WITT O'BRIEN'S
PART OF THE SEACOR FAMILY

NATIONAL ASSOCIATION of COUNTIES NACo

WITH YOU WHEN IT COUNTS

SUCCESSFULLY NAVIGATING THE EMERGENCY RENTAL ASSISTANCE PROGRAM 1.0 AND 2.0 FUNDING ALLOCATIONS

wittobriens.com

OUR EXPERTS

MATTHEW ERCHULL
MANAGING DIRECTOR
merchull@wittobriens.com

13+ Years of Experience
Treasury, HUD, HHS, ACF, DOI, DOJ, FEMA, EDA, USDA + Other Federally Funded Programs

BRAD GAIR
PRINCIPAL
bgair@wittobriens.com

25+ Years Of Experience
City/County/Federal Government & Large-Scale Relief Programs

We are present in 30+ states supporting numerous state & local governments, healthcare systems and higher education institutions in post-COVID recovery.

Includes 95 state and local governments, NGOs, Tribes, and Territories that are recipients of $11B+ in aid

As of August 2021

Over $250 Million of ERAP Funding Disbursed to Date

COVID-19 State and/or Local Projects
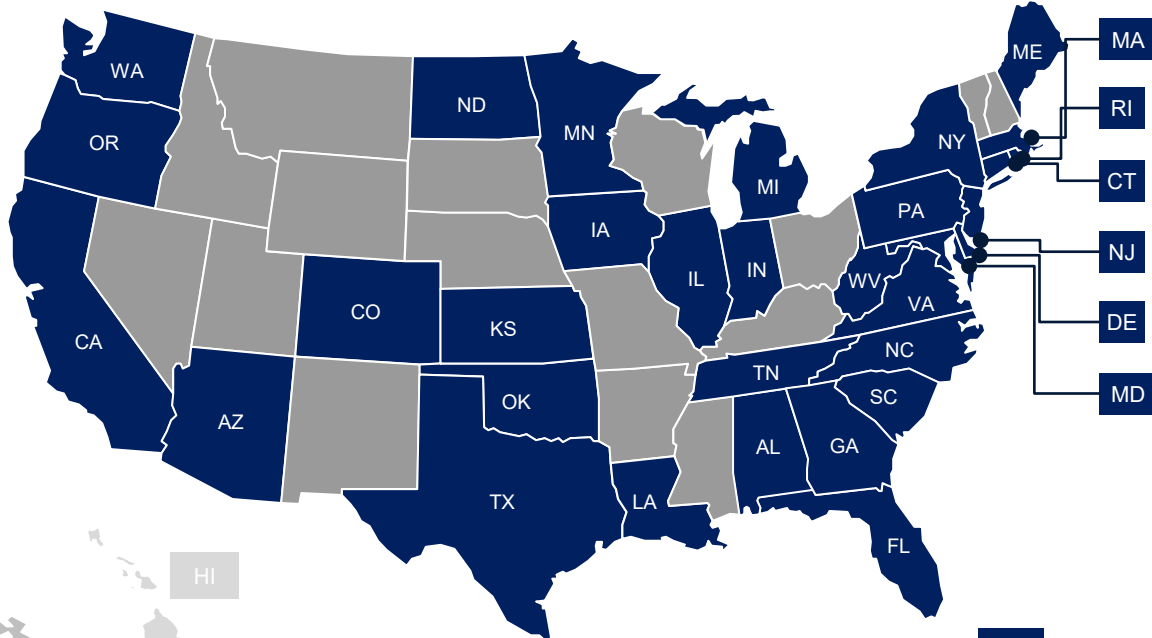
Selected topics include:

- ARPA project strategy and PMO
- Emergency response operations
- Large-scale program implementation (ERAP/HAF)
- Healthcare resiliency
- Health readiness
- Government & agency transformation
- Digitalization of processes & services
- Reopening guidance
- Economic impact
- Economic recovery
- Equity
- Project management
- Program design and implementation
- Data-driven decisions

WITT O'BRIEN'S

ERAP 1.0 VS 2.0

- SIDE-BY-SIDE COMPARISON

WITT O'BRIEN'S

ERAP 1.0 vs 2.0 – SIDE BY SIDE

	ERAP 1.0 (HR133 Dec 2020)	ERAP 2.0 (ARP Mar 2021)
Total Funding Amount	• $25 Billion • $23.75 Billion State/Local Governments • $0 Funding For High Needs Areas • $1.2 Billion Tribes/Territories	• $21.55 Billion • $18.712 Billion State/Local Governments • $2.5 Billion For High Needs Areas • $305 Million for Tribes/Territories
Distribution Methodology	• State allocations based on 2019 Census Data • Local Gov 200k+ received 45% of population proportionality of jurisdiction % of state • No High Needs Allocation	• State allocations based on 2019 Census Data • Local Gov 200k+ received 45% of population proportionality of jurisdiction % of state • High Needs Allocation based on 50% AMI population, overcrowding/substandard conditions, FMR, unemployment
Small State Min	• $200M	• $152M
Distribution	• Full Distribution within 30 days of enactment	• 40% of allocation within 60 days of enactment • Remaining distribution in tranches TBD only when grantee has obligated at least 75% of funds previously provided by Treasury (including 1.0)

ERAP 1.0 vs 2.0 – SIDE BY SIDE

	ERAP 1.0 (HR133 Dec 2020)	ERAP 2.0 (ARP Mar 2021)
Eligible Recipients	• Less Than 80% AMI • Household incurred financial hardship/unemployment due to COVID-19 outbreak • Risk of experiencing homelessness	• Less Than 80% AMI • Household incurred financial hardship/unemployment **during or*** due to COVID-19 outbreak • Risk of experiencing homelessness
Prioritization	• <50% AMI • Unemployed last 90 days	• <50% AMI • Unemployed last 90 days

Use of Funds	• 90% of Funds for
	  • Rent
	  • Utilities
	  • Other Housing Expenses
	• 10% of Funds for housing stability services and/or Admin
		• At least 75% For
		  • Rent
		  • Utilities
		  • Other Housing Expenses
		• 10% of Funds for housing stability services
		• 15% for Admin Costs

Max Assistance	• 12 Months + additional 3 months, if necessary, to ensure housing stability	• May not exceed 18 months, inclusive of funds received from ERAP 1.0

WITT O'BRIEN'S

COMMON CHALLENGES

- COMMON ELIGIBILITY REVIEW CHALLENGES & CONSTRAINTS

WITT O'BRIEN'S

MOST COMMON CHALLENGES

Common Themes:

- Technology Issues
- Income Verification & Associated Documentation Requirements
- Landlord Participation
- Reluctance to Pay Tenants
- Tenant Participation
- Reluctance to Deny Unresponsive Applicants
- Payments
- ERAP 1 vs 2 – what do I use to pay for what?

Technology

Technology Issues

- Grantees rushed to deploy programs and leveraged 'off-the-shelf' technology that may not have been adapted to their specific programmatic design –or relied on existing non-program specific technology, such as HMIS, and had to build outside of system processes
- Technology solutions were overwhelmed with new clients and were slow to customize or adapt technology to each client's needs

Solution

- It's not too late to switch solutions. ERAP 1 -> ERAP 2 is a good opportunity for a well calculated and developed 'fresh start'.
- Look beyond ERAP towards ARPA implementation and treat technology as an investment in future direct-to-beneficiary programs

WITT O'BRIEN'S

Income Verification & Associated Documentation Requirements

Income Verification

- Calculating household Income can be burdensome for low to moderate income applicants. Providing the appropriate (and all) documentation related to income verification is most significant constraint in production and discourages applicants who often abandon apps.

Solution

- Evaluate policies > best practice is waterfall approach
    1. Proxy
    2. Categorical Eligibility (HCV, SNAP, TANF, LIHEAP, WIC, Head Start, and SSI)
    3. IRS Tax Returns
    4. Household Income past 30 days
    5. Self Attestation

WITT O'BRIEN'S

Landlord Verification & Participation

Landlord Participation

- Increasingly, landlords are choosing not to participate in the ERAP verification/validation process in spite of the direct financial benefit they may receive
- Many Counties/States have increasingly begun to shorten landlord participation timelines and moved to payments to tenants

Solution

- Evaluate policies and update per recent Treasury guidance shortening outreach required.
  - ERAP 1: 3 contact attempts (phone, text, email) over 5 calendar days
  - ERAP 2: No landlord outreach required

WITT O'BRIEN'S

Tenant Payments

Reluctance To Pay Tenants Directly

- Many jurisdictions do not yet feel comfortable issuing payments directly to tenants when landlords fail to participate in application process
- While there is some risk associated with direct-to-tenant payments, there are risk mitigation strategies you can quickly deploy

Solution

- Require tenants to sign a grant agreement that includes subrogation or recapture clause
- Require tenants to supply receipt within XX number of days post payment – unable to receive future assistance without demonstrating proof of receipt

WITT O'BRIEN'S

Tenant Participation

Tenant Participation

- Some jurisdictions have experienced a high rate of 'unresponsive' or 'ineffective' participation by tenants

Solution

- Deploy more expansive toolbox of communication tools:
    - Text message (Twillio, EzTexting, SlickText)
    - Email campaigns (SendGrid, Constant Contact)
    - Streamlined attestation (Pandadoc, OneFlow, Nintex, DocuSign)
- Evaluate policies for tenant participation:
    - 14 to 21 day 'time out' is norm with 3-5 contact attempts throughout
    - Send denial warning with 5-day cure period

WITT O'BRIEN'S

Unresponsive Applicant Denials

Reluctance to Deny Unresponsive Applicants

- Some jurisdictions and non-profit organizations running ERA programs that are accustomed to 'single point-of-care' have a strong reluctance to deny unresponsive applicants

Solution

- Run a pilot denial notification with 5-day cure period to gauge participation
- Experience: with looming 'threat' of program denial, applicants who are truly seeking assistance will find a way to get required documentation
- Have an 'appeal' process to handle applicants with special circumstances

WITT O'BRIEN'S

Payments

Payments

- Many jurisdictions have immensely struggled with deploying a streamlined payment process and have to rely on ERP integration and vendor registration, which can bog down the process for landlords with portfolio of properties and associated W9 / complex ownership structures

Solution

- While some jurisdictions turned to Community Based Organizations or NGOs to run their programs to avoid this issue (subrecipient relationship), you may want to evaluate utilizing a centralized payment vendor or solution – this is a contractor relationship NOT a subrecipient relationship
- Use ERAP admin funds to hire finance staff specifically for this program and develop a business process that makes sense for your needs

WITT O'BRIEN'S

ERAP 1 vs 2 – what do I use to pay for what?

ERAP 1 vs 2

- Many Counties have not started to leverage their ERAP 2.0 $ because they see the funds as linear with 2.0 kicking in after 1.0 is exhausted.
- Many Counties are also worried about the 65% obligation timeline and using 2.0 money before hitting 65% obligations on 1.0

Solution

- Leverage 2.0 to help absorb cost concerns related to admin expenses (blending admin support across deployments – 2.0 has higher admin allowance)
- Use 2.0 funds to pay for the remaining 3 months to achieve 18 months of assistance
- Use 2.0 funds to pay for direct to tenant payments for more streamlined financial controls
- Use 2.0 to pay for rehousing (security deposits and new housing placements)

WITT O'BRIEN'S

NEW STRATEGIES TO RECHARGE YOUR PROGRAM

- COORDINATION WITH COURTS
- OUTREACH RE: REHOUSING
- DEPLOY ATTESTATIONS
- PROXIES
- EVALUATE IMPLEMENTATION

WITT O'BRIEN'S

COORDINATION WITH COURTS

Eviction Offramp Program

- You may be able to ward off mass evictions and reduce burden on local courts through purposeful court coordination. Consider data sharing agreements that enable you to target assistance to those facing eminent eviction

Considerations:
- Program needs to have a clear timeline for participation
- Produce a 'get ready packet' that enables both the tenant and landlord to have all available information at the time of application
- Dedicate a team of case managers / processors to handle these cases – largest risk of immanent housing instability
- Drives participation for re-housing if eviction can't be cured

WITT O'BRIEN'S

NEW STRATEGIES FOR FUTURE SUCCESS

RAPID REHOUSING

'Rehousing Program'

Transitional Sheltering:

If post eviction, use establishment of agreement (min 4 months) and pay prospective hotel on weekly/monthly basis; continued impacts need to be re-certified every 30 days

New Housing

Use existing information and build templates tenant/landlord agreement. Program pays for security deposits and prospective assistance. Landlords are more likely to accept higher-risk tenants if up front or guaranteed financial support is in place.

WITT O'BRIEN'S

NEW STRATEGIES FOR FUTURE SUCCESS

ATTESTATIONS

Deploy Attestations

- The Treasury has emphasized that attestations can be leveraged for multiple components of tenant/landlord validation

Example Attestations:

Income – Lake County, Illinois
Landlord/Tenant Relationship & Amount Owed – State of Minnesota
Tenant Self-Cert (no landlord) – West Virginia
Combined / Multiple Attestations – Brazoria County, Texas

WITT O'BRIEN'S

NEW STRATEGIES FOR FUTURE SUCCESS

USE OF PROXIES

Use Proxies!

• Treasury allows for the use of fact specific proxies.

Examples of potential proxies:
- Rent Amount (grantees may accept a written attestation from the applicant to support the payment of assistance up to a monthly maximum of 100% of the greater of the Fair Market Rent or the Small Area Fair Market Rent for the area in which the applicant resides)
- Financial Hardship – Inability to pay utilities can demonstrate finance hardship; eviction notice; other past due balances
- Utilities – Use informed analysis of specific utility data to streamline calculation of utilities (Total Amount Past Due / Current Month Amount Due = # of months. Use Lesser of total months allowed or current amount due)
- Other Housing Need Stipends – Calculate normalized average and issue stipend in place of complex documentation of each month of assistance required (internet as example)

WITT O'BRIEN'S

AVOIDING POTENTIAL CLAWBACK

- POLICY VS PRODUCTION
- 65% 1.0 OBLIGATION DEADLINE

WITT O'BRIEN'S

AVOIDING FUTURE AUDIT ISSUES WHILE DRIVING OUTCOMES

Policy vs Production

Key to successful program is balance of policy considerations to ensure program integrity (preventing fraud) with the right amount of consideration for streamlined application and assistance design

Policy:
- Develop comprehensive policies and procedure manuals and follow them consistently. If you're trying to accommodate the 'what if' situations, incorporate an exceptions policy with an evaluation process
- Document the use of fact specific proxies and attestations and cite policy and guidance from Treasury at the time. This will help justify why you made the policy decision you did at the time you deployed it.

Production:
- Incorporate key performance indicators and performance expectations in subrecipient or vendor contracts. This is key for 2.0 amendments and/or new contracts

WITT O'BRIEN'S

AVOIDING POTENTIAL RE-ASSIGNMENT OF FUNDS FROM TREASURY

Treasury 65% Obligation Rule for ERAP 1.0
Recipient agrees to repay excess funds to Treasury in the amount as may be determined by Treasury pursuant to Section 501(d). Such repayment shall be made in the manner and by the date, which shall be no sooner than September 30, 2021, as may be set by Treasury.

Section 501(d) the Secretary shall reallocate and repay such amounts to eligible grantees who, at the time of such reallocation, have **obligated** at least 65% of the amount originally allocated and paid to such grantee.

OIG Reporting Requirements:
What is an obligation? For purposes of ERA reporting, an obligation is a **commitment to pay** a third party with ERA award proceeds **based on a contract, grant, loan, or other arrangement**

QUESTIONS?

WITT O'BRIEN'S

PART OF THE **SEACOR** FAMILY

WITH YOU WHEN IT COUNTS

JOHN MANTIS

Federal Funding Expertise

Crisis and Disaster Management

Public & Stakeholder Communication

Business & Operations Continuity

Emergency Operations Center Surge Staffing

Email: covidhelp@wittobriens.com