



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, Housing and
Community Development

SUBJECT: SB 91 MOU With State Department of
Housing and Community
Development

DATE: April 5, 2021

City Administrator Approval 

Date: Apr 7, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To (1) Enter Into A Memorandum Of Understanding (MOU) With The State Department Of Housing And Community Development Regarding The Administration Of Emergency Rental Assistance Program (ERAP) Funds; And (2) Take All Steps Necessary For The ERAP Funds Allocated By The State To Serve Oakland Tenants And Rental Property Owners To Be Administered By The State Through Its Contractors: Horne LLP And The Local Initiatives Support Corporation.

EXECUTIVE SUMMARY

The Consolidated Appropriations Act of 2021 was enacted by the United State Congress in December 2020 and includes \$25 billion in emergency rental assistance for states, U.S. territories, local governments with populations over 200,000, and Indian tribes to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic. The City of Oakland received a direct allocation from the US Treasury in the amount of \$12,874,764 which was accepted by the City on February 16, 2021 (Resolution No. 88520 CMS), to be administered through non-profit partners in accordance with the Keep Oakland Housed Program.

The State of California received a direct allocation from the US Treasury in the amount of \$1.2 billion and allocated a proportional share of these funds, \$13,856,365, to serve Oakland tenants and rental property owners. The State's Emergency Rental Assistance Program (ERAP) is being administered through two contractors: Horne LLP and the Local Initiatives Support Corporation (LISC) in accordance with the provisions of State Senate Bill (SB) 91.

To ensure that the programs operate in a manner that prevents duplication of benefits, a Memorandum of Understanding (MOU) between the City and the State Department of Housing and Community Development is needed to describe the method for conducting de-duplication measures. Adoption of this resolution will authorize the City to enter into an MOU with the State to accomplish this.

City Council
April 12, 2021

BACKGROUND / LEGISLATIVE HISTORY

In December 2020, the United State Congress passed the Consolidated Appropriations Act, 2021, which includes \$25 billion available to states, U.S. territories, local governments with populations over 200,000, and Indian tribes to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic. The program is called the Emergency Rental Assistance Program (ERAP) and the US Treasury has issued ERAP program guidelines and is developing additional guidance materials.

The City of Oakland is an eligible local government and submitted the required payment information and signed the acceptance of award terms form required to receive an allocation of ERAP on the due date of January 12, 2021.

On January 22, 2021 the City received its ERAP funding allocation of \$12,874,764 from the US Treasury, referred to as the City's "Direct Allocation."

On January 29, 2021 State Senate Bill (SB) 91, the Tenant Relief Act, was signed into law. It extends the State's eviction moratorium pursuant to SB 3088 and includes a Rental Assistance Program (RAP). The State RAP is funded by the same US Treasury Emergency Rental Assistance Program identified above. The State's allocation is a total of \$1.2 billion, and \$13,856,365 of that amount has been allocated to serve Oakland tenants and rental property owners, referred to as the City's "State Allocation." The State has engaged Horne LLP and the Local Initiatives Support Corporation (LISC), a national Community Development Financial Institution (CDFI), as the program implementers for this statewide program.

SB 91 provided three options for State allocatees to choose from: (1) City remits its direct allocation to the State to be administered by Horne LLP and LISC along with State allocation in accordance with State regulations; (2) City receives State allocation and administers both direct allocation and State allocation in accordance with State regulations; and (3) City administers its direct allocation in accordance with City regulations and Horne LLP and LISC administer the City's State allocation in accordance with State Regulations. Staff recommended and the City Administrator approved Option 3.

On February 16, 2021, the City Council accepted the City's Direct Allocation and awarded funds to non-profit partners to administer the rental assistance program in accordance with the Keep Oakland Housed Program (Resolution No. 88520 CMS).

The State of California program began accepting applications on March 15, 2021, and the City of Oakland program began accepting applications on April 1, 2021.

ANALYSIS AND POLICY ALTERNATIVES

The selection of Option 3, as provided for in SB 91, ensures the City's ability to continue and grow the successful Keep Oakland Housed model with the City's direct allocation of \$12,874,634, while ensuring that the State allocation of \$13,856,365 is dedicated to City renters and property owners using the State model and administered by LISC.

Table 1, below, outlines how the SB 91 Rental Assistance Program design is different from Keep Oakland Housed.

Table 1. Difference Between SB 91 and Keep Oakland Housed Programs

SB 91	Keep Oakland Housed
Focused on debt relief	Focused on housing stability for most vulnerable and homelessness prevention
Primary target is property owners	Primary target is tenants below 50% AMI
80% maximum rent arrears paid, must forgive 20% rent arrears	100% available, maximum \$15,000 per household or 12 months of rent payments
On-line applications; local partner network available to assist	Applications available on-line, phone, paper; local application assistance provided

The successful coordination of these two programs relies on a mutually agreed upon approach to preventing duplication of benefits, and the MOU is the vehicle to do this. It will spell out the measures to be undertaken to accomplish this and includes two core components: bifurcation of populations being served and data sharing.

- (1) **Bifurcation:** Based on the Keep Oakland Housed model, the City program will focus on tenants with incomes below 50 percent of Area Median Income (\$65,250 for a four-person household), and the State will take tenant applications for those with incomes above 50 percent of Area Median Income. In addition, the State will focus on accepting applications from property owners applying for their buildings, and the City will focus on owners of 100 percent restricted affordable housing.
- (2) **Data Sharing:** The MOU will spell out the workflows needed to share data, which can be done electronically. The process will protect applicants' confidential information but will require applicants' consent to sharing data needed specifically to prevent duplication of benefits.

The City has reached agreement with the State on these two items and staff from each are in regular communication to ensure successful implementation.

The MOU is an agreement on the measures to be taken to prevent duplication of benefits between the City program and the State program and is not related to enacting the Option 3 status. Selecting Option 3 did not require City Council action and is the presumptive status for entering into the MOU. The MOU template that the State has created is only for Option 3 jurisdictions. While the MOU is operationalizing an administrative program function, the City Attorney's Office determined that Council action is needed.

FISCAL IMPACT

The MOU will ensure the City program operates in full compliance with US Treasury rules governing this program and mitigates against any legal or fiscal consequences of non-compliance.

PUBLIC OUTREACH / INTEREST

The MOU is an internal inter-agency operating document and no public outreach was deemed necessary beyond the standard City Council agenda noticing procedures.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau

SUSTAINABLE OPPORTUNITIES

Economic: The ERAP funding will be used to sustain Oakland's low-income renters in their housing, creating economic stability.

Environmental: There are no direct environmental impacts associated with the City Council action requested in this agenda report.

Race and Equity: Demographic data evidences that the COVID-19 health pandemic disproportionately impacts Oakland's lower-income residents and in particular the African American and Latinx communities. The associated dual crises of homelessness and housing instability also disproportionately impact these same communities. Through targeting and prioritizing how funds are deployed, HCD can address racial equity impacts. HCD will also collect and analyze disaggregated data on a regular basis to evaluate the program and make corrections to the program in the case that racial equity goals and objectives are not being met.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To (1) Enter Into A Memorandum Of Understanding (MOU) With The State Department of Housing And Community Development Regarding The Administration Of Emergency Rental Assistance Program (ERAP) Funds; And (2) Take All Steps Necessary For The ERAP Funds Allocated By The State To Serve Oakland Tenants And Rental Property Owners To Be Administered By The State Through Its Contractors: Horne LLP And The Local Initiatives Support Corporation.

For questions regarding this report, please contact Maryann Leshin, Deputy Director, HCD, at 510-238-6225.

Respectfully submitted,



Maryann Leshin for

SHOLA OLATOYE

Director, Housing and Community Development
Department

Prepared by:

Maryann Leshin

Deputy Director, Housing and Community
Development Department