisdictions that have met obligation targets.
- Programs must be established to avoid duplication of federal rental assistance benefits to households.

### **State Eligibility Requirements (over and above Federal Requirements):**

- The rental assistance program will provide eligible landlords with immediate relief through the payment of 80 % of their tenants' rental arrears accumulated since April 1, 2020 through March 31, 2021. Landlords, in turn, agree to accept this payment as payment in full of any unpaid rent for that period.
- In cases where a landlord chooses not to participate, an eligible tenant may apply to the program on behalf of their landlord for 25% of their arrears that they must then use to pay the landlord. The program also allows for prospective payments of 25% of monthly rent.
- Funds not expended by August 1, 2021 will be recaptured and reallocated within the State to ensure no state funds are returned to the U.S. Treasury.

The combination of proscribed Federal and State eligibility criteria leaves little discretion to Boards of Supervisors or City Councils to tailor ERAP funded rental assistance programs to specific, local needs. In fact, the State is conditioning receipt of state block grant allocations to eligible cities and counties on adoption of the State's Rental Assistance Program (the "Conforming Program"), which follows the Federal and State eligibility criteria highlighted above. Local jurisdictions can further prioritize within the Federal and State criteria above, but must implement at least the Federal and State criteria. By way of example, the following are areas that can be further prioritized in a local implementation scenario:

- Prioritization by deeper income targeting (i.e. 30% AMI and below);
- Prioritization by rent-burden;
- Prioritization by qualified census tracts;
- Prioritization by property size (i.e. small landlords vs. large landlords);
- Other related factors that the State deems to be consistent with prioritizing populations with demonstrated need;

## **State Options for Eligible Cities and Counties:**

Following the passage of SB 91, the State has developed three implementation options for eligible cities and counties to benefit from additional ERAP block grant funding from the State.

**Option A:** *Participate in the State's Conforming Program and direct its federal allocation through the State Program.* In this scenario, the County provides the State with the County's Federal direct ERAP allocation and the State, along with its contractor network, runs the State Conforming ERAP program on behalf of the County;

**Option B:** *Conform to the State's Conforming Program, self-administer its federal allocation and receive a block grant allocation (based on population size) from the State's Conforming Program.* In this scenario, the County received additional ERAP funds as a block grant from the State and runs the State Conforming Program on behalf of the State. The County must spend its State ERAP block grant amount (\$36 million) by August 1, 2021, or it will be recaptured by the State and reallocated to another County; or

**Option C:** *Choose not to conform to the State's Conforming Program rules, self-administer its federal allocation, acknowledge that the state will serve its population via the State's Conforming Program, and accepts responsibility for duplication of benefits checks between the two programs.* Under this scenario, the State runs the State Conforming Program within the County and the County runs a second, locally developed program within the County.

## **Current CDBG Funded Rental Assistance Program Separate**

It is important to note that the ERAP funding and implementation options outlined above are separate and aside from the CDBG funded Rental Assistance Program discussed by the Board on November 17, 2020. At that time, the Board provided direction and authorization to staff to significantly expand the existing CDBG-funded rental assistance program utilizing \$3,200,000 of CDBG-CV3 funds.

The County's decision to select Option A does not impact the CDBG funded rental assistance program although it will be important to share information between the two efforts to ensure each leverage and complement one another as well as avoid duplication of efforts.

## **County Selection of Option A**

On February 9, 2021 the Board selected Option A, which provides that the State will administer the County's share of ERAP funding as outlined in the Fiscal Impact section. The County will keep \$514,445, or 1.5% of the Federal Direct Allocation. Following the Board's action, the County Administrator filed an Expression of Intent Form transmitting

the County's selection of Option A to the California Business, Consumer Services and Housing Agency, which was subsequently acknowledged.

The State has since requested that jurisdictions selecting Option A adopt a resolution which authorizes two primary actions:

1. The transfer of the County's Federal Direct allocation to the State. The logistics of this transfer have not yet been outlined by the State; however, this is contemplated in the Option A framework adopted by the Board on February 9, 2021.
2. Executing an agreement between the County and the State for the administration of the ERAP funds in line with the State Conforming Program outlined in SB 91. The State is still developing the agreement, but has been consistently providing updates to counties across the State on progress related to program rollout.

Today's action is requesting that the Board authorize the attached resolution, which provides authority for the County Administrator to execute the two actions outlined above in addition to providing broad authority to ensure the successful implementation of the ERAP program. Adoption of the resolution, transfer of the Federal Direct Allocation and execution of the agreement are all necessary to launch the ERAP program for the benefit on County residents.

#### CONSEQUENCE OF NEGATIVE ACTION:

The County will not have a formal resolution authorizing the transfer of the Federal Direct Allocation and entering into an agreement for administration of the ERAP program by the State. The resolution, transfer and execution of the agreement are necessary to launch the ERAP program for the benefit of County residents.

#### CHILDREN'S IMPACT STATEMENT:

No impact

#### ATTACHMENTS

Resolution 2021/78