

Re: Louisiana Road Home Program for Homeowner Assistance to victims of Hurricanes Katrina and Rita with federally financed (\$10.4 billion) grants of up to \$150,000 per homeowner as part of HUD's CDBG program

Feb. 2, 2009

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To Whom It May Concern:

The undersigned are individuals and representatives of non-profit advocacy and citizen-aid groups who wish to file the following complaint and request that the HUD Inspector General's Office investigate allegations of serious mismanagement, waste and abuse by state agencies responsible for oversight of the Louisiana Road Home Program for Homeowner Assistance (RHP, Program). The complaint includes the Louisiana Recovery Authority (LRA), The Louisiana Division of Administration (DOA), the Office of Community Development (OCD) and the state contractor (Contractor) for the program, ICF Emergency Management Services, LLC (ICF). We have tried but been unable to obtain help from the HUD Disaster Recovery and Special Issues Division.

This complaint concerns the following substantive issues:

- Lack of adequate oversight by LRA and OCD in the performance by the contractor in implementation of the Road Home Program which has resulted in the inefficient and wasteful use of program funds and the failure to perform as required pursuant to the contract and in derogation of requirements of the Louisiana Action Plan For The Use of Disaster Recovery Funds and amendments thereto, CDBG guidelines for the program, LRA policy, and LRA Program rules.
- Serious mismanagement or inattention, waste and abuse of program funds resulting from the failure to implement and/or adhere to program policy and rules, including the imposition of arbitrary, capricious and wasteful policies, including particularly:
 - failure to provide a common, consistent, fair and independent method of determining homeowners' damages, including pre-storm values,
 - thereby, many applicants received less grant money than they were entitled to, which has caused an especial hardship for moderate-to-low income applicants consequently unable to repair or rebuild their homes;
 - failure to provide program rules, information and documents to applicants in derogation of their rights;
 - failure to meet the contractual obligation to provide an "ombudsman" type program;
 - failure to provide a fair and independent appeals process in violation of due process;

- acts in derogation of HUD requirements for citizen and local government representative participation.

There has been evidence of fraud concerning:

- the intentionally misleading appearance of the Contractor instituting a real dispute resolution program when, in fact, thousands of applicants were left in limbo and thereby unable to appeal;¹
 - For example, finally, one year after the Contractor had fallaciously maintained that it had made a benchmark for clearing thousands of long-stalled dispute resolutions, LRA and OCD levied a fine on the Contractor, for failing to meet the benchmark; however, the fine was less than 10% of what it should have been according to data from the Contractor and a subcontractor.²
 - Another example comes from the Louisiana Legislative Auditor in a Jan. 9, 2009 audit report, which stated the following.
 - ❖ If applicants dispute their pre-storm value, Road Home employees check the PSV dispute flag in eGrants. If this flag is checked, ICF uses the highest pre-storm value in the award calculation.
 - ❖ However, because the policy says that applicants disputing their pre-storm must go through the resolution process, all applicants with a PSV dispute flag should have a corresponding issue in JIRA which is the system used to record and track disputes.
 - ❖ However, we analyzed 50 applicant files of a total of 22,650 that had the PSV dispute flag as of March 2008 and found that 27 of the 50 (54%) did not have an issue related to PSV in either JIRA or JIRA archives.³
- the Contractor intentionally inflating numbers of actual applicants and fallaciously arguing that the Contractor had more work to do than originally stipulated in the contract to justify an increase in the contract;
- the Program manipulating the pre-storm evaluation process during grant calculation, dispute resolution and appeals, which lowered grant awards and wasted taxpayer money for purposely ineffective procedures;
- the Program intentionally inactivating large numbers of applications, many of which were inactivated for no substantive reason, then fallaciously assigning the blame to applicants, thereby making their accounting of pending “active” grant applications look more favorable.

¹ Legislative Audit Reports on Dispute Resolution in May, 2007 and Feb., 2008; the replacement for dispute resolution with another preliminary pre-appeal procedure (PAL, Personal Assistance Liasons) have left many applicants in limbo and many of those who were stranded in dispute resolution still cannot appeal.

[http://app1.lla.state.la.us/PublicReports.nsf/E8F4E4997C034536862573240068538B/\\$FILE/000013BD.pdf](http://app1.lla.state.la.us/PublicReports.nsf/E8F4E4997C034536862573240068538B/$FILE/000013BD.pdf);
[http://app1.lla.state.la.us/PublicReports.nsf/4E3AA11FCA10791E862573E700649613/\\$FILE/00003D79.pdf](http://app1.lla.state.la.us/PublicReports.nsf/4E3AA11FCA10791E862573E700649613/$FILE/00003D79.pdf) ;
http://www.nola.com/news/index.ssf/2008/03/road_home_set_to_revise_appeal.html;

http://blog.nola.com/updates/2008/05/road_home_purgatory.html

² <http://www.nola.com/timespic/stories/index.ssf?/base/library-151/1216185779124240.xml&coll=1>;

http://chatushome.com/chatusfiles/DisappearingDisputeResoln_from8_07_1_20_08.pdf

³ [http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf), P.20

Most of the data provided herein is from the Citizens' Road Home Action Team (CHAT), an unincorporated, all-volunteer association formed in September 2006 to obtain and disseminate information about the RHP and to advocate on behalf of grant applicants' rights. CHAT has gathered these data from an 850-member email network; a collection of over 1400 responses to three online surveys; hundreds of emails, correspondence and communications with RHP officials (LRA, OCD, ICF management and staff); weekly 1-hour conference calls for five months in 2007 with LRA and OCD officials; and statements provided from over a hundred applicants at biweekly CHAT meetings. Confirmatory and independent data are provided from a subcontractor (KPMG LLP) who performed an assessment commissioned by OCD⁴ and from many independent reports about the Program by the Louisiana Legislative Auditor. Additionally, there are references to several of the many bills from the Louisiana legislature to try to reform or improve the accountability of the RHP because of commonly understood grave concerns about mismanagement. One of the cosignatories of this complaint (Melanie Ehrlich) has just confirmed with the head of the Louisiana Legislative Auditor's office, Mr. Steve Theriot, that OCD has been in intentional violation for five months of a RHP accountability law (Act 829, enacted July 9, 2008) requiring monthly reports from OCD to the Legislative Audit Advisory Council (a committee of the Louisiana legislature) about the Contractor, including performance measures.

We request that the HUD OIG expedite this investigation of the RHP. The State is reporting that it projects that there will be unobligated funds and that it will seek approval from Congress to divert these funds for other purposes⁵. We question the accuracy and fairness of projections of a surplus based on the improper underfunding of applicant grants. We question the reliability of any Contractor projections of a surplus in view of its history of errors in past calculations and projections. Unfunded or incompletely funded grants attributable to the lack of oversight and failure to follow the state Action Plan, CDBG guidelines and Program policy and rules, including the systemic denial of fair and independent appeals, must be addressed and corrected before any surplus can be determined.

I. Who was involved: Persons responsible for oversight, administration and implementation of The Louisiana Road Home Program for Homeowners. The program will provide an estimated 130,000 victims of Hurricanes Katrina and Rita compensation grants through the HUD-CDBG (Community Development Block Grants) program.

II. What happened: Serious mismanagement, noncompliance with CDBG regulations regarding contractor oversight and funds management by the State of Louisiana (State), waste of CDBG funds, and possible fraud in implementation by the Contractor, ICF, resulting in excessive and unearned charges against Program funds. OCD and LRA have not maintained effective control and accountability of the contractor and subcontractors.

SUMMARY OUTLINE

⁴ KPMG Program Review (Road Home Homeowner Assessment Task) Issued Dec. 7, 2007, http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf, Pp.13 and 35 – 38; however, note that OCD commissioned this review and that KPMG is a subcontractor to ICF, when considering some of the justifications for ICF's performance; also, see Appendix E

⁵ **“State asks feds to OK funds for N.O. hospital”:** [http://iw.newsbank.com/iw-search/we/InfoWeb?p_action=doc&p_theme=aggdocs&p_topdoc=1&p_docnum=1&p_sort=YMD_date:D&p_product=NewsBank&p_docid=124924606E649E10&p_text_direct-0=document_id=\(%20124924606E649E10%20\)&p_nbid=U4EU4FIMMTIzMzUwODcyOS4xMTUyOTU6MToxMjoxOTkuODAuMTA1LjA%20](http://iw.newsbank.com/iw-search/we/InfoWeb?p_action=doc&p_theme=aggdocs&p_topdoc=1&p_docnum=1&p_sort=YMD_date:D&p_product=NewsBank&p_docid=124924606E649E10&p_text_direct-0=document_id=(%20124924606E649E10%20)&p_nbid=U4EU4FIMMTIzMzUwODcyOS4xMTUyOTU6MToxMjoxOTkuODAuMTA1LjA%20) ; <http://www.lra.louisiana.gov/assets/docs/searchable/meetings/2008/11/111808AppropriationResolution.pdf>

A. Information is provided herein evidencing that HUD, LRA, and OCD have not complied with CDBG regulations that require oversight to prevent waste of CDBG funds. OCD and LRA have not maintained effective control and accountability of the Contractor and subcontractors.

B. Information is provided herein evidencing that the Contractor performed unnecessary repetitive tasks in order to increase costs and profit which detrimentally impacted applicants and wasted taxpayers' money.

C. Information is provided herein evidencing that the \$156 million increase (20.6%, Dec. 2007) in the ICF contract over the original \$756 million contract ceiling is unjustified and that ICF fraudulently inflated applicant numbers and misleadingly argued that it had more work to do than originally stipulated in the contract to justify the increase.

D. Information is provided herein evidencing that LRA and OCD have failed to follow CDBG guidelines, the Grant Agreement, and HUD regulations⁶ by frequently not responding or not responding in a timely fashion to requests for information and documents that should be public. This occurred even after public record requests made according to Louisiana law.

E. Information is provided herein evidencing that the LRA intends to ask Congress for reallocation of hundreds of million dollars of Road Home funds on the assumption of a "surplus" despite changes in grant policies in 2008 that have improperly and unfairly reduced grant awards available for eligible applicants, and wasteful, and intentionally arbitrary and capricious Contractor practices which have had the effect of downsizing grant amounts. No funds in the Road Home budget for applicants should be diverted to other purposes contrary to Congress' stipulation.⁷ These funds remain urgently needed by applicants to repair their homes and could be expeditiously distributed under the existing rules of the Program.

F. Information is provided herein evidencing that the Contractor, with the involvement of LRA and OCD, has denied fair and independent review and appeal of arbitrary and capricious determinations in grant awards by the Contractor, has denied information and documents that applicants needed for fair appeals, and has denied access to courts in order to preclude civil discovery that could provide evidence of mismanagement, abuse, and waste of program funds and possible fraud.

III. When did it happen: From April 2006 (pilot program) through the present.

IV. Where did it happen: The Road Home Program for Homeowners is based in Baton Rouge, Louisiana to service applicants throughout Hurricane Katrina - or Rita- stricken South Louisiana.

V. Why was it done: The Contractor, ICF, has maximized its billing, increased its stock value and prominence with this \$912,000,000 contract, and recently acquired other businesses. In addition, the Contractor has recently obtained additional federal contracts, including for the Head Start Program and for the Department of Homeland Security.⁸

⁶ FROM CDBG GUIDELINES "State Administered CDBG"

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/>

⁷ <http://www.lra.louisiana.gov/assets/docs/searchable/meetings/2008/11/111808AppropriationResolution.pdf>

⁸ <http://www.icfi.com/Newsroom/News.asp?ID=229>; <http://www.icfi.com/Newsroom/News.asp?ID=232>

LRA intends to reallocate so-called “surplus” Road Home funds for other purposes. The surplus arose because many hurricane victims are not obtaining fair compensation for their losses due to arbitrary and capricious decreases in the amount of money for their Road Home compensation grants. In addition, part of the surplus accrues from the Program not instituting all of the tasks that were required in the enabling legislation and the contract. Lastly, there were savings in money from the use of poor-quality determinations of pre-storm value and damage estimates, sham procedures for dispute resolution of very frequent Contractor mistakes, and unusually poor customer service (such as, not returning applicants phone calls for months and not giving written documentation of award notices)⁹.

VI. How did it happen: Secrecy about many of the rules and rule changes; excessive rule changes throughout the program including recent arbitrary restrictions that downsize grants; making the program rules extremely complicated and sometimes contradictory; extraordinarily poor service in returning applicant phone calls or emails; loss of faxed documents and letters sent by certified mail from applicants; giving most important notices to applicants only by phone despite applicant requests for the notice in writing; leaving applicants without access to data and calculations from their files to help them when they question low grant amounts; and discouraging appeals of low grant awards by difficult procedures for initiating appeals, requirements that applicants abandon appeals in order to obtain a separate grant for elevating their homes, and not providing a consistent or fair appeals process.

SOME DETAILS

A. HUD, LRA, and OCD have not complied with CDBG regulations requiring subcontracting, subcontractor management and prevention of waste of CDBG funds. OCD and LRA have not maintained effective control and accountability of the contractor and subcontractors.

The HUD-approved state action plan provides that:

The LRA has a mandate from the Governor and the Louisiana Legislature to assure the coordinated use of resources toward the recovery and to support the most efficient and effective use of such resources. The OCD and the LRA will work together to achieve this goal.¹⁰

The initial June 30, 2006 contract between the state of Louisiana and the program Contractor, ICF,¹¹ has been criticized extensively and frequently amended with little improvement in performance or benefit to grant recipients.¹² Because it is a “time and materials” contract, the more staff hours worked result in more pay to the Contractor even if work is performed by sub-contractors.

⁹ “ICF should draft a more detailed communication plans to address communication gaps at all levels of the Program.” KPMG report on the Road Home Program, December, 2007
http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf

¹⁰ Action Plan For The Use of Disaster Recovery Funds, pgs 40-41, April 11, 2006, Excerpts at Appendix A. The experience of the undersigned advocacy groups has been that frequently the LRA and OCD were at odds over policy and implementation of the program.

¹¹ Because of its participation in the pilot program, there was a question of a conflict of interest concerning ICF’s participation in the contract.

¹² http://www.bayoubuzz.com/News/Louisiana/Katrina/Rebuild/Louisiana_Road_Home_ICF_Investigation_Needed_6028.asp; <http://www.trinitynola.com/Document.Doc?&id=372>; Dec. 15, 2006, Louisiana Senate votes 97 to 1 to cancel the ICF contract, <http://www.pbs.org/wgbh/pages/frontline/katrina/etc/cron.html>

The Contractor has repeatedly failed to correct its notoriously high error rates as acknowledged publicly by legislators, various official auditing reports cited in this complaint, leaders of applicant advocacy groups, and as is known first-hand by tens of thousands of applicants.¹³ This is a violation of the state action plan which provides that:

Data gathering and research of best practices will be an important role of the LRA. The LRA through its various task forces will work with OCD in design of programs and activities to meet the goals and objectives identified in the State's plan. In addition, LRA will evaluate the progress of such programs in accomplishing these goals and objectives.¹⁴

Best practices have not been employed by the Contractor, ICF.¹⁵

In contrast, as evident from more than 50 local and national newspaper articles about the RHP that mention CHAT or leaders of CHAT¹⁶, numerous complaints from Program applicants¹⁷ (examples in Appendix D), the findings of advocacy groups, and the statements of past and present program personnel,¹⁸ the Contractor failed to provide a comprehensive, reliable, centralized Management Information System. Software was repeatedly deemed inefficient and required multiple upgrades at program expense. Data on applicants were scattered in various locations and not readily integrated nor available for housing advisors, applicants, or oversight groups. Documents from applicants' files have been frequently lost or deleted. Inaccurate and incomplete information was often placed in applicant files. Requests for documents that were answered in recent months, on occasion, included erroneously sending sensitive documents from other applicants' files.

As discussed in two reports from different auditors in Appendix E, **“over 140 resolution team members have the ability to override values in eGrants... the system does not require the employee does to input a comment or reason for the change.”**¹⁹ In addition, “more than 1300 staff” could edit files but, apparently purposely, **“ICF has not enabled audit features in its database that would help log the actions of users.”**²⁰ Moreover, the same January, 2009 audit from the Louisiana Legislative Auditor, reported the following.²¹

- ICF did not consistently test all data tables back to source data to ensure that the data loaded correctly.

¹³ “State blasts Road Home firm” <http://www.nola.com/news/t-p/frontpage/index2.ssf?/base/news-7/116694432975820.xml&coll=1>; “The reality is the Road Home program has been a dysfunctional program since its inception,” said City Councilman Arnie Fielkow. Loyola University press release - August 15, 2008, <http://www.loyno.edu/news/story/2008/8/15/1545>; “Road Home Fix Falls Short” http://www.nola.com/news/index.ssf/2008/09/road_home_fix_falls_short.html; “Rule changes frustrate Road Home applicants” <http://www.louisianaspeaks.org/news/34361.html?p=1>; “Blanco administration quietly gave raise to Road Home operator” http://www.nola.com/news/index.ssf/2008/03/road_home_operator_got_25_perc.html; see Appendix D

¹⁴ Action Plan, p. 40, April 11, 2006, Appendix A.

¹⁵ http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf; see Appendix E

¹⁶ <http://www.chatushome.com:2500/chatus/published/CHAT+Media+Appearances>

¹⁷ <http://www.chatushome.com/blog/?p=8>

¹⁸ For example, see the Baton Rouge newspaper article entitled “State Official Mourns Woes of Road Home” in which Paul Rainwater, Executive Director of the LRA and OCD is quoted as telling the Baton Rouge Press Club “There is no doubt we have systemic issues with the Road Home program.” <http://www.theadvocate.com/news/18677999.html>

¹⁹ http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf P. 36

²⁰ [http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf) Pp. 3 and 20

²¹ [http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf) P. 22

- ... the tax tables used to establish owner-occupancy were loaded incorrectly. If ICF had tested these tables back to the compact discs from the Louisiana Tax Commission that were used to load the data, it would have found that the data loaded incorrectly. OCD has not required that ICF develop comprehensive system documentation for its IT system. For example, there are over 200 different tables in the data warehouse, but only 28 of them are included in the data dictionary. A data dictionary should provide a complete listing of all tables, including field definitions and specifications. Without adequate system documentation, managing the operation of and changes to an application can become increasingly difficult.
- KPMG performed a data integrity review in May 2007... However, some of the issues cited in this report were also cited in KPMG's report which indicates that the state did not ensure that ICF implemented the report's recommendations.

The cosignatories of this complaint have communicated for most of the 2 1/2 years of the Program on a regular basis with LRA and OCD officials about the effects of wasteful and inaccurate Contractor performance on applicants. We described applicants with grants in limbo or with unresolved mistakes. We gave them details of numerous applications, at the request of the applicants, to illustrate the problems. We forwarded to them summaries of our surveys with more than 1300 responses. Especially in 2008, we have seen little or no effective improvement in overall management of the Program, which continues to result in waste of taxpayers' money at the expense of fair grants to applicants.

LRA and OCD seriously failed in their oversight of the Contractor contrary to Federal regulations at 24 CFR 570.501 (b), Responsibility for grant administration, provide in pertinent part:

The recipient is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, sub-recipients, or contractors does not relieve the recipient of this responsibility. The recipient is also responsible for determining the adequacy of performance under sub-recipient agreements and procurement contracts, and for taking appropriate action when performance problems arise

In addition, HUD regulations at 24 CFR PART 85 state that:

Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.²²

Based upon our collective experiences with hundreds of applicants as well as a steady stream of critical reports in the media for two years,²³ the failure by the HUD Disaster Recovery and Special Issues

²² http://www.hud.gov/offices/lead/library/lead/24_CFRPART_85.pdf

²³ For example, "Road Home isn't easy street," Times-Picayune, Oct. 7, 2006, <http://select.nytimes.com/gst/abstract.html?res=F30913F7345B0C728DDDA80994DE404482>; "Slow Home Grants Stall Progress in New Orleans," Nov. 11, 2006, New York Times; EDITORIAL, Times-Picayune Sept. 27, 2007 "Challenged numbers" <http://www.nola.com/timespic/stories/index.ssf?/base/news-4/1190876555120200.xml&coll=1>; Road Home applicants pressured, panel told, Baton Rouge Advocate, Feb 7, 2008, <http://www.2theadvocate.com/news/neworleans/15387296.html?showAll=y&c=y>; <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-6/1160202867253020.xml&coll=1&thispage=3>; "Times-Picayune EDITORIAL: Stranded on the road home," Dec. 15, 2007; "Resolutions for All," Times-Picayune Jan. 1, 2007 editorial, <http://www.nola.com/news/t-p/editorials/index.ssf?/base/news-3/1167634269213450.xml&coll=1>; ICF picks up pace, but misses its goal, Road Home company defends performance Times-Picayune, March 01, 2007, <http://www.nola.com/frontpage/t-p/index.ssf?/base/news-7/1172732723108700.xml>; "Road Home won't budge on deadlines despite criticism," New Orleans City Business, Aug. 9, 2008,

Office or other HUD program office entity²⁴ to correct inadequate oversight of the Contractor by LRA and OCD has been significant and resulted in large numbers of uncorrected errors. These include inflating the total number of applicants by not eliminating obvious duplicate applications, providing multiple and erroneous pre-storm home values and percent damage calculations, and instituting a “dispute resolution process” even when the applicant was not given adequate information to document a dispute and when the Contractor did not keep the needed records to try to resolve the dispute. The frequent and apparently deliberate lack of written notification²⁵ to applicants of their award amounts, dispute resolution determinations, and appeals decisions compounded the problem for applicants attempting to correct mistakes by the Contractor. This has resulted in the following:

1. Arbitrary and capricious decisions by the contractor and subcontractor that resulted in failure to properly provide grant funds to subrecipients pursuant to the grant agreement, including, inter alia, the refusal to provide an independent appeal process (the Contractor’s appeal process was essentially a system in which the Contractor often self-servingly reviewed its own determinations);²⁶
2. Termination of needed and effective subcontractor services for handicapped and low-income applicants required for compliance with the grant agreement and CDBG rules regarding discrimination and CDBG’s National Objectives;²⁷

CDBG Disaster Recovery Guidelines

Eligible activities must meet at least one of three program national objectives: benefit persons of low and moderate income, aid in the prevention or elimination of slums or blight, or meet other urgent community development needs because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available.²⁸

3. Mismanagement and excessive waste resulting from the potentially intentional loss of documents sent via certified mail or fax by applicants to the contractor even when sent multiple times and from extraordinarily poor and delayed communications with applicants as

<http://www.neworleanscitybusiness.com/print.cfm?recid=19083>; Katrina Victims Complain About Red Tape, AP, USA Today, March 13, 2008 http://www.usatoday.com/news/nation/2008-03-13-4205913428_x.htm; “\$99M raise for Road Home contractor quietly paid,” AP, September 23, 2008 <http://www.theadvocate.com/news/29685324.html>; “ICF billings warrant review,” Times-Picayune, Dec. 13, 2008, Editorial, Times-Picayune, Dec. 13, 2008

²⁴ “The Road Home? An Examination of the Goals, Costs, Management, and Impediments Facing Louisiana’s Road Home Program,” May 24, 2007, presented by Nelson Bregon, Assistant Deputy Secretary for Disaster Policy and Response, to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Disaster Recovery, United States Senate. “HUD conducts management reviews, in conjunction with monitoring visits to ensure that its programs and related federal crosscutting requirements are carried out efficiently, effectively and in compliance with applicable laws, regulations and established policy. HUD is continuing to review the state’s programs, as we do for each of the Gulf states, to ensure that progress continues, that programs continue to meet statutory requirements and that there is no fraud, waste or mismanagement.”

²⁵ http://chatushome.com/chatusfiles/CCB_WrittenDocumtn_23189A_11_07.pdf

²⁶ Appendix B.

²⁷ “State can’t pay legal aid bill for Road Home applicants”

http://www.nola.com/news/index.ssf/2008/03/state_cant_pay_legal_aid_bill.html

Summary termination of the Easter Seals subcontract is described in the following article

http://www.nola.com/news/index.ssf/2008/04/road_home_subcontractors_make.html; we can provide contact information for a legally blind applicant who suffered because of this termination and is willing to describe his ordeal.

²⁸ <http://www.hud.gov/offices/cpd/communitydevelopment/programs/drsl/index.cfm>

documented voluminously by applicants and confirmed by a subcontractor's Program Review ("ICF should draft a more detailed communication plans to address communication gaps at all levels of the Program");²⁹

4. Exclusion of applicants from appealing mistakes in their grants by restrictive deadlines and rules and chilling effects;³⁰
5. Attempts to recapture grant money after closing from applicants due to Contractor "mistakes" without having previously allowed applicants to have the data upon which the grant was calculated and without allowing an adequate independent review;
6. Frequent changes of rules of the program contrary to goals of the CDBG program and failing to provide low and moderate income applicants with explanations of these complicated rules despite about 40% of the applicants (disproportionately low-income applicants) not having internet access to the Program's website;
7. Refusal of the Contractor, with OCD's apparent acquiescence, to provide stipulated³¹ written notification to applicants of important determinations in grant amounts, dispute resolution decisions, and reasons for applications being placed on hold (sometimes for more than one year);
8. Arbitrary and capricious decisions by the Contractor, including threats that applicants who did not accept grants offered would be placed at the "back of the line," apparent deletion of items from applicant files, and inappropriately and arbitrarily putting active applications in an "inactive" category, serious concerns about hundreds of ICF employees who were authorized to make changes in applicants' file data without providing a written reason,³² all of which has been brought to the attention of OCD by advocacy groups, official Program reviews by auditors, with no consequences against the Contractor nor corrective action taken;
9. Failing to deliver an ombudsman type program despite: a contractual obligations to do so, a November 15, 2006 weekly report from the Contractor to OCD stating that this was going to be provided, and pleas from applicant assistance organizations to LRA about the need for an ombudsman to assist applicants who could not otherwise obtain help;³³

²⁹ http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf; Many written descriptions of this problem from applicants are available upon request; in addition, it was referenced in the CITY OF NEW ORLEANS RESOLUTION, R-08-481, (Aug. 21, 2008), http://justiceforneworleans.org/roadhome/docs/Stranded_and_Squandered.pdf p. 20-21.

³⁰ <http://road2la.org/homeowner/faqs.htm#9>; "Road Home fix falls short," Times-Picayune, Sept. 25, 2008, http://www.nola.com/news/index.ssf/2008/09/road_home_fix_falls_short.html; http://justiceforneworleans.org/roadhome/docs/Stranded_and_Squandered.pdf, p. 16, bottom.

³¹ A rule change secured by CHAT in Nov. 2007, which was supposed to take effect on Jan. 1, 2008 required all notifications of award amounts, changes in award amounts, explanation of appeals and dispute resolution decisions, and explanations of grants that have been long delayed. Even after January 1, 2008, the rule was largely ignored by ICF with no consequences imposed by OCD despite frequent complaints to the LRA by advocates for applicants. http://chatushome.com/chatusfiles/CCB_WrittenDocumtn_23189A_11_07.pdf

³² http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf and Appendix E

³³ <http://road2la.org/newsroom/pipeline.htm>

Instead the Contractor developed a wasteful, ill-defined process called “dispute resolution”³⁴ in which many applicants were not informed what was in the “dispute” and had their applications greatly delayed, were deprived of the chance to appeal, or were subject to arbitrary decisions after the contractor failed to meet contractual deadlines for resolving these cases.³⁵ The Contractor was also allowed to conduct the first level of appeal and essentially check its own previous determinations for correctness, including often having the same employee who determined the estimated cost of damage confirm the original assessment during dispute resolution or appeals.

- a. The Contractor delayed and failed to resolve thousands of cases through its ad hoc dispute resolution processes, its PAL (Personal Applicant Liaison, supposed case management) system and its first tier of appeals. Some applications were even put in the dispute resolution category although the applicants were not disputing anything, raising questions about charges for unnecessary work by a Contractor whom the Legislative Auditor found to be lacking documentation of reevaluations with the attendant “risk that ICF could do more evaluations than actually needed and pass these costs to the state.”³⁶ For the many thousands of applicants who were disputing their grant calculation, questions concerning fairness and consistency exist, especially given the Contractor’s refusal to give applicants copies of the data in their files upon which calculations were based. Expensive quality control procedures³⁷ revealed mistakes in determining the estimated cost of damage, which the Contractor did not subsequently correct.³⁸ When applicants appealed the Contractor’s estimated cost of damage (which was sometimes obviously and highly erroneous, the Contractor charged an average of \$461³⁹ for a reevaluation by the original team that produced the determination without even an onsite inspection.⁴⁰
- b. These processes often served only to confirm the Contractor’s prior mistakes in grant processing, and resulted in waste of CBDG money. The “new” revamped appeals system in March 2008 has remained inaccessible and often ineffective in correcting Contractor mistakes. Some applicants received form letters denying their appeal that give no factual details about the basis for the decision or the policy or rule upon which the denial is based.
- c. Mike Spletto, then senior housing manager for OCD, stated at a meeting of the LRA Housing Task Force, of which one of the signatories to this complaint Melanie Ehrlich is a member, that the new PAL system “would satisfy a contractual requirement for an ombudsman.”⁴¹

³⁴ <http://www.nola.com/timespic/stories/index.ssf?/base/library-144/1206076895190910.xml&coll=1>;
<http://www.nola.com/news/t-p/editorials/index.ssf?/base/news-4/1207977682227240.xml&coll=1>;
<http://www.nola.com/timespic/stories/index.ssf?/base/news-10/1210224928270110.xml&coll=1>;
<http://www.nola.com/timespic/stories/index.ssf?/base/library-151/1216185779124240.xml&coll=1>;
<http://www.chatushome.com:2500/chatus/published/HomePage#improprieties>;

³⁵ “Current policy dictates that appeals must be submitted in writing to the Road Home appeals office, but only after an applicant has attempted to settle the dispute through the Road Home Resolution Team or Post Close Grant Reconciliation Team....leaving disgruntled homeowners lacking the necessary documentation for a written appeal”

<http://www.nola.com/timespic/stories/index.ssf?/base/library-144/1206076895190910.xml&coll=1&thispage=3>

³⁶ [http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/\\$FILE/000036AD.pdf](http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/$FILE/000036AD.pdf) P. 2

³⁷ [http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/\\$FILE/000036AD.pdf](http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/$FILE/000036AD.pdf) P. 4

³⁸ [http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/\\$FILE/000036AD.pdf](http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/$FILE/000036AD.pdf) P. 8

³⁹ [http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/\\$FILE/000036AD.pdf](http://app1.la.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/$FILE/000036AD.pdf) P. 6

⁴⁰ Appendices C and D

⁴¹ http://www.nola.com/news/index.ssf/2008/01/road_home_promises_more_custom.html

B. Repetitive and otherwise unnecessary tasks have been done by the contractor that increased its costs beyond necessary and reasonable requirements and incurred to the disadvantage of applicants, a waste of taxpayers' money.

1. In December, 2006 and Spring, 2008, resolutions were proposed or passed in the Louisiana House of Representatives seeking to have ICF fired for the following:
 - a. “continuous reports of all manner of insufficiency and unreliability, and of late, particularly with respect to the resolution process where applicants have been left waiting for inordinate amounts of time with no idea of how their matter will be resolved;”⁴²
 - b. “the management of The Road Home Program, coupled with the apparent inability of the office of community development to enforce the provisions of the contract which address the contractor's performance, has resulted in a program which rather than providing relief to persons sustaining losses, instead produces more frustration and grief;”⁴³
 - c. “such contract was initially valued at \$934,000.00, which was replaced with a new contract on June 12, 2006, valued at \$87,180,000.00,”⁴⁴ was raised to \$756,000,000.00 and then in Dec. 2008 amid subsequent controversy⁴⁵ to \$912,000,000.00
2. There has been a waste of grant funds by OCD/LRA by payment of the Contractor and subcontractors for unnecessary or ineffective contractor work. These include:

Instituting policy changes that were apparently driven by the Contractor’s billing agenda rather than following policies in a manner that would have been simpler, more efficient, and more effective in achieving program policy and goals. ICF thwarted LRA policies intended specifically to benefit applicants, with the acquiescence of OCD, including, inter alia, improper determination of pre-storm values and reversal of a long-sought and more reliable method for establishing pre-storm values without informing applicants.⁴⁶ This reversal has resulted in the

⁴² <http://www.legis.state.la.us/billdata/streamdocument.asp?did=478021>

⁴³ <http://www.legis.state.la.us/billdata/streamdocument.asp?did=478021>

⁴⁴ <http://www.legis.state.la.us/billdata/streamdocument.asp?did=415395>

⁴⁵ http://blog.nola.com/editorials/2008/12/missing_the_point_on_icf.html: The Times-Picayune editorial began as follows. “Few Louisianans doubt they got the short end of the stick when former Gov. Kathleen Blanco granted the Road Home contractor a \$156 million pay raise just weeks before leaving office. ICF International's incompetence was well-established by then, and public anger over its Road Home's failures had forced then-Gov. Blanco to forgo a re-election bid.” In an Op-Ed article in the same newspaper by a member of the editorial board, this increase in contract ceiling for ICF was bemoaned. This article concluded as follows.” ICF was richly rewarded for its incompetence. Money for failure used to be an anomaly. Now it's all the rage.” <http://www.nola.com/timespic/stories/index.ssf?/base/News/122906289443450.xml&coll=1>

⁴⁶ Knowledgeable applicants who appeared at a recent meeting with seven OCD, LRA, or ICF officials and three of the signatories to this complaint are willing to provide first-hand information concerning these problems as is a former employee of the Contractor (see Appendix D).

use of inaccurate and inferior home valuations and the waste of taxpayer money on additional unnecessary appraisals, which benefited the Contractor but hurt applicants.⁴⁷

3. The Contractor frequently pressured applicants to close on mistake-containing grants without allowing them to appeal first or correcting Contractor's overpayments of which applicants could not be aware. This gives the false appearance of having correctly completed the grant processing but is wasteful of taxpayer money because of the high mistake rate that has not been reduced and the cost of multiple layers of disputing these mistakes (PAL or dispute-resolution; first-tier Contractor appeals; second-tier State appeals) and recapture of money, that has often been spent after closing to repair damaged homes. These practices have potentially discriminatory and adverse affects on low or moderate income applicants.

4. A number of services originally to have been provided by the Contractor at considerable cost were no longer required. For example, in March 2007, HUD intervened in the administration of the RHP to require the payment of all grants as lump sums, instead of through escrow accounts, as originally provided and contracted for with ICF.⁴⁸ One might have reasonably expected that the Contractor would have less to do and less to invoice for such services.

C. The Contractor fraudulently inflated applicant numbers to justify a \$156,000,000 increase (20.6%) in the ceiling of its contract (originally \$756 million) in Dec. 2007. Almost all of this money has already been spent even though there are expected to be about 30,000 fewer applicants⁴⁹ than were estimated, so that 8.8% of the Road Home funds will be allocated to the Contractor despite its intentional waste and frequent uncorrected mistakes that have deprived applicants of fair grants according to Program rules.

1. This increase is in violation of Sec. 570.206⁵⁰:

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under §570.201 through §570.204, since those costs are eligible as part of such activities.

2. The contract has been repeatedly modified and increased in value without independent government estimates or re-procurement to ascertain fair value for these services.

⁴⁷ HUD policy for FHA loans stipulates full appraisals that include evaluation of the inside and outside of the house by appraisers: <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4150.2/41502c3HSGH.pdf>; this is at variance with the BPOs, AVMS, and drive-by appraisals (Market Analyses, MAs) done by the Contractor for the RHP.

⁴⁸ See: Statement of Work, Scope of Services, contract between the State and ICF, par. 2(a)7.4, et seq, June 30, 2006; <http://chatushome.com/chatusfiles/icfcontract.pdf>.

⁴⁹ <http://www.neworleanscitybusiness.com/print.cfm?recid=17086>; http://blog.nola.com/letterstotheeditor/2008/12/did_icf_inflate_road_home_appl.html; those applicants listing as having closed should be applicants with compensation grants, not just with "elevation incentive allowances," which required much less processing than compensation grants (no pre-storm valuation, no estimated cost of damage, no duplication of benefits calculation, just routinely \$30,000 for signing a pledge to elevate the house; in addition, calculation of average grant amounts at the end of 2008 and the beginning of 2009 appears to have increased because of adding the recent disbursement of elevation grants to the compensation grant award. This may mask decreases in the average compensation grant.

⁵⁰ http://edocket.access.gpo.gov/cfr_2004/apr/qtr/24cfr570.206.htm

3. This increase in the contract ceiling occurred in spite of the previously mentioned resolution passed unanimously by the Louisiana House of Representatives to fire the Contractor⁵¹ and four proposed bills from the last legislative session to reform the Road Home Program.⁵²
4. The increase for the Contractor was given despite the Contractor seriously failing to adequately provide the following essential service in a routinely accurate manner as given in the Federal Register for HUD.⁵³

The State will enlist inspectors, through the private contractor administering the program, to determine the appropriate level of damages to the home. It is the State's policy that participants in the Homeowner Assistance Program deserve a fair and independent estimate of projection of damages from the storm, regardless of cause of damage.⁵⁴

5. This increase occurred despite the contractor's continued non-compliance with many additional contractual obligations and HUD regulations. The Contractor has not provided many contractually mandated services or has provided them in a perfunctory manner at variance with the contract, including the following from the Statement of Work (excerpts from the Second Amendment of the ICF Contract).

2(a)7. Provide applicants with technical assistance from qualified Rebuilding Advisors, who will advise owners on the following:

2(a)7.1. The implications of choosing the various options under the program.

2(a)7.2. How to understand and manage financial matters such as insurance payments, FEMA payments, outstanding secured loans, liens, etc.

2(a)7.3. If the repair, replace or rebuild/relocate options are selected, an initial advisory session about the tasks involved for the owner will be conducted addressing issues such as: how to avoid being defrauded, professional design and survey services that may be required, how to identify services providers and building contractors through the Rebuilding Professional Registry, and how to manage engagements with those service providers and contractors.

2(a)7.5. If a client is seeking to obtain a new mortgage loan, or to refinance, in order to carry out a rebuilding plan, Rebuilding Advisors will obtain credit reports (with the client's permission) and assist clients in determining their eligibility and likely amount of the loan by using standard automated pre-qualifying software packages used in connection with first-time homebuyer programs around the country.

2(a)7.6. In accordance with protocols and time limits that are part of the operational plan, Rebuilding Advisors will offer continuing assistance to qualified homeowners as they continue through the repair, rebuilding and relocation options. It is assumed that Rebuilding Advisors will spend an average of 2 hours per client advising an applicant whose qualifications and

⁵¹ <http://www.legis.state.la.us/billdata/streamdocument.asp?did=415395>

⁵² <http://www.legis.state.la.us/billdata/streamdocument.asp?did=504525>

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=504663>

<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=08RS&billid=SB740>

<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=08RS&billid=SB425>

⁵³ Appendices for examples from applicants and an ICF staff person. Many more examples are available upon request.

⁵⁴ http://911review.org/Hurricane_Katrina/La/Louisiana_Recovery_HUD.html / Volume 71, Number 29 [Docket No. FR-5051-N-01] 2006

property ownership have not been determined, and an average of 20 more hours with an applicant who has been determined to be eligible for financial assistance from the program. It is the responsibility of the Contractor to develop management systems that limit the time that Rebuilding Advisors spend in the aggregate providing services to program clients.

2(a)7.7. If a client is required to undertake mitigation methods during the course of the repair of their home, the Rebuilding Advisor with the assistance of the Mitigation Advisor will provide assistance and guidance to the client on what are the best mitigation techniques and how to acquire the necessary services to conduct the appropriate mitigation.

2(a)8. If the "buyout 'relocate" or "sell" options are chosen by an applicant, the case will be assigned to a Property Disposition Specialist, who will advise the owner on the steps involved in selling the property, demolishing any existing structures as necessary, receiving compensation from the State, and negotiating with secured lenders and other lien holders to clear liens on the property. Property Disposition Specialists are expected to spend an average of 2 hours advising clients and as much additional **time** as necessary to conclude the transfer of the property to the State or its designee.

2(a)9. Provide legal services as necessary to determine the amount of compensation to be provided to the homeowner in accordance with the processes and systems described above. Provide legal opinions as needed relative to eligibility and funding decisions or compensations made to homeowners, and if needed, to attest that the processes utilized were in conformance with state and federal law.

6. Although the State Inspector General reported that the increase in the contract ceiling was justified, his report has been widely criticized.⁵⁵

- a. Among the serious problems with the report is a letter dated Nov. 16, 2007, in which Frank Abramcheck, the local head of ICF operations, warned of consequences to the Program if ICF did not obtain the requested increase and stated by way of justification for the increase that "Currently we could provide grants to as many as 160,000 recipients." During conference calls in the summer of 2007, Melanie Ehrlich questioned ICF and OCD officials about the high numbers of applicants they reported.⁵⁶ She was told that it was too difficult to remove many thousands of the duplicate applications by use of a computer program. This makes no sense since such programs are readily available and routinely used by government and private contractors. We believe that many of these duplicates arose because applicants applied by mail and then were advised to apply again online. It is fraudulent on the part of the Contractor to have claimed to need additional compensation upon such false premises.
- b. Almost all the people who were interviewed for the report were involved in the approval of the extra allocation (in Gov. Blanco's administration) or the payment of much of this additional money to the Contractor long before the report was finished (in Gov. Jindal's administration) and the interviewees included lobbyists for ICF.

⁵⁵ http://blog.nola.com/editorials/2008/12/missing_the_point_on_icf.html
<http://www.nola.com/timespic/stories/index.ssf?/base/News/122906289443450.xml&coll=1>;
<http://www.nola.com/timespic/stories/index.ssf?/base/library-144/1206076895190910.xml&coll=1&thispage=3>

⁵⁶ http://blog.nola.com/letterstotheeditor/2008/12/did_icf_inflate_road_home_appl.html#more

- c. Lastly, the increase in the contract ceiling was largely paid off to the Contractor by Gov. Jindal's administration prior to the State Inspector General's report.⁵⁷

If the State Inspector General only accepted summarized data from ICF, as appears to be the case, his conclusion about the justification for the increase lacks adequate independent support. The complainants trust that the HUD OIG will not make that mistake.

D. The LRA and OCD have failed to follow CDBG guidelines, the Grant Agreement, and HUD regulations⁵⁸ by frequently not responding to requests for clarifications, open records requests and complaints from citizen volunteer groups or nonprofit agencies

- **The unheeded complaints included the following:**
 1. arbitrary and inadequately publicized or unpublicized rule changes⁵⁹ that are designed to unfavorably impact grant amounts, and noncompliance with CDBG rules and posted rules;
 2. potentially discriminatory and adverse effects of unwarranted rule changes on low or moderate income applicants;
 3. unfair and ineffective procedures for initiating and conducting appeals of grant mistakes;
 4. lack of written notification to applicants about awards and detailed results of appeals;
 5. the lack of consistent implementation of applicant-friendly aspects of appeals reform in March, 2008;
 6. arbitrary and unfair grant recovery and pullback procedures;
 7. large numbers of complaints from applicants about numerous unsuccessful attempts to communicate with the Contractor by phone, email, and certified letters and loss of requested documents mailed (by certified mail) or faxed to the contractor;
 8. explanation of confusing and occasionally contradictory rules about elevation grants;
 9. Melanie Ehrlich, a cosignatory to this complaint and member of the LRA Housing Task Force, has requested, to no avail, that public meetings of this body should be conducted more frequently, without gaps of 3-6 months.
- **The LRA and OCD have not effectively responded to requests for correcting unfair aspects of the program by Louisiana Parish councils** representing a substantial majority of grant-eligible applicants. Orleans, Jefferson, St. Bernard, and Terrebonne Parishes each

⁵⁷ http://news.aol.com/story/_a/99m-raise-for-road-home-contractor/n20080923234609990060

⁵⁸ FROM CDBG GUIDELINES "State Administered CDBG"

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/>

⁵⁹ Most of the publicized rule changes in policy or regulations affecting applicant grant amounts, especially restrictive ones, were communicated only by posting at <http://road2la.org> without any notice on the home page for the website or even on the pages of the subsequent links <http://road2la.org/homeowner/default.htm> , <http://road2la.org/homeowner/resources.htm> , <http://road2la.org/homeowner/resources.htm#policies> ; notices of relevant rule changes were not even sent to applicants who subscribed to the Road Home email list <http://www.roadcommunications.com/index.cfm?md=form&tmp=home&fmid=2&emailist=1>; in addition, about 40% of the applicants who did not have internet access, according to ICF sources.

unanimously endorsed, with minor modifications, an applicants' Bill of Rights proposed by the Citizens' Road Home Action Team (CHAT). While a Statement of Principles that is largely derived from that applicants' Bill of Rights⁶⁰ was posted at the Road Home website, it has largely not been followed in most important respects.

1. This violates HUD regulations that require that the State must certify the following⁶¹

it has consulted with affected units of general local government in the non-entitled area in determining the method of distribution of funding, it engages or will engage in planning for community development activities..."

2. The program has intentionally, through mismanagement or ineffective application of resources, unreasonably withheld information from thousands of applicants that was needed to determine why their grant awards were delayed for as much as 2 ½ years or why their grants were arbitrarily reduced at "closings" or afterwards or why appeals of apparent mistakes in their grants have been denied.⁶²

3. Applicants still often do not receive a requested copy of their file and very many applicants who have unsettled disputes about their grants have not been informed about their newly established right to this information, as of Jan. 1, 2008 (CCB 189A, referenced above). The only sources of information from the Road Home about this important new policy and how applicants should request their file is at the Road Home website, to which applicants would have to have access and would have to check regularly to know of changes. In 2007 during one of the weekly conference calls between several leaders of CHAT and RH officials, former Housing Director of OCD, Mike Spletto refused the request of complaint cosignatory Melanie Ehrlich to include notice of this right in a letter mailed to all applicants containing forms for applying for elevation grants.

4. Officially requested information has also been withheld from non-profit or volunteer groups working to help applicants. Even in the face of requests filed pursuant to state law under the Louisiana Public Records Act and regular reminders, information was not routinely provided.⁶³ This is in violation of Sec. 570 of HUD regulations for CDBG.

⁶⁰ <http://road2la.org/about-us/principles.htm>

⁶¹ <http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/>FROM CDBG GUIDELINES "State Administered CDBG"

⁶² At a meeting on Nov. 25, 2008, between Davida Finger and Melanie Ehrlich (cosignatories of this complaint), and six officials of OCD or LRA plus Al Blankenship, Chief of Staff of ICF, Melanie Ehrlich asked why applicants were waiting many months to a year before getting their detailed estimate of damage report (CAD report) from the RHP even after specifically requesting it. She noted that there was a long-standing written policy to send applicants the CAD report after it was generated without their even having to request it. Richard Gray, a Deputy Director of OCD, responded that OCD decided subsequently not to give CAD reports to applicants on the basis of "discussions with focus groups to determine the most understandable format for the CAD and if and when the CAD should be provided to a homeowner;" quote from minutes of the meeting (approved by Mr. Gray) are available upon request. This retraction of the previous policy was not communicated to applicants nor to advocates for applicants and is apparently not part of the RHP policy change documents.

⁶³ For example, Public Record Requests by a cosignatory of this complaint made on Oct. 10, 2008 still have not been answered. Among the requested items are the names of subcontractors providing the PALs. A Public Records Request from July 1, 2008 has many unfilled items including correspondence between OCD, LRA, or ICF after Nov. 9, 2007 about the implementation of CCB policy #189A, which calls for written and not just phone notification of grant amounts and dispute resolution decisions by the Contractor, but which the contractor has largely ignored. Also see:

http://justiceforneworleans.org/roadhome/docs/Stranded_and_Squandered.pdf

(b) Public information. The provisions of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.⁶⁴

When rule changes are posted, this is often done in a significantly delayed fashion and only inside long documents at the Road Home website, to the detriment of applicants, as for the retraction of CCB #188G about applicant-supplied certified appraisals.⁶⁵

E. The LRA recently passed a resolution to ask Congress for reallocation of “any unexpended portion of the \$3 billion appropriated by Congress in Public Law 110-116 (HR3222)” for Road Home funds on the assumption that there will be a “surplus.”

- Part of this “surplus” is, in fact, due to restrictive changes in grant policies in 2008 and wasteful, arbitrary and capricious Contractor practices downsizing grants for thousands of applicants.
- This is an improper attempt to redirect program funds to other uses and violates the purpose of the program, to encourage displaced Louisiana victims of flood and wind damage from Hurricanes Katrina and Rita to rebuild.
- The HUD Office of Disaster Recovery and Special Issues Division did not heed public comments from dozens of applicants, including applicant advocate groups, about the need to use unobligated RH funds to fix ignored RH shortchanging mistakes on pre-storm value determination and constricting rule changes in 2007 and 2008 that have squeezed grants especially for low-to-moderate income homeowners.
 - This HUD office in a decision that was many weeks overdue rejected LRA Action Plan Amendment #28. This amendment to give applicants the highest pre-storm value (PSV) in their file for grant calculation was to be a counterbalance to the multiple PSVs usually in an applicant’s file, all of which are not full appraisals, and so much less accurate.
 - **The Amendment mandated that the program use the same criteria for deciding pre-storm value for grant calculation as it uses in appeals;**⁶⁶
 - **This would have aided as many as 25,000 applicants by the State’s own projections when it opposed the law.**
 - **The State said it did not have enough money to do this.**
 - **Now LRA and OCD says the Program will probably have a surplus and wants to divert the money to other uses, ostensibly to build a new hospital⁶⁷ when it can renovate an existing one much more cheaply and quickly without displacing residents who have renovated homes with Program grant money, a waste of taxpayer funds.** The current audit of closed grants is being conducted in part by the

⁶⁴ http://edocket.access.gpo.gov/cfr_2004/aprqr/24cfr570.206.htm

⁶⁵ Appendix A

⁶⁶ http://road2la.org/Docs/policies/ho_policies_110608.pdf Pp. 24-25

⁶⁷ [http://iw.newsbank.com/iw-search/we/InfoWeb?p_action=doc&p_theme=aggdocs&p_topdoc=1&p_docnum=1&p_sort=YMD_date:D&p_product=NewsBank&p_docid=124924606E649E10&p_text_direct=0=document_id=\(%20124924606E649E10%20\)&p_nbid=U4EU4FIMMTIzMzUwODcyOS4xMTUyOTU6MT0xMjoxOTkuODAuMTA1LjA](http://iw.newsbank.com/iw-search/we/InfoWeb?p_action=doc&p_theme=aggdocs&p_topdoc=1&p_docnum=1&p_sort=YMD_date:D&p_product=NewsBank&p_docid=124924606E649E10&p_text_direct=0=document_id=(%20124924606E649E10%20)&p_nbid=U4EU4FIMMTIzMzUwODcyOS4xMTUyOTU6MT0xMjoxOTkuODAuMTA1LjA)

Contractor, despite the error-prone and correction-resistant nature of its administration of this Program. The only way that the Program can determine whether there is, in fact, a surplus would be to re-open appeals to applicants who tried to appeal but were not allowed to do so and to make the appeals procedure independent of the Contractor, who made the mistakes, and OCD that repeatedly excused the high error rate of the Contractor in public forums.

- The complainants ask that the HUD OIG examine the nature of the letter to Gov. Jindal rejecting Action Plan Amendment 28 because the reasons given are startlingly inconsistent with the wording of the Amendment.

Some detailed examples of the waste, abuse of taxpayer money, serious mismanagement, and possible fraud follow in Appendices. More documentation can be provided upon request.

We thank you in advance for expediting this inquiry.

Yours truly,

/s

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APPENDIX MATERIAL

Appendix A. ICF derailed the LRA policy of acceptance of post-storm Louisiana certified appraisals

In the Action Plan Amendment of November 30, 2006, the pre-storm valuation (PSV) method was described as follows:

To accurately calculate compensation, the *Road Home* Program must base assistance on a fair and equitable pre-storm value of the home. The pre-storm value is based on one of four methods:

- A third party appraisal conducted before the storm but after January 1, 2000;
- An Automatic Valuation Method (AVM);
- A Broker's Opinion of Value (BPOs); or
- In absence of any of the above, a third party appraisal conducted by the *Road Home*.⁶⁸

AVMs and BPOs are not true appraisal methods and often give inadequate values to properties especially in New Orleans, with its heterogeneity in home values in a given neighborhood.

In Late December 2006, largely through the efforts of advocacy groups, the LRA accepted as a matter of policy that applicants would be able to establish the pre-storm value of their homes by furnishing Louisiana Certified Appraisals, completed post-storm, using available pre-storm comparables and other relevant information consistent with industry standards.⁶⁹

It wasn't however until May, 2007, that such post-storm appraisals were mentioned in the state action plan; the following proviso was given:

If the appraisal provided by the homeowner is a post-storm appraisal of pre-storm value the valuation will be verified by the Road Home.⁷⁰ However, the Homeowner Policy documents on line have not referred to the value of 20%,⁷¹ thereby confusing applicants and causing a waste of taxpayer dollars in repeated attempts to gain clarification from the Contractor via billable phone calls.

The Contractor's reluctance to adopt a fair and efficient method of valuation as the LRA clearly intended with the acceptance of post-storm certified appraisals (starting in 2007) and its refusal to abandon its admittedly inferior AVMs and BPOs suggest its desire to retain a more cumbersome and inefficient process that would allow it to maximize its bill for services. The state action plan's August 2006 amendment provided:

It is the State's policy that participants in the Homeowner Assistance Program deserve a *fair and independent* estimate of projection of damages from the storm, regardless of cause of damage. . . . While the program must apply a common method for valuation to all homes qualifying for assistance to efficiently address all applications, there will be there will be cases in which the homeowner believes the standard assessment does not accurately reflect the pre-storm value, due to unaccounted structural improvements or

⁶⁸ Action Plan Amendment, par. 2.4.3. Factors Used to Calculate Benefits, *Pre-Storm Value* p. 9, Nov. 30, 2006, Excerpts, Appendix B.

⁶⁹ There was no announcement to all applicants; instead, this information was obtained by applicants from the local media <http://www.wdsu.com/news/10580720/detail.html> (which was difficult to access for many displaced applicants) or from applicant advocates, like the three cosignatories of this complaint.

⁷⁰ Action Plan Amendment, par. 2.4.3. Factors Used to Calculate Benefits, *Pre-Storm Value* p. 8, May 14, 2007,

⁷¹ http://road2la.org/Docs/policies/ho_policies_110608.pdf, P. 34;
http://www.road2la.org/Docs/Homeowner_Program_Policies_8-13-07_v4_3.pdf, P. Section 2.0 – 15.

other factors. In such cases, homeowners will be able to appeal the valuation by presenting a valid alternative assessment or other evidence.⁷²

OCD's failure to adequately oversee the contractor's performance permitted a needlessly complicated hierarchy of valuations that applicants and ICF staff tell us were often based upon poor comparables. This was wasteful of taxpayer money and confusing to applicants. As a result, PSVs were frequently inconsistently formulated and valid certified appraisals were rejected out of hand in conflict with program policy, including policy that provided the applicant would be entitled to the benefit of the highest pre-storm value.

Applicants who are not satisfied with The Road Home's pre-storm value determination can choose to have their pre-storm value reviewed and possibly revised. The Road Home program [p]rovides the applicant with the highest available pre-storm value.⁷³

In response to a public records request filed by the Katrina Law Clinic at Loyola University, the State sent several versions of letters that were distributed to applicants appealing awards based on pre-storm value. One letter stated that the applicant's Louisiana certified appraisal, which was higher than the Road Home's valuation, "can not be validated, because there is a variance of more than 20 percent between the value of the appraisal . . . you provided and that of the program-provided appraisal." See Letters from Road Home to Applicants (on file with Co-signatory Davida Finger).

While the State points to HUD as the arbiter of the 20-percent policy, HUD's Disaster Recovery and Special Issues division has advised that there is no federal requirement for such a policy and such a policy would be inconsistent with official HUD statements about decision-making in the RHP.⁷⁴ The conflicting statements require examination by the HUD OIG, especially because we were told by a member of the OCD staff that the Contractor's determination of pre-storm value of homes by BPOs or AVMs were often extremely different from those from certified appraisers offered by applicants during appeal. Moreover, one of the complainants, Melanie Ehrlich, was told by Mike Spletto during a weekly conference call in 2007 with RHP officials that HUD required some kind of verification of applicant-supplied appraisals and that he chose the number of 20% (homeowner certified 1004 appraisals were rejected without examination if they were more than 20% higher than RHP's pre-storm values determined by BPO, AVM, or MA). When OCD agreed to the policy change to accept such appraisals pending field review appraisals done by the Contractor, LRA officials told us that enacting the policy change was contingent upon HUD approval. This policy change CCB 188G went into effect on Nov. 9, 2007; therefore, it must have been approved by HUD. This negates later arguments that CCB 188G had to be abandoned because it was at variance with HUD regulations.

⁷² Action Plan Amendment 1, p. 10, Aug 7, 2006, HUD Federal Register http://911review.org/Hurricane_Katrina/La/Louisiana_Recovery_HUD.html / Volume 71, Number 29 [Docket No. FR-5051-N-01] 2006.

⁷³ The Road Home, The Road Home Homeowner Program Policies version 6.0, at 26 (2008), *available at* http://road2la.org/Docs/policies/Homeowner_Program_Policies_070908.pdf

⁷⁴ Email from Jessie Kome, DRSI Division Director, HUD, to Melanie Ehrlich, CHAT (July 22, 2008; on file with recipient). "Such policy decisions are sometimes made in consultation with HUD but ultimately rest with the states. HUD policies, such as its Single Family Appraisal standards, do not apply to these grants. Therefore, the Department has referred your letter to the state of Louisiana for a final determination." Also, "The Road Home? An Examination of the Goals, Costs, Management, and Impediments Facing Louisiana's Road Home Program," May 24, 2007, presented by Nelson Bregon, Assistant Deputy Secretary for Disaster Policy and Response, to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Disaster Recovery, United States Senate. Excerpts include the following. "The state of Louisiana and other eligible states would have the complete flexibility in determining design, establishing funding levels, and carrying out the activities to achieve their goals." "Congress was clear in its intent: the Gulf Coast states have the principal responsibility for prioritizing, designing and carrying out recovery and rebuilding efforts."

Timeline Summary of the Nontransparent 20% Rule

Nov., 2006 – Jan. 2007. CHAT and others advocated for RHP accepting applicant-supplied certified appraisals because they are the gold standard for house valuations and were not being used by RH. Instead, multiple inferior valuations and later redundant drive-by appraisals were used that were often obviously erroneous, with unrelated comparables upon which they were based. This was incorrectly lowering applicant award values.

Jan. 2007. LRA and OCD changed their rule to accept homeowner-supplied certified appraisals, which they had been previously rejecting *in toto*, even if they were done by a bank for refinancing pre-storm. After this rule change, ICF staff verbally informed applicants who appealed their pre-storm value with purchased certified appraisals that if the appraisal was 19% higher than the RH valuation used in grant calculation, they would use that value. However, if it was 21% higher, they would not pay any attention to the full certified appraisal even though they had only valuations of less accuracy in their files.

Spring 2007- Fall 2007. I and several other advocates for RHP applicants urged OCD and LRA to accept homeowner-supplied appraisals during weekly 1-hour conference calls with Adam Knapp (Deputy Director, LRA), Ty Larkins (Staff, LRA), and Mike Spletto (head of Housing for OCD). Nov. 9, 2007, LRA and OCD signed a change policy form to allow field review appraisals to verify homeowner-supplied full certified appraisals (1004 appraisals).

Nov., 2007 – Apr., 2008. Applicants and CHAT complained that many applicants in appeal or dispute resolution were not given field review appraisals of their certified appraisal. In March, 2008, I was told by a member of the ICF Appeals staff, that appeals of pre-storm value had been strangely halted for almost two months at the beginning of 2008.

May, 2008. In reviewing documents from the Road Home website, Melanie Ehrlich, Co-signatory of this complaint, came across a statement buried in the May 2008 version of Homeowner Program Policies that field review appraisals were discontinued as of March 4, two months earlier.

Therefore, the Contractor with acquiescence of OCD, DOA, and LRA, did much to avoid correcting very erroneous pre-storm values with applicants' certified appraisals and to circumvent their own policy of examining those appraisals by unbiased field review appraisals supervised by the Contractor, ICF.

Postscript

Jan., 2009. HUD's Assistant Secretary for Community Planning and Development (Susan D. Pepler under the signature of Nelson Bregon) rejected an LRA Action Plan Amendment mandated by Louisiana Act 829 signed into law on July 9, 2008 and overwhelmingly passed by the legislature) that would make RHP processing of grant applications consistent with regulations for applicant appeals or dispute resolution (using the highest of RHP's pre-storm values in an applicant's file as an antidote to multiple often poor-quality valuations, with ICF often downsizing grants by choosing a low value).

Amazingly, the reason given in the letter for rejection of this law and Action Plan Amendment is inconsistent with the words of the Amendment but inappropriately invokes the 20% rule. Similarly, as a letter from HUD elicited by the former head of OCD, Suzie Elkins, and used to help defeat another RHP reform bill in the spring of 2008, had the same mistaken and inappropriate reference to the 20% rule (letters available upon request).

Appendix B. The Program had no fair and independent appeals process, an intentionally misleading dispute resolution process, and an unlawful denial of access to the courts

1. Ad hoc appeals. There has existed since the program's inception, an ad hoc "appeals" process that provided no meaningful independent review of grant determinations by ICF, as such, appeals were determined in large measure by the Contractor, which obviously has an inherent conflict of interest in reviewing its own work for fairness to applicants "on appeal".

2. Arbitrary and capricious assessments of starting values for grant calculation. OCD and ICF have consistently, arbitrarily and capriciously rejected valid alternative assessments of pre-storm value (see Appendix A) and have often not accepted applicant data to correct highly erroneous assessments of damage. Examples include the following:

- a. Numerous applicants who had 4-12 feet of water (including sewerage and salt water) sitting in their one-story or camel-back house for weeks and were unable to access their house for several months were told that they had less than 51% damage to their home. Sometimes these applicants were even located opposite a breach in New Orleans. Often, neighbors were determined to have more than 51% damage by the same Contractor. Contrary to Road Home policy, applicants could usually not use the unequal assessments of damage on the same flooded block of houses to get corrections of their erroneous estimate of damage by the Contractor during protracted and extremely time-consuming dispute resolution and first-tier appeals conducted by the Contractor.⁷⁵

During the week of December 12 – 18, the Home Evaluation Team addressed 1,302 Grant Review issues, 66 appeals, 41 estimated cost of damage disputes, 5 State appeals, 12 Critical Issues, 6 FEMA eligibility appeal issues, 6 Structure-Type issues, 20 Elevation Appeals but conducted only 15 evaluations in the field and dispatched only 4 work orders.⁷⁶ Al Blankenship, Chief of Staff of ICF, was unable to address this deficiency at the above-mentioned meeting with him and LRA and OCD officials on Nov. 25, 2008. This is very troubling, especially in view of the following from the Louisiana Legislative Auditor:

- ❖ "\$625" as the price for "appeal and re-evaluation" of a Contractor (via a subcontractor) house evaluation
- ❖ "ICF's subcontractors have also conducted 530 appeals and reevaluations and billed the state \$244,382."
- ❖ This would be an \$461 per reevaluation despite the low number of onsite evaluations mentioned in Pipeline reports from the Contractor in 2008, reports from ICF staff and from applicants to CHAT, and the above-mentioned interchange at a Nov. 2007 meeting with the ICF Chief of Staff.

⁷⁵ Appendix D, in particular, Example 3

⁷⁶ http://road2la.org/Docs/pipeline/Week_129_Combined_Report.pdf Page 14

- b. At LRA Housing Task Force Meetings, applicants have presented examples of obviously inappropriate comparables used for BPO determination of the pre-storm value. Again, applicants could often not get these corrected but the Contractor wastefully earned more taxpayer money by doing multiple inferior determinations of pre-storm value and conducting more dispute resolutions and appeals.
- c. The long delays in assessing damage to most applicants' homes often resulted in applicants borrowing money to repair damage before the Housing Evaluator came to assess the extent of storm damage. Frequently, these evaluators would not accept objective evidence of the original damage (insurance documents; paid bills for repair coupled with photographs of the damage) that had been repaired and so flagrantly underestimated the damage.
- d. Shortly after assuming his position as executive Director of the LRA in 2008, Paul Rainwater examined the appeals program in place and determined it had to be scrapped. In addition to the ICF system for determining the appeals of its own work through multiple pre- and post-closing dispute resolutions that went nowhere, there were no written rules or policies governing appeals to the State conducted by OCD. Mike Taylor, who is currently head of the Road Home Corporation and Louisiana Land Trust, was formerly second in command of the Disaster Recovery Unit at OCD under Ms. Susie Elkins. Mr. Taylor, who served on the State Appeals panel for a while testified in a deposition on Oct. 31, 2008 as follows (excerpts are quoted).

Q Did any appeals go directly to OCD and skip level one ICF?

A I don't remember. I think the process was that they went through step 1 and step 2 until that changed and everything is being handled directly now, as I appreciate it, in-house.

Q Okay. And during the OCD process, how were the appeals resolved at tier 2?

A There was -- there was a panel of staff that reviewed those.

Q And where did the staff come from?

A It was OCD staff, I believe, all of it. And -- and staff from Louisiana Recovery Authority would sit in on those.

Q Does the applicant get to provide information that's not in his file that comes up from ICF?

A You're getting into too much detail. I'm not comfortable with -- I think these questions would be better answered by Office of Community Development.

Q Do you remember if there was a written procedure for that process that was followed at OCD?

A We had a standard format, I don't recall that we had a written procedure.

Q Everybody just sort of remembered what they were doing or how it worked?

A Well, I don't think that would be a fair way to characterize it. It was a little more professional than that.

The net effect has been to reduce large numbers of grant awards and to make additional billable work for the Contractor in dispute resolution and first-tier appeals. The Contractor has been compensated for this service by the state in violation of its responsibility to grant applicants and with the effect of wasting tax payer money that should have gone to helping the applicants. Estimates have not been fair and independent but ad hoc, without adequate support provided to the recipient and frequently while rejecting other information and documentation that would have provided higher, much more accurate awards. Such a process cannot be considered “fair and independent.” and violates the action plan as set forth above.

3. **Failure to give applicants important notices in writing according to Program rules.** This noncompliance by the Contractor has been brought to the attention of LRA and OCD at public meetings, in emails, and in meetings between LRA and OCD officials and advocacy groups to no avail.
4. **Prolonging dispute resolution and appeals resulting in additional unnecessary payments to the Contractor** and subcontractors and ultimately to shortchanging applicant’s grant amounts. These were often done by ineffective and inadequate methods, using untrained and unsupported personnel, often in violation of the Road Home Program’s own shifting and unavailable rules for appeals and often lasting more than one year. One of many examples of prolonging appeals that wastefully resulted in more billable hours for the Contractor thereby abusing taxpayer dollars is given in the Pipeline report for Dec. 18, 2007. It states that as of COB Dec. 13, 2007, 1,504 of the cases of applicants trying to appeal were moved to “resolution,” presumably, dispute resolution, while “1,297 were transferred to post-closing, and 4,125 remained in appeals for further processing.” OCD maintained in public forums that dispute resolution was supposed to expedite settling of applicant issues, while in fact, it was generally known that it greatly prolonged it.
 - a. CHAT’s Third Online Survey: “Have you been able to find out what happened to your dispute resolution or appeal?” Out of 188 respondents to this question, 69% wrote “no.”
 - b. CHAT’s Second Online Survey: “If you received a satisfactory response to Dispute Resolution, how many months did it take?” Out of 95 respondents who answered this question, 45% said that it took 6 months or longer and 23% said 3 months or less to get the favorable response.
 - c. CHAT’s Second Online Survey: “If you have not received a satisfactory response, how long has it been since you sent your application to Dispute Resolution?” Out of 317 respondents who answered this question, 66% said 6 months or more.
 - d. “I complained about their appraisal and so far the only thing I have received is a form letter asking me to give up all of my rights to make an appeal. The the wording in this form letter is a form of Blackmail--you take what they offer (no matter how wrong it is) or you will get nothing.” CHAT’s third online survey, 1/21/09
 - e. “I do not know if I won or lost. They did not respond. It is like I do not exists even though I sent it in writing with a return reciept and they have recieved it.” CHAT survey response on 10/01/08
 - f. “i really do not know if i lost or not, but i do know that my value did not change. i have sent at least 6 letters about the appeal/resolution and there has been no response in writing to me.”, CHAT survey response on 8/19/08.
 - g. “before I even closed I told them I wanted to appeal. The girl who closed my road home told me more than likely I would lose and not get the money that they were giving me. I got scared that this would happen so I didn't force the issue.” CHAT survey response onf 8/17/08
 - h. “On yesterday they told me that the 2nd closong I would get \$140,000.00 and just as fast as they said that, I was told that it was a mistake and they had no appeal for me. I was also told I could try to appeal now but it is too late...I was given a sheet of paper telling me where to mail the appeal once again and all but pushed out the door.” CHAT survey response on 8/15/08.

- i. “In early 2007, I was first told to go through the Resolutions Dept. After over a year, I was told that the appeal procedure was different. Then I was told to fax my appeal letter and documents. Later I was told that LA Road Home doesn't accept faxes (then how did I get the fax number). I mailed the appeal letter and documents.” CHAT survey response, 8/13/08.

5. There has been a chilling effect on appeals

- a. by requiring applicants, who are often rushed through grant closing, to submit an appeals form checked off at grant closing that they want to appeal AND to subsequently send a letter that they want to appeal,
- b. by requiring applicants to go through a long and often fruitless dispute resolution or so-called PAL (Personal Assistant Liason) process before they can appeal or forcing applicants to go to closing receiving only the amount that they are disputing before allowing them to appeal,
- c. by often delaying second disbursements to applicants who won their appeal by many months, even up to a year, without explanation,
- d. by requiring applicants who want to receive their elevation grant to abandon their appeal or their prolonged wait for a second disbursement after winning an appeal. The excuse given by LRA is that applicants cannot get more than \$150,000 total for compensation grant plus elevation incentive grant but this could easily be checked before giving them the elevation grant, just as it is for the second disbursement of an additional compensation grant for qualified low-to-moderate income applicants.

6. The only independent and fair level of appeals was a third-tier appeal conducted by administrative law judges (ALJs) that was summarily discontinued in Nov. 2007.

There was no explanation even to the head of the agency for administrative law judges (personal communication to Melanie Ehrlich, cosigner of this complaint). The Program’s actions suggest that this is part of an attempt hide yet higher error rates in calculating grant amounts than were known to the public. Of the 14,216 applicants who managed to appeal, as per the Jan. 2, 2008 Pipeline Report from the Contractor to OCD 35% won their appeal. Similarly, in 2008 on 29-May, 31-Jul, 24-Jul, 17-Jul, 10-Jul, 3-Jul, 16-Sep, and 18-Dec, 34-36% of applicants who were allowed to appeal won their appeal (2,682 - 4,854 applicant winning appeals and they were awarded an average of about \$25,000 -26,000 per applicant.⁷⁷ In earlier reports on 26-Dec, 18-Dec, 11-Dec, 4-Dec, 27-Nov, and 20-Nov, a yet higher percentage of applicants, 49-50%, won their appeals (1120 – 1350 applicants wining appeals), and again the numbers were surprisingly similar to each over many weeks. The numbers of applicants with shortchanging mistakes in their grant determinations are likely to be much higher because more than 22,650 applicants disputed their award⁷⁸ and very many applicants of these applicants have been unable to get to even the first-tier appeal stage.

7. Three audits by the Louisiana Legislative Auditor confirm the serious problems that we have independently observed with Dispute Resolution, which have never been resolved for many applicants who thereby were deprived of a chance to get a fair appeal.⁷⁹

From [http://app1.lla.state.la.us/PublicReports.nsf/4E3AA11FCA10791E862573E700649613/\\$FILE/00003D79.pdf](http://app1.lla.state.la.us/PublicReports.nsf/4E3AA11FCA10791E862573E700649613/$FILE/00003D79.pdf)

- Did ICF meet the July 2007 performance measure related to the closing of issues

⁷⁷ <http://road2la.org/newsroom/pipeline.htm>

⁷⁸ also, mentioned above on P. 2 of this complaint :

[http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf) P. 20

⁷⁹ also, mentioned above on P. 2 of this complaint :

[http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf) P. 20

in resolution?

Result: The data maintained and reported by ICF does not provide evidence that ICF met its July 2007 performance measure related to resolution.

- **Result:** We identified more open issues than ICF identified as of July 6, 2007. We also identified more issues than ICF identified that were aged 120 days or more. We identified two possible reasons for the discrepancy. First, issues can move in and out of the resolution project making it difficult to obtain an accurate count of the number of issues in resolution. Second, ICF did not use the correct status to calculate the performance measure.
- **Result:** ICF did not include all resolution issues in its results for the performance measure. Some other projects, such as constituent services and strike team, also contain resolution issues. However, ICF only included issues in the resolution project.
- **Result:** ICF did not always clearly document how an issue was closed. We could not always determine how an issue was closed because there was not sufficient detail on the resolution.

From [http://app1.lla.state.la.us/PublicReports.nsf/E8F4E4997C034536862573240068538B/\\$FILE/000013BD.pdf](http://app1.lla.state.la.us/PublicReports.nsf/E8F4E4997C034536862573240068538B/$FILE/000013BD.pdf)

- **Objective 1:** Does ICF, International (ICF) have a process to ensure that advisors resolve cases in Resolution consistently and accurately?

Results: ICF does not have an effective process in place to ensure advisors resolve homeowners' complaints consistently and accurately. No policies and procedures are in place to ensure that advisors resolve cases consistently. In addition, a sufficient review process is not in place to ensure advisors resolve cases accurately. According to the Resolution manager, she is developing policies and procedures for the process and is also implementing a formal review process beginning on July 1, 2007.

- **Objective 2:** How many homeowners are in Resolution, what are the reasons they are in Resolution, and how long have they been in Resolution?

Results: We could not accurately determine the number of homeowners, the reasons people are in Resolution, or the aging of cases in Resolution because the data in JIRA (the system to track homeowners' complaints) was not reliable.

- **Objective 3:** Are homeowners satisfied with the Resolution process?

Results: We conducted a survey of 30 applicants who are currently in or have completed Resolution to determine their level of satisfaction with the Resolution process. Seventyone percent of the applicants we surveyed were not satisfied with the Resolution process.

- **ICF's system for resolving homeowner issues with home evaluations needs improvement.** ICF currently uses three data systems (JIRA, Bugtracker, and Worltrac) to track and document external (i.e., homeowner) and internal (i.e., policy) issues. We found that these systems often contain inconsistent and insufficient information on issues and their resolution. In addition, ICF did not always document reasons why it conducted reevaluations and whether the reevaluation replaced the original evaluation because ICF did not have policies or procedures on when reevaluations should be conducted and how they should be reviewed. Therefore, we were unable to tell whether reevaluations should have been conducted. **Without criteria for when reevaluations should be conducted, there is a risk that ICF could do more evaluations than actually needed and pass these costs to the state.**⁸⁰ {emphasis added}

8. The Louisiana Division of Administration (OCD's parent agency) has opposed independent judicial review of cases in the district courts, including appeals under the Louisiana Administrative Procedures Act. However, neither the federal enabling laws for

⁸⁰ [http://app1.lla.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/\\$FILE/000036AD.pdf](http://app1.lla.state.la.us/PublicReports.nsf/CD10BB73BF08DF66862573A9004E6E14/$FILE/000036AD.pdf) P. 2.

the Road Home Program (P. L. 109-148, P. L. 109-234; the HUD regulations promulgated pursuant thereto (71 Fed. Reg. 7666 et seq., Fed. Reg. 63337, Fed Reg. 63340); the various “Action Plans” and “Action Plan Amendments” submitted by the State to HUD; nor any Louisiana statute, purport to deny applicants the right to seek judicial review in the Louisiana courts of their Road Home grants, or the right to compel a final agency determination on their application. Federal regulations oblige Defendants to operate the Road Home Program in accordance with state law. 71 Fed. Reg. 7666, 7668:

a. “*Direct grant administration by States and means of carrying out eligible activities.* Requirements at 42 U.S.C. 5306 are waived to the extent necessary to allow the State to use its disaster recovery grant allocation directly to carry out state-administered activities eligible under this Notice. Activities eligible under this Notice may be undertaken, *subject to State law*, by the recipient through its employees, or through procurement contracts, or through loans or grants under agreements with sub-recipients, or by one or more entities that are designated by the chief executive officer of the State.” (Emphasis added.)

b. Notwithstanding any administrative authority to the contrary, Louisiana law grants its citizens a right of judicial review of administrative proceedings, irrespective of the applicability of the Louisiana Administrative Procedure Act (R.S. 49:951 et seq.). The Louisiana Supreme Court has held that a right of judicial review of administrative proceedings is presumed to exist in Louisiana and is necessary to the validity of administrative proceedings under our legal system and traditions. *Delta Bank and Trust Co. v. Lassiter*, 383 So.2d 330 (La. 1980); *Tanner v. City of Baton Rouge*, 422 So.2d 1263, 1265 (La. App. 1st Cir. 1982) and cases cited in *Tanner*. As noted the state Action Plan confirms that OCD obliged itself to provide appeal rights. In it, the State promised, and HUD accepted the State’s promise, that homeowners would be vested with a right of appeal to include instances of those who are administratively denied eligibility, or dispute the administrative eligibility determinations or offsets determinations. No federal statute nor any regulation, nor any portion of the action plan to initiate the RHP, actually vests in the federal government, or ever sought to vest in the federal government, any control or oversight over individual grant determinations or disputes as to grant determinations. In approving the plan, HUD accepted that applicants would be afforded rights of appeal.

c. While the lawfulness of the DOA’s position has yet to be determined by the state’s appellate courts, the requirement of a fair, consistent, written appeals process that actually adheres to LRA policies, rather than to the exigencies and billing agenda of ICF was essential to fairness in the process. The absence of same in the process put in place by ICF and negligently permitted by OCD was an abuse of federal program funds and a denial of applicants’ due process.

Appendix C. Several excerpts from an email of a former staff member of the Contractor indicating the need for oversight of the company’s abuse of many applicants

From NAME, PHONE NUMBER, AND EMAIL ADDRESS AVAILABLE UPON REQUEST, former Housing Advisor for ICF International, mostly in pre-closing, then employed by Quadel (an ICF subcontractor). He has 11 years of experience with a grant program in NY and is glad to be interviewed by the HUD OIG.

Points:

Program Design & Evolution:

Although the RH was designed by the state, good policy implementation requires that the implementers, in this case, ICF, take the lead in making the program work. ICF should have re-designed the parts that didn’t work. In fact, they should have looked at the state program and said, “This isn’t going to work. Here’s the changes we need to make to streamline the process and get money out to people.” They didn’t.

The state contract (which I haven’t seen) should have included a continuous process evaluation component, with some smart people constantly evaluating, and proposing changes. This is part of what

I did as a policy analyst for NYS. All proposed changes were hashed out by senior staff, and no changes were made until we had consensus.

By contrast, ICF appears to "throw things up against the wall and see what sticks". Policy constantly changed, but the "innovations" were not talked out, and many had to be abandoned. Changes were often spur of the moment, and staff were not often informed, so one found out about a change when something failed. Management decisions were often arbitrary and capricious, and wrong.

In my time at RH, I never once saw an internal audit person looking at how things could be improved. Never were those of us on the "front lines" ever asked for suggestions, and unsolicited suggestions and complaints were ignored, or worse. Suggestions for improvements were often viewed as disloyalty.

The Numbers Game:

Management's obsession with numbers led to one of the most absurd mandates: Reporting of numbers of files passed, phone calls made, etc. *every two hours*. Supervisors collected numbers, and then went into conference call meetings lasting about a half hour. Thus fully one quarter of the time, supervisors were not available for problems.

It is only rational to look at production as often as you can make changes. These mandates served no useful purpose (daily numbers would have been fine). Advisors spent as much time filling out phone logs, and other reports as they did working on files or seeing clients. This slowed thing down substantially, as did the lack of supervisory staff for large parts of the day.

It is also important to note that most of this was unnecessary, since the two databases, e-grants and JIRA, captured this data in real time, so a good programmer could have written a report to give the same information if it was in fact needed.

Evaluations:

One of the biggest client complaints was the inconsistency of damage assessments. For example, why should three single story houses on a dead-flat New Orleans East street be Type 1 (completely destroyed) evaluations, and a fourth house be a Type 2 (partially damaged)? All I could offer a client as explanation is that there were different evaluators. But, when an evaluation was disputed, RH procedure was to send the dispute back to the same person who did the initial evaluation. Essentially, they are asking people, "Did you screw up?" This is so obviously bad policy a child could see it.

The other constant problem with evaluations occurred when clients won a change in their pre-storm value (PSV). Typically, whenever the PSV changed, the ECD (estimated cost of damage) also changed so that the award stayed the same, or sometimes decreased. This seemed to be programed into the database. Advisors complained frequently about this, but never got an answer from management as to why the ECD would change.

Management by Fear:

The typical way for management to try to get increased production was to threaten people's jobs. As someone who has worked often with volunteers, I am well aware that the best way to motivate is with incentives, but ICF treated employees like a 19th. Century factory owner. In the last days I was there, most of my colleagues said RH was the worst place they ever worked, and this from people who in many cases came to the job out of a sincere desire to help people. Many became disillusioned and quit. At the last staff meeting I attended, the center manager gave not-too-veiled threats about poor recommendations for people who didn't produce, since we were all on our way out and he couldn't threaten our jobs.

Retaliation:

I expect management will try to discredit me. I would note that both times I was disciplined, it was for putting notes in JIRA that management didn't like, but were true. I did this quite consciously. If

anyone is ever to do an implementation study on the RH program, the kinds of notes I provided will be invaluable in determining where the problems lie.

Melanie Ehrlich, CHAT Co-Chairman and member of the LRA Housing Task Force, is also in communication independently with three other former ICF staff who have given details of other aspects of serious mismanagement of the program.

Appendix D. Examples of arbitrary and capricious dealing with applicants by the RHP and gross mismanagement by the RHP from applicants

1. Summary of Some Results from the third CHAT online survey of RHP applicants (308 respondents) as of Jan. 31, 2009

- Most of the applicants who requested a copy of their file according to the Jan. 1, 2008 ruling reported being unable to get all or part of it;
- Most reported mistakes in their pre-storm value (67 purchased a certified appraisal);
- Many reported an erroneously low estimated cost of damage with comments like this
 - my house is the only house in my neighborhood that is considered <50% damaged. All others are >51%. Not logical at all especially being located 4 blocks from the 17th St. canal breach. Tue, 10/28/08 12:55 PM;
 - Most of my neighbors were over 51% damaged and Type I assessments. My home is Type 2, less than 51% even though it had 9 ft of water over two weeks. Bill Hines says they cannot conclusively determine that the rotted wood subfloors and floor joist damages are due to Katrina, so they will not pay for foundation and structural repairs. Wed, 8/27/08 6:34 AM
 - I am and my new wife are licensed Realtors. We KNOW the value of our home is at least \$234,500. The adjuster said we had \$5,500 worth of damage. I wrote checks in excess of \$40,000 and the home is not finished. I did receive almost \$18,000 from Allstate but that was not specifically for the repairs. Fri, 8/22/08 1:44 PM
 - ESTIMATED COST OF DAMAGES ALL WRONG---I HAD COST PLUS INSURANCE WITH STATE FARM AND HAD TO REPAIR IN SAME CONDITION AS I HAD FOR EXAMPLE THE ROOF---ROAD HOME ALLOWS 5K AND IT COST OVER 18K FOR ASBESTOS ROO...---I HAD TO REPLACE WITH THE SAME QUALITY TO BE INSURED FOR SAME THEY JUST DON'T GET IT---STATE FARM MAKES INSPECTIONS---LOTS OF ITEMS WERE LEFT OFF THE ESTD COST OF DAMAGES---I WAS ALLOWED A COUPLE OF HUNDRED \$\$\$ FOR DOWN TREES---I SPENT THOUSANDS TO REMOVE OAK TREES AROUND MY HOME TO EVEN GET INSIDE...---THE LIST GOES ON AND ON
 - I fought over the est. Of damage for 1.5 years and they finally adjusted it but then lowered my pre-storm value.
 - My neighbors were given the 150,000 with no questions asked, my adjuster was just incorrect and inexperienced? My structural engineer and three contractors said my home had structural damage and had to be torn down. Road home said it could be fixed for 138,000. Three contractors said it could be fixed for 259,000 MINIMUM, rebuilt for 420,000. There is no way my 3100 sq foot house could be fixed for 138,000.
 - I have spoken to many neighbors and friends nearby with similar houses that were deemed over 50% but do not wish to give their names due to fear of being asked to return the grant.
 - Most of my neighbors were classified as a Type 1 {>51% damaged home} and did not have to do the Estimated Cost of Damage
 - my house is the only home in the neighborhood assessed at less than 51% damaged. It is 4 blocks from the 17th St. Canal breach.
 - was low balled on every aspect of the damages.
 - The estimated cost of damage for the 4 condos in my building eligible for RH vary GREATLY & are inconsistent. According to RH, condo #1 (1312 sq ft) est cost of damage = \$101,398; condo #2 (1132 sq ft) est cost of damage = \$87,578; condo #3 (1312 sq ft) est cost of damage = \$169,783.32; condo #6 (1132 sq ft) est cost of damage = \$87,538. Why are condos #1 & #3 so different when they are the same layout? Why are condos #2 & #6 so much less than the other 2 when they are not much smaller? Wed, 8/6/08 2:10 PM

- Neighbors had the same amount of damage but didn't have to have a CAD report. Road Home insisted that was the way we had to go. Not fair. Tue, 8/5/08 1:40 PM
- The estimated damage to our home was about half of what several of our neighbors had their homes estimated at. Other than a single new construction in our block, ours was the only house that was not deemed substantially damaged. Most of our neighbors had damage assessments in the \$250,000 range -- ours was \$148,193.85. The flood adjuster's estimate of \$279,000 has been totally ignored by all Road Home officials. I was told by one representative that the difference in the Road Home evaluation as compared to the flood adjuster's evaluation was --"for example, we only replace sheetrock that was underwater -- and then we only pay for the sheetrock material -- not the labor to install it". Tue, 8/5/08 12:07 PM

2. A few briefly detailed examples from applicants

These are just a few of large numbers of detailed examples that we have. Names and contact information for the first three applicants, who have agreed to be interviewed by the HUD OIG, are available upon request. We note that we have many applicants who had outrageous and obvious Contractor-made mistakes in their grant calculation that took many months or a year and numerous applicant-follow-ups to correct, all leading to abuse of taxpayer money as well as great emotional distress and sometimes physical illness for the applicants.

Example 1: An obvious \$8 million mistake by the Contractor that took months to correct and media attention resulted in flagging her application

Ms. B, a school teacher now in Texas, has a 1040-sq. ft. home in New Orleans that was flooded with 4 ½ ft of water for about 20 days and had roof damage because of Hurricane Katrina. Her application for RHP funds was denied, and the award letter stated that she received **\$8,471,992** (8 million!) in insurance benefits. She faxed RHP about the mistake the next day. Five weeks later, she received a response

“We do admit that prior to the 10th there was no flood insurance documents in your file. Therefore, we cannot explain why or what happened to the documentation that you submitted at your initial appointment. ..At the time, the Resolution Team still is working on getting this error corrected. Unfortunately, we do not have a timetable to provide you as to how much longer this process may take... We do encourage you to check back with us periodically to be sure that action is being taken on your file.”

It took her four months of repeated calls to the RHP, frustration, and anguish to get them to fix this mistake. She was interviewed on TV news and on a radio show about the mistake. After correction of the mistake, a RH employee told her that her application was given to the “strike team” and had been flagged because she had contacted the media. The PSV on the award notice with the insurance mistake was \$99,000. The eventually corrected award notice had the PSV reduced to \$90,000 and, with her insurance benefits, she did not qualify for a grant. She was called in the Summer of 2008 by a RH staffperson and told that RH had reconsidered and that she was eligible for the additional compensation grant for low-income applicants; however, she was called back a week later and told that the previous call was a mistake and she was due a grant of zero. She was offered an elevation incentive award; however, it is inexplicably low for a standard home, \$16,200 instead of the normal \$30,000. She asked why the elevation incentive was reduced but “could not get a straight answer.” She is unable to return to Louisiana and repair her home without a sufficient grant funds. We have heard from a number of sources of Franklin Industries, an ICF subcontractor, taking charge of applications for special handling (accelerated or possibly for this kind of flagging). Two of Ms. B’s new RH contacts after her complaints about the \$8 million mistake were Diedra Franklin and Jennifer Franklin. We have detailed circumstantial evidence of other RH applicants who complained to the media being subsequently downgraded in their grant amount, sometimes to zero.

Example 2 Applicant told that a Contractor input error disqualifies her for a grant

After submitting my application online on and receiving an application number, I had not heard anything re the grant. After hearing Ms. Ehrlich and Mr. Leger at a briefing in October, 2007 I contacted Ms. Finger, Esq. @ Loyola. I live in the Washington, D.C. area and was visiting my family from Oct. 11 – 17, 2007. I sent an email to RHP on Oct. 11, 2007 to deliver requested documentation to them in person and wrote "I would be most appreciative if someone could respond to this e-mail quickly, as I will only be here until October 15th. My cell phone is also available for calls..." I received no response.

When Ms. Finger and I subsequently contacted the Road Home representative, we were both told that although my application was "created" on line, I had failed to hit some key on the computer to "submit my application." We both thought that was a rather weird reason to reject, especially since I had received an Application Number. Ms. Finger encouraged me to appeal this "decision." I have heard nothing re the status of my appeal submitted March 12, 2008.

It is difficult to continue paying insurance and property taxes on a home which is unoccupied and unsaleable at this time. Either the City of New Orleans or the Sewerage and Water Board has posted something on the house (as per the neighbors). Since there has been no communication from the Road Home Program regarding the appeal on this family home which belonged to my deceased Mother, I am continuing to pay insurance and taxes on a vacant, unusable home.

Example 3 Hidden Rules That Accrue To Applicants Disadvantage

Melanie Ehrlich sent the email below to Mr. Rainwater, Executive Director of LRA and OCD on this applicant's behalf. Her first-tier (Contractor) appeal was denied a few days after the email was sent. **This applicant initially had a very large mistake from the Road Home in the pre-storm value for her home. This mistake, which was mostly corrected by some unknown formula, gave no relief to the applicant because she was subsequently told that there was less than 51% damage to her house in St. Bernard Parish, where all but 4 homes were decimated. RH properties on her block were declared >51% damaged by RH, and her house had 9 feet of flood water for 2 weeks.**

The change policy document⁸¹ referred to in the email states the following:

To date the most common disagreements that come from the homeowner are that homeowners believe their home should have been evaluated as Type 1 (>51% damaged, considered full devastation) rather than Type 2. In these cases an analysis of the following parameters is performed to determine the weight of evidence:

1. Storm surge;
2. Inundation depth;
3. Wind speed;
4. Wind gusts;
5. Location of levee breaches;
- 6. Evaluation types of surrounding homes.**

⁸¹ http://chatushome.com/chatusfiles/CP131-135_PartialDisbursem_FEMA-Eligibility_InsurancePenalties_1_08.pdf

An excerpt from the email sent by Melanie Ehrlich on September 15, 2008, 6:06 PM follows. There was no response from Paul Rainwater, LRA Director, or Al Blankenship, ICF Chief of Staff, to this email.

"Mr. Rainwater and Mr. Blankenship,

This is the type of irregular and capricious constricting of grants that we have seen in so very many examples. Moreover, we are aware of a vary large number of homes obviously misclassified as to percent damage and of patently incorrect reclassifying of homes as to percent damage (Type 1 to 2 changes) within about the last year. ICF is exhibiting biases in evaluation that match what the applicants are telling us. This problem includes, but is by no means restricted to, St. Bernard homes.

The wording of CCB 137D is
point 6

"Evaluation of types of surrounding homes"⁸²

Incredibly, the applicant was told by Road Home that only surrounding homes for which the percent damage was incorrect, appealed, and the appeal was won would be considered in determining whether a mistake was made."

3. Sample of short comments from four of a total of more than 1300 CHAT online survey responses

my house is the only house in my neighborhood that is considered <50% damaged. All others are >51%. Not logical at all especially being located 4 blocks from the 17th St. canal breach. I submitted written appeal letters on May 2, 2007, November 24, 2007 and June 21, 2008. These appeals are still outstanding. 5 "PAL"s have been assigned with no positive results. Most disappear after a few days or hours. Tue, 10/28/08 12:55 PM

am in some kind of perpetual titles search cycle. everytime I talk to someone at HGI about once every 4 months they say I need a new title search due to the other one is expired. By that time my file is lost or some other excuse and the current search becomes invalid Tue, 12/2/08 12:38 PM

I got an appeal determination report in July '07.. It was approved for 79,500, based on initial faulty prestorm value. I actually went in to a closing July '08. The appeal amount was wrong, because someone didnt enter the new pre-storm value in e-grants. I was assured it was only a typo and would be resolved within a week, and we would be rescheduled for a new closing. The disputed difference was \$13,000.00. I was told I would be contacted the following week for a new, swift closing. I was given a "special" phone # to call, which I couldnt get through on. I was contacted by the post closing dept. in October by phone saying that a new review of my case had been completed and approved and passed on to the final review board. I should be contacted for a closing soon. I called for an update 2 weeks ago and was told that my damage estimates were being reviewed. This request was put in at the end of November. I cannot get any answers why, or how long it is supposed to take. In limbo. Sat, 1/3/09 8:33:21 AM

my home was taken away from us by katrina, and it was worth over 50000 the work we put into it and everything else and now road home is trying to take our diginity away from us. we're stressed enough as it is i already had 2 strokes and now i'm a diebetic. i didn't have to go through this much with fema ... when we started out it was going to be 20000,we were exstastic,then it went down to 19000.ok fine now u look its down to 1500. Mon, 12/29/08 2:20:56 PM

⁸² http://chatushome.com/chatusfiles/CP131-135_PartialDisbursem_FEMA-Eligibility_InsurancePenalties_1_08.pdf

4. Independent documentation of uncorrected mistakes in the program is provided in the following report from one of the cosignatories of this complaint, Davida Finger, Staff Attorney for Loyola Law Clinic's Katrina Clinic.

"Stranded and Squandered: Lost on the Road Home"

8/28/08 (DRAFT), Loyola Law School, Katrina Clinic

Forthcoming Publication in Seattle Journal for Social Justice Vol. 7, Issue 1 (expected January 2009)

http://justiceforneworleans.org/roadhome/docs/Stranded_and_Squandered.pdf

5. Excerpts from a Statement by MELANIE EHRLICH, Ph D, March 18, 2008

I am a Professor of Human Genetics and Biochemistry, Tulane University School of Medicine (Attachment 1) and the founder and Co-Chair of the Citizens' Road Home Action Team (CHAT). I founded CHAT because like many other members of the community, I was concerned from the very beginning of the Road Home Program about the apparent major disconnect between the design and execution of the program and the needs of the applicants. As a scientist, I wanted facts and data about the program to understand this disconnect and help advocate for improvements. I am a natural skeptic and would not draw conclusions about any criticisms of the program made by applicants without data and multiple independent examples that provided facts and evidence. The facts and my conclusions drawn therefrom are based on my personal knowledge and experience as described herein.

... The high error rate in grant processing by ICF has been excused by Suzie Elkins and Mike Spletto of OCD many times during during Housing Task Force Meetings (HTF; e.g., attachment, Draft LRA Housing Minutes 100807, p. 6) and HTF Working Group conference calls. . They touted how well the program is working in view of the unprecedented nature of the task and the number of grant applicants. They have accused me of undermining the program by criticizing it (e.g., attachment with Suzie Elkins email 1_1_08). Their unwillingness to take ICF to task for its mistakes and the lack of transparency by OCD is exemplified by my requests starting in May of 2007 via the HTF Working Group and HTF meetings for the data on the number of applicants who had applied in the first three months of program (last week in Aug. 2006 through Nov. 2006) and how many of these had received award notices as well as how many had gone to closing. That important information was not forthcoming until the end of Jan. 2008, when it was sent to me by Ms. Elkins in an unformatted arrangement that I had to piece together to decipher (see attachment Early Applicants Waiting On Road Home). While I was waiting for these data from Mr. Spletto and frequently reminding him that the numbers were important, he told me during an HTF Working Group conference call in late fall of 2007 that ICF was processing early applicants quickly and that only a few hundred applicants were in that category. However, the data that I finally obtained subsequently from Ms. Elkins revealed more than 13,000 eligible applicants had been waiting for over a year for their applications to be processed.

As for the question of data on dispute resolution case numbers, ICF has consistently withheld critical data for performance evaluation until it has improved. Untenable excuses about the withheld data were frequently offered to me OCD officials Mr. Spletto or Ms. Elkins during HTF Working Group Conference Calls and HTF meetings. OCD has yet to decide, more than seven months after ICF had to provide such numbers, whether penalties were to be imposed on ICF for failing to meet a benchmark for closings because ICF declared thousands of such disputes resolved. My ongoing investigation into this matter indicates these "resolutions" were not legitimately claimed. At last word, OCD is still awaiting "proof" from ICF regarding these cases to make its decision regarding whether a penalty would be imposed.

The contractual deadline for there to be no dispute resolution cases pending more than 2 months was August 1, 2007.⁸³

1. KPMG's report states that on 8/16/07 there were 6,059 resolution cases, almost 2000 more cases than ICF stated and that the number of cases dropped by over a thousand from Friday, Aug. 17 to Monday, Aug. 20, 2007
2. Number of applicants in dispute resolution as of 8/16/07 according to ICF's report (pipeline report) posted at road2la.org: grand total of 4,211
3. Number of applicants in dispute resolution as of 7/25/07 according to a table from ICF sent to the Working Group of the LRA Housing Task Force (HTF) grand total of 7642

⁸³ Data that refutes ICF's assertion that it made that benchmark comes from an Excel spreadsheet sent to me by Mr. Spletto, from ICF's pipeline report for Week 59 Aug. 10-16, and the report on ICF done by KPMG
http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf

4. Over 3,000 cases were resolved in just 3 weeks just before the Aug. 1, 2007 deadline for no cases older than 2 months old according to the ICF report even though those cases had languished for months previously

To further show the ad hoc, poorly planned processes that are still ongoing in the RH, during the Feb. 19, 2008 conference call of the Working Group in which Mr. Blankenship, Mr. Spletto, Ty Larkins of the LRA, and three CHAT members, myself, KC King, and Shawn Antee participated, I inquired of Mr. Blankenship how the new case managers were instructed to give applicants copies of their files because many applicants reported that they cannot get those copies.

During the Dec. 19, 2007 and Jan. 4, 2008 HTF meetings, Mr. Blankenship stated that all ICF staff who deal with applicants knew about the new field review appraisal and written documentation policies and persisted, despite my reading to him an ICF email message to an applicant stating applicants could not get copies of their records, as well as CHAT's online survey data supporting the persistence of this problem. He even heard at the end of the meeting from applicants giving public comments substantiating my remarks. At the same above-mentioned meeting, I asked why so many applications were suddenly in the "inactive" category, Susie Elkins responded they had to do something with applications that had been stuck at one point in processing for a very long time. I asked her to please send letters to applicants explaining what "inactive" means. She said that there are 8 categories of inactive and only two of them really mean anything, one of which is for the applicants who sold at a loss before the RH started. The "inactive" category has never been explained to applicants. ...She said, "Melanie, we have to put an application in some category if an applicant won't sign those papers for whatever reason."

I explained to Ms. Elkins to no avail that CHAT was following closely the case of another applicant (from the pilot program) who came to us for help and was assigned a penalty for having no insurance, when in fact he did have homeowners and flood insurance and had his benefits from the same subtracted from his grant along side the penalty for "no insurance." ...When this applicant went to closing the mistake was still there and he refused to sign the closing papers without the correction. His application too was placed in the inactive category.

CCB 200A gives seven categories for inactive applications (see attachment). They all revolve around lack of applicant responsiveness to requests. Over and over, I have learned from applicants who were trying to get information from RH, that they were suddenly put in the "inactive" category to their without explanation. This CCB gives instructions about how to remove an application from the inactive status but this policy, like so many others is not given by ICF staff to applicants nor communicated to applicants in any way, including in writing as required by LRA policy.

...The following is an extract of an email from an Appeals staff member that verifies the negligent performance by ICF, disregard for applicants and the attendant lack of oversight by OCD.

"...all of the PSV appeals have been sitting on hold since late January... I have personally researched over 100 appeals that were sent to Resolutions over the past 12 months that have had nothing done to them. Most of them were considered ineligible by the appeals department because they were so old by the time we received them. ... Post storm and pre storm appraisals submitted by applicants were not sent for Field Review because anything that said PSV on it immediately went into the hold status waiting for approval to work them."

Update on Jan. 31, 2009 from Melanie Ehrlich. The RH's current policy and practice is still dissuading applicants from pursuing appeals. New deadlines for appeals being processed are often not met by many months. Applicant data to correct Contractor mistakes are still often overlooked. Applicants are still reporting to me that they receive only recorded phone messages about the outcome of an appeal or the notice of their grant award and that they are pressured to close on the undisputed amount before they appeal. After closing, the Contractor is often yet less responsive. Many applicants report to CHAT that their grant has been downsized but that they discover this only at closing, despite LRA policy that applicants have to be informed in advance of closing of decreases from the amount in their award notice.

Appendix E. Even in circumscribed auditing reports prepared by a subcontractor (KPMG) and in audits by the Louisiana Legislative Auditors, grave concerns have been raised and not properly addressed by OCD or LRA.

1. The ICF Program Review, prepared by KPMG and paid for by OCD, which was repeatedly advocated by CHAT, revealed serious deviations from best practices by ICF and raises issues

about intentional breaches in proper administration of the grant program, waste, abuse, and possible fraud

Two of the most frequent complaints in our >1300 responses to CHAT’s online survey that was frequently heard at Town Hall and LRA Housing Task Force meeting is the lack of any response or of a meaningful response often for months or more than a year to simple questions about their grant applications by Contractor staff and applicants being left in limbo in “dispute resolution” (see reference to the “Resolution Team” below). Both of these problems were addressed in a report on Contractor operations, which was paid for by OCD.

Excerpts from a Dec. 7, 2007 Report by KPMG, LLC are given below

[http://chatushome.com/chatusfiles/KPMG Program Review Highlights 1 20 07.pdf](http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf)

[http://chatushome.com/chatusfiles/KPMG Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf](http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf)

P. 13 “2. Providing applicants with proactive application status information in order to facilitate more accurate grant calculations in a timelier manner.

o ICF should focus efforts toward proactively analyzing current applications, identifying a more specific common group of issues, and then communicating a meaningful application status to applicants, prioritizing by date of original application to address the earliest applicants first. The communication should be by phone and letter. The letter should include as much known information as possible, including the current status of the application, pending issues, missing documents or information, and an outline of the remaining steps to closing. Consideration should also be given to developing a monthly newsletter to the current application base to provide updates to the grant customer consistently, accurately, and timely for Program changes and other general updates.”

P. 34 “As a general observation, but certainly with exceptions, there is limited documentation available relating to how specific processes and controls are performed and how interfaces operate. Over time, many of the early manual controls and interfaces have been replaced with systematic or automated counterparts. Both the limited documentation and reliance on manual controls and interfaces are consistent with the “start up” nature of the Road Home Program and the pace at which the Program has operated. Similarly, over time, the Program has matured and become more stable in terms of policies, processes, procedures and identifying exceptions to policies and procedures that necessitate a cycle of developing more policies and procedures. Given the schedule of upgrades to eGrants and the pace of other changes to the Program, applications that closed and were funded prior to May 2007 may generally be at a higher risk of containing errors.”

p.35 “Access rights to some Program systems do not align with segregation of duties controls principles and some Program employees have unauthorized role privileges. For example, the ability to update and override information is not separated from the ability to regenerate and print new option letters. In addition, the ability to resolve an exception issue is not segregated from the responsibility of updating/overriding the data, which is not segregated from the ability to edit application data and add and delete attachments.

...

When reviewing an application in eGrants post-closing, there is not an obvious audit trail or method to determine when new information was received in eGrants, Worltrac or the data warehouse. ICF senior management believes that this is an expected consequence of going to closing without full verification and is part of the post-closing process. In addition, at the time of this assessment, there is not a systematic check of all closed applications to ensure that ICF considers all updated data and revises grant amounts accordingly in connection with CCB 153B.

p. 38 The eGrants calculator may not reflect the correct closing amount due to manual application processing uring month-end closing pushes. ICF manually completes the final closing instructions based on supporting documentation attached as a PDF document to the applicant’s file in eGrants. ICF does not immediately update the values corresponding to the supporting documents in the eGrants calculator due to program acceleration,

also documentation may lag. As such, the eGrants calculator does not reflect the correct closing amount immediately.

During the period of our assessment, over 140 resolution team members have the ability to override values in eGrants. Though some audit trail functionality exists for tracking changes, it is not robust enough. When Program operations employees override values or change applicant data, the system does not require the employee does to input a comment or reason for the change. ICF should incorporate additional checks to require that overrides made to applications, especially applications involving Road Home employees, receive an additional layer of approval. The system should generate daily reports to track changes that require additional supervisor approval or review.

There is currently software coding within the eGrants calculator that checks for owner occupancy, eligible parish, verified data, income status, FEMA verification, insurance verification, JIRA holds and open issues, the option selected by the applicant, and whether the application is a Road Home outlier. The eGrant calculator is part of the internal controls related to grant processing and should not be overridden without a specific audit trail and clear supporting documentation that the manual override is correct and calculates the proper grant amount. Early in the Program, ICF incorrectly input application ID's in the workorder database. The home evaluation team has since remedied this situation by running a series of tests to match eGrants application ID, address, and owner against data in eGrants. However, implementation dates for these tests and their results are not documented."

Louisiana Legislative Auditor Performance Report on the Road Home Program's Data Warehouse Reliability, January 14, 2009

[http://app1.la.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/\\$FILE/00008378.pdf](http://app1.la.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf)

Excerpts are given below.

P. 3-4. **Overall Results:** Although we did not perform a comprehensive controls review, we did identify several control weaknesses in the course of our work that could affect data reliability. Some of these weaknesses were cited in previous internal ICF reports on data integrity and have not improved. The weaknesses we identified include the following:

- Users have roles that should be segregated. For example, there have been over 1,300 individuals who have the ability to edit applicant data and delete attachments and 65 (5%) of these are Road Home applicants who are also ICF employees.
- ICF has not enabled the audit features in its database that would help log the actions of users.
- ICF did not review all tables when it loaded data into the warehouse to ensure that the data loaded accurately and completely.
- The pre-storm value flag in eGrants indicating that an applicant disputed his or her pre-storm value was not always supported with documentation. In addition, ICF did not begin tracking which employee checked the flag until our review began.
- ICF has not developed sufficient documentation that details its systems and data tables.
- OCD has not effectively monitored ICF's IT functions in part because it does not have any staff with expertise in this area.

[http://app1.la.state.la.us/PublicReports.nsf/A9CD4077B83D54D6862572EC00664C19/\\$FILE/000010F5.pdf](http://app1.la.state.la.us/PublicReports.nsf/A9CD4077B83D54D6862572EC00664C19/$FILE/000010F5.pdf)

Louisiana Legislative Auditor: Road Home Program ICF Contract and Deliverables, May 2007

Excerpts are given below.

We conducted a performance audit to determine how the Office of Community Development (OCD) oversees certain aspects of its contract with ICF, International (ICF) to deliver the Road Home program. Throughout this audit, we worked in cooperation with OCD staff to collect information and

keep them informed of our observations. The objectives of our audit and the corresponding results of our work are summarized as follows:

What deliverables are required by the contract and how does OCD ensure that the deliverables are timely and meet its expectations?

Results: Over the three-year life of the contract, there are approximately 750 deliverables required by the ICF contract. OCD needs a better process to ensure that deliverables are reviewed and accepted or rejected in a timely manner. During our initial review of the ICF portal and status of deliverables, we determined that OCD had not accepted 83.6% of the phase two deliverables. We informed OCD staff of our observations. We then re-reviewed the deliverables and found that OCD had reduced the number of deliverables with no acceptance from 83.6% to 24.4%. According to OCD, it had reviewed these deliverables but did not update the portal with its decision...

How does OCD report on contract oversight?

Results: While OCD has reported programmatic information to the legislature, OCD does not routinely report to the legislature and other stakeholders on OCD's oversight over the ICF contract, specifically contract deliverables and costs.

Note that the comment by the Auditor about lack of reporting by OCD to the legislature has not been remedied despite passage of a law by the Louisiana legislature May addressing this problem.⁸⁴ As mentioned above, OCD is not in compliance with this law because it has failed to produce any of the stipulated reports, as of Jan. 29, 2009, according to the Louisiana Legislative Auditor, Steve Theriot.

It should be noted that the Louisiana Legislative Auditor frequently reports inaccurately high grant awards by the RHP but less frequently inaccurately low amounts. The reason for this is that the shortchanging of applicants' grants mostly involves inaccurate pre-storm value and cost-of-damage determinations by the Contractor but the Legislative Auditor does not check the accuracy of those data. Applicant documentation, which the Contractor has refused to put in applicant files, and unbiased certified appraisals and damage assessments could correct those inaccuracies upon appeal but very many applicants have unsuccessfully attempted to initiate an appeal or have been summarily denied their Contractor-supervised appeal in which re-evaluation of faulty data were often done by the same Contractor staff who generated the original data without an independent reassessment.

Given these limitations and the reports from the Legislative Auditor of insufficient checking of data for this overly complicated Program, we posit the following.

- **It is unfair to applicants to ask for recapture of grant amounts due to overpayment unless the cause of overpayment was applicant fraud or should have been patently obvious to the grantee without having to study online documents from the maize-like Program with frequently shifting and some unpublicized rules.** These grants were used mostly to repair and rebuild homes subject to a natural disaster of historic proportions, due in part to failures of levees built and maintained under the supervision of the US Army Corp of Engineers. Applicants has suffered enough, often from loss of all their possessions in addition to their homes and destruction of their neighborhoods, and from what many applicants describe as the one-to-almost-three-year "ordeal" of the Road Home Program.
 - There has been great insensitivity of the Road Home Program to the applicants and their needs that the Program was supposed to fulfill as exemplified by mold and mildew

⁸⁴ Act 829, signed by Gov. Jindal on July 9, 2008,
<http://www.legis.state.la.us/billdata/byinst.asp?sessionid=08RS&billid=HB910>

damage **recently** being declared as excluded from damage estimates⁸⁵ despite tens of thousands of applicants' homes sitting in 3 -12 feet of a mixture of sewer water and brackish water for weeks with the applicants often unable to return to their homes for months.

- o This lack of attention to the rationale of the Program, compensation of disaster victims, is also demonstrated by the updated predatory language added to closing documents as follows.⁸⁶
 - **CIVIL LIABILITY DISCLOSURE:** I agree to repay the Grant in the event that I have made or hererafter make or file false, misleading and/or incomplete statements and/or documents even if not intentional on my part

Concluding Requests to the HUD OIG

- Any calculation of “surplus” funds based upon the Contractor’s self-auditing data and auditing of a subset by the Louisiana Legislative Auditor will be underestimates. Such underestimation of the amount of money that applicants should have received under an accurate and consistent application of the rules of the Program and of HUD should not be used as an excuse to ask Congress and HUD for permission to divert funds from the Road Home Program.⁸⁷
- The LRA Board passed a resolution in November to ask Congress for such a rerouting of funds if they have met their “commitments.” The grave problem is that the meaning of “meeting commitments,” as defined by the Contractor, LRA, and OCD, ignores shortchanging of applicants by misuse of federal government funds.
- We respectfully request that the Contractor be investigated for fraud and misuse of funds with respect to the possibility of being mandated to return part of their funding to be used for grant applicants.
- In addition, we request that the investigation also address whether there were problems with oversight exercised by the HUD Office of Disaster Recovery and Special Issues Division and other HUD program office entity, as explained above.
- Lastly, we ask that the investigation include LRA and OCD, especially with respect to halting HUD approval for any diversion of Road Home Program funds until a HUD OIG investigation is complete. We respectfully ask you to obtain data in this investigation not only directly from the Contractor’s databases (including JIRA, Mantis Bug Tracker, and Worltrac) and from the Louisiana Legislative Auditor,⁸⁸ but also to please compare data from applicants with similar situations to determine the inconsistencies in the Program, and to obtain a selection of data directly from a representative sampling of applicants themselves. These kinds of data are

⁸⁵ P. i. http://road2la.org/Docs/policies/Protocols_Estimating_Replacement_Housing_Costs_070908.pdf

⁸⁶ http://www.road2la.org/Docs/closing/option%202/OPTION%20TWO%20-%20REPLACEMENT%20HOME%20AFFIDAVIT_28Aug07.pdf

⁸⁷ **“State asks feds to OK funds for N.O. hospital”:**
<http://docs.newsbank.com/s/InfoWeb/agdocs/NewsBank/124924606E649E10/0EEA30604397A028;>
[http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/;](http://www.hud.gov/offices/cpd/communitydevelopment/programs/stateadmin/)
<http://www.lra.louisiana.gov/assets/docs/searchable/meetings/2008/11/111808AppropriationResolution.pdf>

⁸⁸ In a publicly posted letter, the Louisiana Legislative Auditor states with respect to reviews of the RHP that they will make their otherwise confidential working papers “available to any successor auditor or recognized external quality review organization upon request. We will retain the working papers for six years.” (copy of letter available upon request)

critical to enable evaluation of the veracity of the Contractor's database and the question of intentional exclusion of appropriate and necessary documentation from applicants, contrary to HUD and Program regulations, as explained above.