


[FoCHAT] CHAT: Audits, Dispute Resolutions, Elevation, Rebuilding  
fochat-bounces@thinknola.com [fochat-bounces@thinknola.com] on behalf of Melanie Ehrlich  
[mehrlich8@yahoo.com]

Sent: Friday, April 11, 2008 7:18 PM  
To: [fochat@thinknola.com](mailto:fochat@thinknola.com); [chatlra@yahoo.com](mailto:chatlra@yahoo.com)  
Attachments:  [ATT00001.txt \(207 B\)](#)

Dear Concerned Citizens,

## 1. AUDITS, DISPUTE RESOLUTION, AND APPEALS

We are glad that LRA is taking a step in the right direction of more consequential audits of ICF [http://www.nola.com/news/index.ssf/2008/04/fix\\_files\\_or\\_face\\_fine\\_state\\_t.html](http://www.nola.com/news/index.ssf/2008/04/fix_files_or_face_fine_state_t.html). However, the bottom line for effective audits is that the applicants need shortchanging mistakes corrected.

If anyone has to eat the cost of overpayments that were not very large and obvious to the applicant and were not used for home repair/rebuilding/purchase, it should be ICF. Just fining ICF won't help applicants in financial and emotional distress about the callous and way tens of thousands of these storm victims have been treated with repeated lack of answers or with wrong answers from ICF.

There are different types of audits of the Road Home Program for Homeowner Assistance (RH) that were done or are being discussed for the future.

One important source of audit information is the Legislative Audits, which were conducted on many aspects of state government and are independent of the people who run the RH.

You can find their RH audits, as well as their other audits, at this website:

<http://www.la.state.la.us/lla/padreports.htm>

I hope to comment on some of the eye-openers in the May 30, 2007 Performance Audit another time but you can see it at the above site.

Now I want to briefly discuss accuracy, audits, dispute resolutions, and appeals.

First, the Legislative Audit team reported to the LRA at one meeting that their audits of the accuracy of RH grant determinations did not include evaluating the pre-storm value, a major source of grant calculation mistakes. They did a separate audit of the Home Evaluation Procedures (for the CAD reports and Estimated Cost of Damage for those homes not declared over 51% damaged), which revealed troubling problems but seemed to miss many of the complaints we hear over and over from homeowners of eligible items not included and rejection of homeowner documentation of damage that had been repaired before the evaluation.

So when you read in newspaper articles about more overpayments than underpayments from some audits, note that major sources of underpayments to applicants have not been examined well or at all for the quality of the data (pre-storm value and estimated cost of damage).

We hope that the data in ICF's databases will be examined carefully by a truly independent auditor previously unaffiliated with ICF and not under ICF supervision.

Even that kind of audit would still have the limitation that ICF is missing data that it should have, including rejected third-party documentation that homeowners should have been allowed to submit to correct RH mistakes.

In addition, there might be inexplicably missing data from ICF's files.

Therefore, it is essential that applicants be allowed to obtain their complete, unedited file according to Road Home Policy Number 189A (see CP documents at our website [chatushome.com](http://chatushome.com)). This policy is supposed to have been in effect since Jan. 1, 2008. This should be free of charge.

Applicants are having more success in getting their documents but many are still being denied them or all of them, including any CAD report, all pre-storm valuation documents, and phone and email records.

After applicants get a complete copy of their file, they must be given the chance to appeal mistakes under a greatly improved appeals system that is transparent, fair, and not vague.

In addition, at the policy level, the most advantageous policies for calculating grants have to be uniformly applied to applicants. This has been far from the case. Now is the time to start making those corrections for applicants with downsized pre-storm values or estimated cost of damage due to more restrictive calculation policies.

An audit of existing files, even if done well, will miss many shortchanging mistakes.

Previously conducted dispute resolutions and appeals had many irregularities, including applicants not being given their full files (unless they went to the higher level of appeal after initial appeal rejection), dispute resolutions with such vagueness that even the Legislative Auditor had trouble with it, and in-limbo dispute resolutions that "disappeared" in time for ICF to avoid a fine for not making a contractual benchmark (see [http://thinknola.com/files/chat/DisappearingDisputeResoln\\_from8\\_07\\_1\\_20\\_08.pdf](http://thinknola.com/files/chat/DisappearingDisputeResoln_from8_07_1_20_08.pdf) )

Here are some of the conclusions from the Legislative Audit reports on Dispute Resolution that you can find at <http://www.la.state.la.us/lla/padreports.htm>

As of April 10, 2007... ICF does not have an effective process in place to ensure advisors resolve homeowners' complaints consistently and accurately... 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 is not reliable.

We conducted a survey of 30 applicants who are currently in or have completed Resolution... 71% of the applicants we surveyed were not satisfied with the Resolution process. Thirteen of the 15 (87%) of those still in Resolution did not think they received sufficient information on where their case is in the process. Twelve of the 15 (80%) who have completed the process did not think they received sufficient information about the status of their case. .. The 15 applicants whose issues have been resolved were resolved in an average of 111 days...

In the Feb. 6, 2008 report is the following.

We took a sample of 33, or 4%, of the 777 [dispute resolution] issues to determine how they were closed. We could not determine how 27 of the 33 (82%) files were closed because the comments did not provide sufficient details.

OCD's response to this report offers the following previously missing definition of when a dispute resolution is concluded.

"On Sept. 14, 2007, OCD accepted the 'Resolved' and 'Closed' as meeting the metric if the following definitions were followed;

Resolved- The applicant question, concern, or dispute has been researched and has reached final disposition to the extent possible within program policy. The final disposition has been communicated to the applicant...

Closed- This status has the same definition as the resolved status above..."

As a member of the Housing Task Force, I had asked for this during Housing Task Force meetings in the fall of 07 through Jan. 08, but never received these definitions.

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Now we are hearing that there will be no more dispute resolution but rather case managers called "PALs." This report quotes OCD as stating that "All remaining applicants will be assigned a dedicated PAL."

What about fairness for those who never had the type of resolution of their dispute as defined by OCD and were not able to get a fair appeal?

What about those applicants who, as we hear, still did not get a PAL or have problems with their PAL not following good resolution procedures or not returning calls?

What about those applicants who, as we hear, were told incorrectly that they could not appeal or were not informed about the requirements for appealing, or whose appeal letters were sent by certified mail but ICF said it never received them?

CHAT recommends that applicants with substantive issues who:

are having trouble getting a complete copy of their file free from ICF,

did not get fair appeal,

missed the appeal deadline,

never got the type of resolution from Dispute Resolution described above by OCD with reasons for any rejected appeal and then did not get a chance for a fair appeal,

or are being asked for payback for ICF errors in grant awards that were not flagrantly obvious and were not used for home repair, rebuilding, or purchase,

should contact

Allyson Funk in the Constituents office for Governor Jindal ;she works on LRA problems.

Funka@GOV.STATE.LA.US

and send to CHAT a copy cc: [chatlra@yahoo.com](mailto:chatlra@yahoo.com)

## 2. ELEVATION GRANT LETTERS

They are still going out but several applicants are reporting that they are not receiving letters mailed 5 days ago. The majority of the letters have not yet been mailed according to what CHAT heard most recently. If you are contemplating elevating and receive the letter, you should consider checking and sending back both the elevation incentive and HMGP elevation forms. There is no obligation at this point and you might need them both either because of your total elevation expense being high or because some items might be covered under only one of the programs. These programs are being designed by the state.

As to the rules for payment, they seem to still not be settled and require state and federal clarification about duplication of benefits (for example, are ICC benefits subtracted from elevation incentive awards?).

## 3. REBUILDING INFO

From :Deborah Cotton

Editor-In-Chief

[LouisianaREBUILDS.info](http://LouisianaREBUILDS.info)

### **CONTRACTOR FORUM NOTES EXCERPTS**

#### **Kimya Homes, Orleans Parish Assistant District Attorney Economic Crime Unit**

- Fraud is defined as contractor did work and was paid but the work was not up to code or otherwise not done properly. Even with a contract, if the work was not done well, it may be a breach of contract (a civil case) rather than a criminal case. If they did not do any work at all or very little has been done and you have a contract, it is probably a criminal case.
- There is no contractor fraud law in Louisiana. Instead theft laws are used. Anything from \$1-\$300 is a misdemeanor; anything over \$300 is a felony.
- The New Orleans District Attorney's office takes in approximately 200 inquiries about contractor fraud a month. From the time you send your complaint to their office, it might take about six weeks for them to begin working on it. Contractors accused of theft by the New Orleans D.A.'s office almost always settle out of court because if the D.A. wins the case, the contractor might go to jail.
- If you choose to file a civil case, the advantage is that the standard for proof is easier to meet for a a criminal case. The disadvantage is you have to pay for filing and court costs..
- The contract has to be in writing stating what exactly will be done, start date, finish date, and has to be signed by you and the contractor. If you have a proper contract and it is violated, it can be a criminal case.
- Give as many details as you can for the work that you expect done in the contract. It's recommended that you have in the contract maybe four or more tasks that you pay for as they are done. It is good to state in the contract that all the plumbing and electrical work must be up to code. Contractors who are reputable will be willing to spell out all the details in your contract.
- 10% of the contract is the maximum that a contractor should ask at the signing of the contract. And never give a contractor or subcontractor cash.
- If someone gives you a business card that only has a cell phone number, that is a warning sign.

· New Orleans Legal Aid (NOLAC) and [LouisianaREBUILDS.info](http://LouisianaREBUILDS.info) has listing of free legal help for homeowners dealing with contractor issues.

### **Toni Wendall and Lynwood Allemore, Louisiana State Contractor Licensing Board**

- The State Contractor Licensing Board hears about 80-100 cases each month. About 40 – 50 cases of contractor fraud are brought to the State Contractor Licensing Board each month. But the maximum amount the Board can fine a contractor on a case is 25% of the contract.
- In your contract, have a labor, materials, and mechanical lien waiver, which means that he will provide you with paperwork showing that he has paid the subcontractors before you give him the next payment. It is easy for a contractor to file a lien. It is more difficult for the homeowner. If you want to file a lien as a consumer, you should get an attorney. If you get a performance bond from an insurance company, you can usually avoid unfair liens. However, it is difficult for to get performance bonds for home rebuilding jobs. Make sure the contractor gives you the company name, name of the person in charge, and cell phone number for all subcontractors before you sign the contract.
- Before you sign a contract, call the State Contractor Licensing Board and tell them you want to check out the history of a contractor.
- Confirm that the address they cite is legitimate by driving to the office. Sometimes the unscrupulous contractors use fake addresses or P.O. Box addresses.
- Just because a contractor uses names like “Jesus Saves Construction,” “Marine Construction,” or “Fireman Landscapers” doesn’t mean they’re trustworthy. Usually, it means the opposite.
- When you get a license number, make sure that the contractor is the owner of that license and that he is registered in your parish. In one case, a man took a real license and forged his name on it. Make sure not only that the license is correct but that it belongs to the person who says its his license by checking references, going to the address of his company, and checking with the Home Builders’ Association of GNO, the State Contractor Licensing Board, with the [LouisianaREBUILDS.info](http://LouisianaREBUILDS.info).
- [LouisianaREBUILDS.info](http://LouisianaREBUILDS.info)’s Contractor Guide has a sample of the State contractor license with watermark to help you compare. The contractor’s license should have a State Residential Building License (not an occupational license, which is for any business to pay tax). Do not use someone who only has an occupational license. There is a Renovation License that a contractor can have if the work costs from \$7500 to \$75,000. Above that, he must have a State Residential Building License. Also, It’s the contractor’s responsibility to get the construction permit.

### **Stacie Deblieux, Assitant Attorney General in the Contractor Fraud Task Force**

The Attorney General’s office can prosecute a criminal case only if the contractor failed to show up at all or failed to pay the subcontractors.

Before signing a contract, make sure the contract contains:

- The contractor’s name, address, phone, and license number.
- A payment schedule for the contractor, subcontractors and suppliers
- An estimated start and completion date
- The contractor’s obligation to obtain all necessary permits.
- How change orders will be handled.
- A detailed list of all materials, including color, model, size, brand name and product.
- Warranties covering materials and workmanship.
- What the contractor will and will not do. For example, is the site clean-up and trash hauling included in the price?
- Oral promises also should be added to the written contract.
- A written statement of your right to cancel the contract within three business days if you signed the contract at your home or at a location other than the contractor’s place of business.

Beware of the following contractor fraud **RED FLAGS**:

- Does not provide a local address or local telephone number-do not hire someone who only supplies a cell phone number.
- Solicits door-to-door. Legitimate (and busy) contractors do not have time to solicit door-to-door.
- Just happens to have left-over materials from previous jobs.
- Will give you a discount for recommending other customers.
- Demands that you pay in cash or for the job upfront.
- Tries to pressure you into signing a contract you haven’t read or that has blank spaces.
- Asks you to get the building permits.
- Asks you to use your home as security for a home improvement loan or borrow money from a lender the contractor knows. If you do not pay the loan or miss a payment, the lender can take your home and sell it.
- Uses high pressure sales tactics to scare and intimidate you.
- Claims that your job will be a “demonstration.”

For additional information on contractor issues:

Louisiana Attorney General’s Office

Consumer Protection Hotline

1-800-351-4889

[www.ag.state.la.us](http://www.ag.state.la.us)

Orleans Parish District Attorney's Office Economic Crime Unit  
1340 Poydras St. Ste. 700  
New Orleans, La 70112  
(504) 571-2820  
[www.orleansda.org](http://www.orleansda.org)

Louisiana State Contractor Licensing Board  
2525 Quail Drive  
Baton Rouge, La 70808  
1-800-256-1392  
[www.lslbc.louisiana.gov](http://www.lslbc.louisiana.gov)

Home Builders Association Of Greater New Orleans  
2424 North Arnoult Road  
Metairie, Louisiana 70001  
Phone (504) 837-2700  
Fax (504) 837-4663  
<http://www.home-builders.org/>

Jason A. Nix  
AMR Enterprises of New Orleans, LLC  
2409 Constance Street  
New Orleans, LA 70130  
504-235-3013 p  
504-267-0190 f  
[jason@amr-nola.com](mailto:jason@amr-nola.com)  
[www.amr-nola.com](http://www.amr-nola.com)

Paul Ikemire - Director  
The Phoenix of New Orleans  
310 S. Broad  
New Orleans, La 70119  
504-342-4399  
[pnola@pnola.org](mailto:pnola@pnola.org)

#### 4. Search for NORA priority properties, including LLT, on maps:

From CHAT Member Michelle M. Thompson, Ph.D.  
Visiting Scholar, Cornell University, Department of City & Regional Planning  
<http://www.noraworks.org/search.htm>  
Also, see this article:  
<http://www.neworleanscitybusiness.com/uptotheminute.cfm?recid=16687>

#### 5. CHILLING EFFECTS AND PAYBACKS TO RH

Firstly, the issue of paybacks might get much larger when the final audit is done of RH applicant files that have closed.

Here are some thoughts on paybacks and chilling effects.

##### **Problems with Payback to RH**

It is, of course, **justified** for Road Home to require paybacks **for fraud by applicants and for applicants receiving additional insurance benefits for structural damage after closing and not reporting those benefits** (duplication of benefits are not allowed by federal rules).

**The problems with all other demanded paybacks** of overpayment include the following:

the **unprecedented nature of the disaster** that all the applicants experienced,

**the long amount of time from the disaster until applicants have received these grants** to help them with repairing or rebuilding their homes,

the fact that **applicants had the right to assume that their grant determinations were accurate** especially given the high price of this application processing (approximately \$6000 per grant),

the **complexity of the rules for grant determination,**

**inadequate Road Home documentation of pre-storm value and estimated cost of damage**

the **inadequacy of the amount of the grants for most applicants to cover repair/rebuilding costs.**

the **difficulty that applicants have had in trying to get explanations of their award amounts from ICF,**

the fact that the closing documents refer to possible paybacks for post-closing insurance benefits (for structural damage to home) and fraud but not to liability for other types of repayments, like ICF mistakes or RH changes in policy leading to lower calculations for pre-storm value or estimated cost of damage,

**unequal treatment of application processing because of changing and vague rules,**

**Three of the applicants that have had paybacks demanded contacted us. For all of them the demand for paybacks came because they appealed underpayment by RH and so their grants were scrutinized.**

**They all spent all RH money on repairs to their homes damaged by levee-break flooding and do not have the money for Road Home payback and still maintain that Road Home owes them money and that their appeal was not handled thoroughly or correctly.**

**and the additional scrutiny by ICF given to those in appeal of shortchanging mistakes so as to try to find "overpayments."** Two top RH officials told me on separate occasions that applicants should be wary of appealing their grants because many have their grants cut as a result. This amounts to a "chilling effect" or indirect persuasion to just accept the grant amount however low.

**This chilling effect (discouraging appeals) extends to the new rule that if an applicant wants a Road Home elevation incentive, they cannot be in appeals.** The reason given by OCD is that being in appeals would interfere with determination of the amount for the elevation incentive. However, that is an insupportable argument because, while there is a \$150,000 cap of elevation incentive plus grant award, the appeals determination could be made by just including the elevation incentive to make sure the applicant does not receive more than \$150,000 of RH funds

6. COX10 is reshowing The Feb. 27 CHAT meeting on Friday, Apr. 18 at 6:30 PM and on Saturday, Apr. 19 at 11 AM.

Best wishes,

Melanie Ehrlich  
Co-Chairman, Citizens' Road Home Action Team (CHAT)