

## **Stranded and Squandered: Lost on the Road Home**

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The staggering devastation following the 2005 Gulf Coast hurricanes and levee failures brought attention to inadequate local, state, and federal government responses. As rebuilding progresses in hurricane-impacted areas, images of those waiting for rescue on rooftops have vanished. However, urgent need remains for many still trying to rebuild their homes and lives. This article focuses on one specific disaster response that has fallen short in helping homeowners' rebuilding efforts: the state of Louisiana's Road Home Program. Throughout this article, "Road Home" refers to the program overseen by the state of Louisiana and implemented by ICF, the private contractor hired by the State.

The launch of Road Home was announced by former Governor Kathleen Blanco on August 22, 2006, approximately one year after the 2005 Gulf Coast hurricanes.<sup>2</sup> Created to "help Louisiana residents get back into their homes or apartments as quickly and fairly as possible,"<sup>3</sup> Road Home is the state of Louisiana's initiative to distribute federal rebuilding dollars. Through the Katrina Clinic at Loyola Law School in New Orleans, I have given direct assistance to many hundreds of Road Home applicants, and with other advocates, have called for changes to Road Home policies. With Road Home now administered under Governor Bobby Jindal's authority, applicants and their advocates continue to encounter barriers while navigating complicated, ever-changing, and undisclosed rules. All told, Road Home has proved to be anything but quick and fair. The average homeowner in the Road Home Program received \$54,586 less than was actually needed to rebuild.<sup>4</sup>

Homeowners have experienced tremendous difficulties in navigating this government program that was supposed to enable rebuilding in Louisiana. This article tells the stories of Road Home applicants in order to illustrate some of the serious systemic challenges this program has presented. The homeowners' stories highlight flawed Road Home policies and implementation practices that have plagued applicants and their advocates. These stories and countless untold similar accounts make a strong case for improved government accountability for all aspects of Road Home and urgent government reprioritization to value people's firsthand experiences. This article does not attempt to reveal all problematic policies and practices with Road Home; these are vast.

Before examining Road Home policy and implementation deficiencies, this article includes a brief background on the funding scheme for Road Home, the State's privatization of the program, and the State's failure to allocate adequate funds to rebuild rental properties. The article then describes a myriad of substantive and procedural issues that applicants encounter in Road Home: its underlying valuation formula and problems with home-valuation policies; insufficient funding for low- to moderate-income families; nondisclosure of critical information; problems with its appeal system; inadequate written information and documentation; and expedited program deadlines that have unduly burdened applicants. Throughout, the article describes some of the ways in which advocates have worked to overcome Road Home barriers that lower grant awards, especially for those most in need. In conclusion, I describe Road Home reforms that remain urgent; with increased attention and oversight, my hope is that a more equitable and humane grant program can help Louisianians still struggling to rebuild their homes and lives.

## INTRODUCTION

*I knew I wanted to rebuild. This is home. Road Home sent an appraiser to my damaged house. That appraiser didn't even come inside. He said he knew what the values were in the Lower Ninth. One bedrooms have a value. Two bedrooms have a different value. He didn't even come inside. We didn't get close to enough to rebuild. If they had written down what it really cost to rebuild, we would be home.*

—Ms. E., Lower Ninth Ward<sup>5</sup>

Road Home was designed to give eligible homeowners up to \$150,000 in compensation for their damaged homes.<sup>6</sup> It gives homeowner applicants three options: (1) stay in their home and rebuild, (2) sell their home to the State and relocate to a new home within Louisiana, or (3) sell their home to the State and move outside Louisiana.<sup>7</sup> Those who select the third option face an automatic 40 percent penalty on their grant award.<sup>8</sup> Applicants who did not carry proper insurance are subject to an automatic 30 percent penalty.<sup>9</sup>

The homeowner compensation grant is based on either Road Home's estimated cost of damage to the house minus other assistance received by the homeowner (e.g., insurance, FEMA, etc.), or the prestorm value of the home minus other assistance, whichever is lower.<sup>10</sup> After completing the application, the homeowner applicant moves through various stages of Road Home before closing. The closing, administered by a title company subcontractor, finalizes grant disbursement.<sup>11</sup> The applicant may appeal grant errors both prior to and after closing.<sup>12</sup>

Overall, Road Home's delays in distributing grant awards have caused applicants endless difficulty; without knowing how or when Road Home

grant awards would be received, applicants have had to postpone important rebuilding decisions. The delay in rebuilding caused by Road Home has made an indelible, detrimental mark on disaster-impacted areas. In an article entitled “Lessons From Katrina: How to Destroy an African American City in 33 Steps,” Bill Quigley explained the first step—delay—the very step Road Home seems to have mastered: “if there is one word that sums up the way to destroy an African-American city after a disaster, that word is DELAY.”<sup>13</sup>

In its first four months, Road Home closed fewer than one hundred homeowner grants.<sup>14</sup> The RAND Corporation, a nonprofit policy institute, found that “the overall timeliness of the grant-making process has not been consistently good and predictable.”<sup>15</sup> RAND identified several problems that contributed to slow and variable grant wait times experienced by applicants: lack of timeliness goals, inattention to application duration, and delay of entire batches of applications based on batch sampling.<sup>16</sup> Moreover, no goals were established for wait times to encourage the program to meet the expectations of each individual applicant.<sup>17</sup> In addition, Road Home relied on three title companies whose utilization and performance have been uneven.<sup>18</sup>

The *Times-Picayune*'s editorial page succinctly expressed dismay at these delays, stating that “forcing thousands of Katrina victims to wait for eight months or more to get the help they need to rebuild their shattered homes is cruel.”<sup>19</sup> Adding to the difficulties caused by overall poor design and implementation of Road Home, the extended, unexplained waits have taken their toll on those applicants who could least afford any additional hardships.

On May 24, 2007, Senator Mary Landrieu (D-LA) convened an oversight hearing to probe widely broadcasted projected budget shortfalls in Road Home, in addition to its other barriers.<sup>20</sup> Senator Landrieu concluded, “The lesson from this oversight hearing was clear, the mistakes for the Road Home program lie at many levels of government.”<sup>21</sup>

*In her late seventies, Ms. R. from Gentilly<sup>22</sup> had applied for Road Home funds in the first month of the program. Her home had been badly damaged by several feet of water. Ms. R. meticulously documented the phone calls she made each month to the Road Home call center. In virtually every call for the first eight months, operators told Ms. R. to send additional documents, several times requesting documents she had already provided. These included insurance paperwork, energy bills, FEMA documentation, and property ownership information. She provided the requested documents, mailing some three times. After scheduling several in-person meetings in downtown New Orleans, to which Ms. R. traveled by taxi, she was informed that she was “preclosing.” Ms. R. had been “preclosing” for four months when I met her. By this time, the wait for the federal rebuilding dollars had taken its toll.*

*Barely able to pay her mortgage, property taxes, and lot upkeep, Ms. R. was aware that Road Home was her last chance to repair the home that she and her late husband had worked so hard to build. She had heard stories about foreclosures in her neighborhood and was already behind on mortgage payments as she used her savings to pay contractors’ bills for roof, electrical, and incomplete sheetrock work on her home. Ms. R. arrived in our office to figure out what would happen if she died before her Road Home award came in. As she explained, “My husband worked three jobs his entire life for that house—he is looking down and shaking his head at what we’re going through to get back home.”*

## I. BACKGROUND: THE ROAD HOME PROGRAM

### A. Funding for Road Home: Community Development Block Grant

The U.S. Congress provided hurricane relief funding for the Gulf Coast following Hurricanes Katrina and Rita through a series of appropriations in the form of Community Development Block Grants (CDBG).<sup>23</sup> CDBG

funds are administered by the Department of Housing and Urban Development (HUD).<sup>24</sup> “The primary objective . . . of the community development program . . . is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate-income.”<sup>25</sup> With this objective as a mandate, the U.S. Congress allocated approximately \$13.4 billion to the state of Louisiana through CDBG.<sup>26</sup>

While CDBG generally requires that at least 70 percent of its funding be used for the benefit of low- and moderate-income persons, post-Katrina the U.S. Congress authorized a general waiver of the CDBG’s low- to moderate-income requirement.<sup>27</sup> As a result, the mandatory minimum amount of funding to be spent on low- to moderate-income people for all combined disaster recovery programs was lowered to 50 percent.<sup>28</sup>

Louisiana was required to determine how the allocated CDBG funds would be spent. In Louisiana, the Office of Community Development (OCD), within the Division of Administration and under the supervision of the governor’s office, is usually responsible for CDBG programs.<sup>29</sup> The Louisiana Recovery Authority (LRA), created in the wake of the hurricanes as the planning and coordinating body for Louisiana’s recovery effort, made recommendations to OCD for implementation of Road Home.<sup>30</sup> After extensive negotiations, these implementation plans were submitted to the Louisiana governor and legislature for approval.<sup>31</sup> Following State approval, the implementation plans were submitted to HUD.<sup>32</sup> The Disaster Recovery Unit within OCD now administers the CDBG Disaster Recovery funds.<sup>33</sup> Throughout this article the terms “State” or “Louisiana” are used to refer to the agencies involved with Road Home.

In order to document for HUD how the CDBG funds would meet the lowered 50 percent moderate-income housing requirement, the LRA relied on a particular aspect of Road Home called the Additional Compensation Grant (ACG), a grant feature designed to provide additional assistance to

applicants with household incomes 80 percent and below the parish's median income.<sup>34</sup> The ACG is supposed to add up to fifty thousand dollars to an applicant's grant when there is a "gap" between the estimated cost of damage (minus any other assistance received) and Road Home's actual compensation.<sup>35</sup>

*B. Louisiana's Privatization of Road Home: ICF International*

*The State's delegation to a private contractor—that was not the right thing to do.*

—Paul Rainwater, executive director of the LRA

With statutory authority to contract with private parties,<sup>36</sup> the State contracted with an ICF International<sup>37</sup> subsidiary, ICF EMS, to manage the Road Home program in June 2006.<sup>38</sup> The contract, initially valued at \$756 million, had a stated term of three years.<sup>39</sup>

Louisiana's selection of ICF to administer Road Home was controversial. Because ICF had an existing contract with OCD that included drafting the Road Home implementation plans, the Louisiana Board of Ethics stated that ICF should be disqualified from bidding on the Road Home contract.<sup>40</sup> However, the Board of Ethics ultimately accepted ICF's position that ICF had sufficiently removed itself from discussion about solicitations for offers and concluded that ICF was eligible for the Road Home contract as long as it terminated its previous contract with OCD.<sup>41</sup>

Prior to receiving the Road Home contract, ICF recognized the intricacies of the program, the importance of customer service, and the negative publicity it might face from failing. ICF identified many "performance and management risks" of the Road Home contract: "difficult deadlines"; "intense public scrutiny"; and "ensuring that the applications . . . are processed and funds are disbursed in a timely fashion."<sup>42</sup> But the risk ICF was most concerned about was "the adverse publicity associated with

complaints from homeowners” because these complaints were likely to harm its reputation.<sup>43</sup>

Even with this apparent understanding, ICF has experienced adverse publicity and complaints about its performance. In fact, ICF’s own concerns proved to be accurate predictors of its large-scale failures. An Associated Press article about Road Home explained these broad failures: “ICF now stands accused of inflating its closing figures by deliberately using red tape, confusion and delays to get applicants to settle for low grant amounts.”<sup>44</sup>

One possible explanation for this systemic failure might be that the Road Home contract was of a much larger scope than any project ICF had ever undertaken, and it simply could not effectively handle the contract.<sup>45</sup> Road Home accounted for 35 percent of ICF’s 2006 revenue<sup>46</sup> and 63 percent of its 2007 revenue.<sup>47</sup> In 2005 and 2006, before Road Home’s inception, no single contract accounted for more than 2 percent of ICF’s total revenue.<sup>48</sup> In 2007, no other single contract accounted for more than 1 percent.<sup>49</sup>

Still, ICF increased profits after the Road Home contract award. Three months after winning the Road Home contract, ICF announced that it would sell its stock publicly, its first public offering in its thirty-seven years of existence.<sup>50</sup> ICF’s annual revenue increased fourfold between 2005 and 2007, and gross profit nearly tripled.<sup>51</sup> For 2007, ICF’s chief executive was awarded a \$1.5 million “performance bonus.”<sup>52</sup> Indeed, the Road Home contract reportedly “sweetened [ICF’s] initial public stock offering and helped it buy four other companies” with ICF now reaching into government contracting sectors such as national defense and the environment.<sup>53</sup>

ICF’s unsatisfactory implementation of Road Home has generated ample negative publicity. In December 2006, the Louisiana legislature called for an investigation of ICF’s failures and unanimously expressed dissatisfaction with ICF, pointing to errors in “pre-storm property values, damage estimates, deductions for insurance proceeds, deductions for FEMA

payments, and other numbers and calculations.”<sup>54</sup> In strongly worded resolutions, both the Louisiana House of Representatives and Senate called for ICF to be fired.<sup>55</sup> Overall, ICF’s dismal performance in implementing Road Home has been acknowledged by community organizations,<sup>56</sup> mass media,<sup>57</sup> think tanks, and government accountability organizations.<sup>58</sup>

In December 2007, just prior to leaving office and despite continuing problems with ICF’s performance, Governor Blanco increased the size of ICF’s contract from \$756 million to \$912 million.<sup>59</sup> This increase was made without disclosure to the legislature or the public.<sup>60</sup> Thus, the State actually rewarded ICF when only one year prior the Legislature had wanted to fire ICF for broad programmatic failures.<sup>61</sup> Just days before this turn of events, Governor Blanco’s administration reported that it would not continue funding legal services intended to assist low-income homeowners move through Road Home application hurdles in order to receive their grants.<sup>62</sup>

The LRA, under the new administration of Governor Bobby Jindal, called for an investigation.<sup>63</sup> With ICF “widely questioned over bureaucratic delays and failures,”<sup>64</sup> Senator Mary Landrieu would later comment, “I remain concerned about the slow pace of grant awards and closings and question the contract award amount granted to ICF, especially in light of possible funding shortfalls in the Road Home. It is particularly disturbing that at the same time, ICF’s executives were being rewarded with outrageous bonuses.”<sup>65</sup>

Months later, in July 2008, the State fined ICF \$1 million for its failure to meet performance targets.<sup>66</sup> This fine represents less than 1 percent of the \$156 million increase that ICF received, an amount which even ICF’s chief financial officer, Alan Stewart, referred to as “fairly nominal.”<sup>67</sup> Indeed, the “penalties in ICF’s contract are too mild to be a real incentive for continued improvement.”<sup>68</sup> Most importantly for homeowners, the penalties imposed on ICF do not seem to have incentivized improvements. Problems with Road Home have persisted. A 2008 *Times-Picayune* opinion

column noted that Road Home's failures have become so prevalent that only a "particularly egregious error [will] attract attention."<sup>69</sup>

### **C. Insufficient Allocation of Rebuilding Funds for Renters**

*The pre-Katrina shortage of affordable housing in New Orleans has since erupted into a major crisis, robbing tens of thousands of displaced residents of their right to return. This crisis is disproportionately borne by the region's poorest residents.*

—Tracie L. Washington, NAACP

The loss of approximately two hundred thousand homes in Louisiana following the 2005 hurricanes severely impacts renters; 40 percent of the homes lost were rental units, and "over half of those lost rental units were affordable to those making less than 80% of the area median income."<sup>70</sup> Post-hurricane rent increases, together with the loss of safe and affordable housing, caused tenants to remain at high risk for permanent displacement. In New Orleans, homelessness has doubled since the hurricanes.<sup>71</sup>

The fact that renters essentially were excluded from the rebuilding funding has made matters worse. Just 15 percent of CDBG funding was allocated for rebuilding affordable housing/rental units, and no funds were directly targeted to renters.<sup>72</sup> Although Road Home established a program called the Small Rental Property Program to "provide incentives to property owners to repair their storm damaged, small-scale rental properties," this program has not yielded significant numbers of affordable rental units.<sup>73</sup>

Understanding the difficulty that renters faced, on June 20, 2006, advocates filed an Administrative Complaint with HUD, challenging the use of CDBG dollars by Road Home, pointing out that the funds would not meet the needs of low- to moderate-income renters and homeowners.<sup>74</sup> Receiving no response, advocates filed another letter on November 8, 2006, reiterating the concerns.<sup>75</sup>

As discussed in this Administrative Complaint, both HUD and the State are subject to the Fair Housing Act, which requires that all programs related to housing be administered “in a manner affirmatively to further” fair housing.<sup>76</sup> Hence, by accepting the CDBG recovery funds, the State is required to affirmatively further fair housing. It must “conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments through that analysis, and maintain records reflecting the analysis and actions in this regard.”<sup>77</sup> An agency’s affirmative duty is not merely to refrain from discrimination but to use federal programs to actively promote the goals of the Fair Housing Act—including, of course, not intentionally or disproportionately excluding minorities from program participation and not contributing to the displacement and exclusion of minorities from the Gulf Coast.<sup>78</sup> Further, the Administrative Complaint alleged that with rental units amounting to 41 percent of the structures that were destroyed or with major damage and only 15 percent of the funding slated for rebuilding affordable housing/rental related programs, this amount was “legally insufficient” given that the “vast majority of uninhabitable rental units were previously occupied by low-income households.”<sup>79</sup>

Eight months after the Administrative Complaint was sent, OCD responded by letter, noting that attached provisions from its Grantee Handbook “detail the process applied to address Fair Housing obligations” without providing any further detailed explanation on specific concerns for renters.<sup>80</sup>

Unfortunately, concerns raised in the Administrative Complaint have proven accurate. Current funding can replace only two out of every five affordable housing units lost statewide, and in New Orleans only one out of every three affordable housing units lost can be replaced.<sup>81</sup>

## II. THE ROAD HOME: PROBLEMS WITH POLICIES AND PROCEDURES

### A. *Unjust Valuation*

One of the most troubling design aspects of Road Home is that the grant award is anchored to the value of the damaged home before it was damaged or the estimated cost of damage—whichever is lower—and not the actual cost of repairing the damaged home.<sup>82</sup> In low-income neighborhoods, the prestorm value is more likely to be utilized than the estimated cost of damage because the prestorm value is typically lower.<sup>83</sup> However, homeowners in low-income neighborhoods face the same rebuilding costs as homeowners in more affluent areas of the community.<sup>84</sup> Low-income homeowners, whose estimated cost of damage was on average higher than prestorm value, received nearly \$50,000 less than rebuilding costs.<sup>85</sup>

In communities of color where historically low property values have existed due to patterns of segregation, residents are paid lower grant amounts than their counterparts in predominantly white communities where comparable properties have higher values.<sup>86</sup> African American neighborhoods in New Orleans, which received the most flooding from the breached levees following Hurricane Katrina, are most detrimentally impacted by Road Home's formula.<sup>87</sup> Pointing to the discriminatory impact of Road Home's formula, fair housing and civil rights groups filed a federal lawsuit against HUD and the LRA alleging, on behalf of five homeowners representing more than twenty thousand African American homeowners, that Road Home discriminates against African American homeowners.<sup>88</sup> Statewide, the gap between the grant amount received and the dollar amount needed to rebuild was notably higher among African American homeowners, who had average shortfalls of \$39,082, compared with \$30,863 for white applicants.<sup>89</sup>

Road Home's valuation policies further exacerbate grant award inequities. For example, when applicants contest undervaluation of

property by submitting a higher Louisiana-certified appraisal as evidence of a higher house valuation, Road Home rejects any Louisiana-certified appraisal that is more than 20 percent greater than Road Home's valuation.<sup>90</sup> However, this contradicts other internal policies that guarantee that an applicant will receive an award based on the highest value on file.<sup>91</sup> Furthermore, given that a Louisiana-certified appraisal must be completed at the homeowner's expense,<sup>92</sup> the cost for obtaining an appraisal from a private appraisal firm disadvantages low-income homeowners.

Adding to applicants' troubles, Road Home's "tiered approach" for determining prestorm value is not straightforward, with seemingly arbitrary rules governing a hierarchy of complex valuation methods.<sup>93</sup> Moreover, prestorm value policies have gone through many confusing iterations.<sup>94</sup> Consequently, distinct sets of rules control prestorm value depending on when Road Home generated an applicant's benefit selection form and when an appeal was filed, further mystifying the home valuation process.<sup>95</sup>

Finally, Road Home's failure to properly and timely disclose information<sup>96</sup> often prevents homeowners from learning of the undervaluation. Thus, many applicants, especially those without access to a lawyer or advocate, may never learn of valuation errors.

*In 2007, Mr. S. of Chalmette<sup>97</sup> was advised by Road Home that his Louisiana-certified appraisal was not valid. ICF staff instructed him to get his appraisal value lowered in order to move forward in the Road Home process. When Mr. S. explained this to the appraiser, the appraiser informed Mr. S. that appraisers were not allowed to lower values simply because Road Home requests a lower value. In the end, Mr. S. had to accept an award that was not based on the higher Louisiana-certified appraisal he obtained.*

*In 2008, Ms. Z of Lower Plaquemine Parish<sup>98</sup> appealed Road Home's valuation of her home at \$100,000. Her Louisiana-certified appraisal valued her home at \$234,000. Road Home's review of her certified*

*appraisal brought the home's value up to only \$150,000. If Ms. Z accepts the \$150,000 value, under the program rule, she will forfeit all further appeal rights.*

#### *B. Funding for Low- and Moderate-Income Homeowners*

For low- and moderate-income clients, ACG is supposed to fill the monetary gap between the low prestorm value estimate and the estimated cost of damage.<sup>99</sup> While ACG does increase awards for low- to moderate-income households, even with the full ACG award, there still may not be enough funding to replace a home.

For example, Ms. G., an African American homeowner whose damaged home is in the lower Ninth Ward, had her damage estimated by Road Home at \$130,000. Road Home assessed the prestorm value of her home at approximately \$60,000. Because Road Home bases its grant award on the estimated cost of damage or the prestorm value, whichever is lower, Ms. G.'s compensation grant was calculated at \$60,000 (minus insurance)—\$70,000 less than she actually needed to rebuild. To fill such gaps, Road Home offers an ACG of up to \$50,000 for low-income homeowners.<sup>100</sup> Even though Ms. G. received the maximum \$50,000 ACG, she still received \$20,000 less than what she needed to completely repair the damage to her home.

Compare Ms. G. to Ms. X, a hypothetical applicant from a different neighborhood whose home might have had the same amount of estimated cost of damage (\$130,000) as did Ms. G.'s home. Unlike Ms. G., Ms. X had the means to hire a Louisiana-certified appraiser to perform an appraisal of her house's value; the appraiser correctly valued her house at nearly \$500,000. Because the estimated cost of damage was lower than the prestorm home value, Ms. X would have received \$130,000 (minus insurance), which would have provided her with the amount needed for rebuilding.

Further compounding the problem are Road Home's varying policies regarding the types of documentation required to verify income to determine whether applicants qualify to receive the ACG.<sup>101</sup> These various documentation requirements have caused confusion for applicants. Road Home's failure to address the real costs of rebuilding has done a disservice to low-income homeowners who have not been able to reconstruct their homes and lives.

### *C. Road Home's Nondisclosure*

#### **1. Applicant Information**

Road Home has not been forthcoming in allowing applicants and advocates access to individual file information, even though that information would assist the applicant in understanding Road Home's grant calculations.<sup>102</sup> Starting in September 2007, the Katrina Clinic began requesting that applicants be given routine access to their own Road Home files in order to better understand house valuation and deductions and to determine whether the applicant should file an appeal of the grant amount.<sup>103</sup> However, not until spring 2008 did Road Home begin sending files more routinely.

Unfortunately, Road Home also sent invoices to applicants along with the files, charging for copies of the files. This burdened low-income homeowners. Advocates objected to Road Home charging applicants for copies of their files, and the practice abated without explanation.

Under pressure from persistent advocacy, Road Home developed a procedure for applicants to request their files in July 2008. Additionally, Road Home stated that fees would be waived for Road Home applicants requesting documents included in their individual files.<sup>104</sup> Even after this procedure was established, Road Home applicants continued to inform the Katrina Clinic that requests for their files went unanswered for extended periods of time.

*I have repeatedly asked for my entire file, which I know that I'm entitled to, but it has never been sent. I have repeatedly asked to be assigned a PAL, which is some sort of person to look at the case individually, but have yet to hear a word. I paid more for the house than the [Road Home] Kentucky appraiser even valued it at. My insurance company's calculation of what it would cost to rebuild the house is substantially more than the [Road Home's] Compensation Allowance Document.*

—Mr. B., Gentilly<sup>105</sup>

## 2. Program Information

Road Home has not, as of the date of this publication, made all homeowner program rules public, a step which would lead to greater program transparency and understanding of errors in homeowners' files.<sup>106</sup> The Louisiana Legislative Auditor experienced problems with the nondisclosure of rules when it could not determine how many changes in policy had actually been made.<sup>107</sup> The great number of policy changes has detrimentally impacted applicants because policy changes were made so frequently that Road Home advisors could not keep up; this might be one reason why applicant files contain numerous errors.<sup>108</sup>

In addition, the Katrina Clinic's public records requests for program and policy information were answered with incomplete responses weeks, even months later, long after new rules had been passed.<sup>109</sup> Information that the Katrina Clinic obtained through these public records requests sheds light on the Jindal administration's spending of Road Home funds.<sup>110</sup> While Governor Jindal reportedly expressed outrage at the Blanco administration's \$156 million dollar contract increase to ICF,<sup>111</sup> "documents obtained through a public records request show that \$59.6 million of the increase had been paid as of [August 4, 2008], even as the Jindal administration vowed toughness on ICF."<sup>112</sup> Given the funds and rebuilding needs at stake,

timely and complete release of public information about Road Home remains critical.

In the 2006 Administrative Complaint, even before Road Home's deficiencies had been broadly documented, advocates raised serious concerns about transparency in reporting mechanisms.<sup>113</sup> In response, OCD pointed to its Road Home pipeline report as containing all necessary data for current status of homeowner and rental programs.<sup>114</sup> However, this report has not provided sufficient information for program transparency. The Louisiana Legislative Auditor noted that the pipeline report was substandard because it did not contain sufficient information on "problems and issues encountered, corrective actions taken, aging of cases, or explanations for delays in the process," and any reports that did contain such data were mostly internal, nonpublic reports.<sup>115</sup> In response, rather than provide information that would lead to greater transparency and understanding of Road Home, OCD "resisted efforts to publicly release detailed Road Home data," explaining that "the data was too complex to be released publicly."<sup>116</sup>

#### *D. Appeals*

The key procedural step to correcting Road Home's errors should be available through the appeals process.<sup>117</sup> Appeals are critical due to the high rate of errors while files are in "pre-closing,"<sup>118</sup> the last stage before grant disbursement.

Errors in individual files abound. According to ICF, quotas set by the State were difficult for its advisors to meet due to time constraints. Because the quotas were difficult to attain, "some advisors may not have reviewed the file sufficiently."<sup>119</sup> This inadequate file review undoubtedly led to errors. Despite ICF's admittedly inadequate review of files, "Road Home staffers [were] actively discouraging people from filing formal appeals, telling them that it could cause a delay in resolving problems."<sup>120</sup> The Legislative Auditor found that at the pre-closing stage,

errors continue to occur despite multiple levels of review because of the following: [n]o overall analysis to determine cause of errors, [d]aily quotas have resulted in less thorough reviews, [l]ack of detailed policies and procedures for advisors to follow, Road Home policies change frequently leaving little time to comprehend changes, [s]ome advisors and quality assurance advisors did not complete their review checklists, [and] [t]he team that uploads and scans in documents does not have quality assurance performed on their activities.<sup>121</sup>

In an assessment of ICF's performance, KPMG, a private auditing firm, found that "Road Home employees who manually input data . . . have mistakenly deducted the value of applicants' entire insurance policy, rather than just the amount of money received from structural damages."<sup>122</sup> Wrongful insurance deductions are among the most common errors the Katrina Clinic has assisted homeowners in appealing; in some cases, these have taken more than half a year to correct.<sup>123</sup>

A new appeals policy, announced on May 15, 2008,<sup>124</sup> has not alleviated confusion and problems related to the appeals process. While the new policy was touted as the mechanism that removes the "dispute resolution" portion of the program, guaranteeing that Road Home would contact the applicant within fifteen days of the filing of an appeal,<sup>125</sup> these procedures have not been uniformly implemented for all applicants.<sup>126</sup> Any purported reforms to the appeals process by the Jindal administration have had little impact. At the Katrina Clinic, even under the new appeals policy, applicants continue to experience problems of incorrect valuation, incorrect deductions, inaccurate and incomplete communications, and unanswered appeals.

*I went down to the Poydras Center three times to get my stuff corrected. They kept making the same mistakes. Can you believe that they had me down for three million dollars received from insurance? They realized the mistake after I kept complaining over and over again with letters. I finally got that cleared up. I kept sending them the same stuff I brought to the very first meeting. Then I had to appeal my prestorm value. They had it down for way less than what I purchased it in 2002. I'm still waiting. Every time I call, they tell me we haven't reached a determination. She told me the last bit of information was never entered into my file, but I sent that last spring. I thought I was appealing but they told me I needed to go through resolution first. Then, the resolution department told me no and to go to appeals. I submitted another appeal and they told me to go back to resolution. I just want to get my house back.*

—Ms. N., Orleans<sup>127</sup>

#### *E. Inadequate Written Information*

Road Home's practice of providing applicants with information and instructions orally, rather than in writing, has contributed to a lack of transparency with Road Home decision making on individual files, and as a result, has increased applicant frustration. Even when a request for written information is made, information is typically provided orally.<sup>128</sup> Indeed, the Katrina Clinic's public record requests made on behalf of applicants for individual file information have not revealed detailed call logs that include substantive information discussed in an applicant's call with ICF staff.<sup>129</sup> This could be attributed to the fact that ICF does not keep adequate accounts of telephone conversations held with applicants, which seriously compromises accountability to the individual applicant. If call logs are maintained with detailed information, these records have not been provided upon request.

Applicants are routinely given discrepant information about their case status from one call to the next. Based on the Katrina Clinic's experience working with homeowners and its substantial contact with Road Home, applicants are often told that they are preclosing, only to later be contacted for additional information. Weeks later, applicants might receive yet another call requesting the same or different paperwork, while receiving no new information about their grant disbursement. Applicants are given various instructions for required documents. For instance, applicants are told they must produce various types of documentation during one phone conversation, only to be told something completely different in a subsequent phone call with Road Home.

Because even written appeals might be answered verbally, the applicant is forced into making important decisions based on Road Home's verbal information. For applicants with appeals pending, the lack of a written record presents a particularly challenging situation. First, the appeals system is not available to an applicant until dispute resolution—an internal dispute process handled by ICF—has been completed.<sup>130</sup> Second, applicants have not been given written determinations when their dispute resolution process is completed.<sup>131</sup> This leaves applicants with no idea of whether Road Home considers their dispute closed. If applicants want to move forward in the process, the burden is on the homeowner to determine how to do so.

In 2007, Road Home responded to advocacy efforts regarding written information requirements by enacting a policy to provide written information to applicants at critical stages in the program.<sup>132</sup> The policy states:

The Road Home program, in an apparent effort to process applicants more quickly, has adopted the practice of providing information relating to homeowner status verbally at critical stages of the process in lieu of written documentation, a practice which has had a major impact on homeowners' ability to make informed decisions regarding their grant awards. Moreover,

this practice has been widely reported by homeowners to have adversely affected their ability to demonstrate that something was communicated verbally by Road Home staff relating to the status of their application as they have moved through the process in a number of ways, namely, that they are deprived of written documentation supporting the information they were provided verbally, in most instances over the phone.<sup>133</sup>

Even though the new Road Home policy requires information in writing at critical stages, based on my experience with applicants, verbal instructions and information are still routinely given to applicants. I recently observed instructions about critical program documents scribbled on a post-it note. This method of communication does not satisfy the spirit of the rule.

*Ms. R. of Gretna<sup>134</sup> appealed Road Home's property valuation of her damaged home in Jefferson Parish. She did not know that her issue was considered "resolved" and that the resolution process was technically closed after she received a phone call from IFC stating that the Road Home Program valuation was correct. Ms. R. could have appealed the decision at that point but instead continued to wait for information about her resolution process. Meanwhile, she was made homeless when she was evicted from her FEMA trailer. She waited to hear from Road Home and had no idea that the phone call from ICF had closed her case.*

#### *F. Expedited and Unrealistic RHP Deadlines*

Because the applicant is largely unable to control the pace of progressing through the Road Home grant process, Road Home's deadlines have placed significant and unnecessary stress on applicants. On May 30, 2007, Road Home announced an application deadline.<sup>135</sup> Advocates statewide requested an extension due to the difficulties applicants were facing in

meeting the deadline. Especially in the days just prior to the deadline, applicants were unable to contact Road Home due to jammed phone lines at the ICF call center and internet application page failures.<sup>136</sup> However, Road Home did not relent.

*Although Ms. S. of Orleans,<sup>137</sup> in her late seventies, does not read or write very well, she did her best to meet the application deadline when she learned of it. On July 17, 2007, she mailed her application via certified mail. She kept a copy of the certified mail receipt. Unbeknownst to her, she mailed her application to the Road Home P.O. Box for the small landlord program instead of the P.O. Box for the homeowner's program. To date, our written appeal and numerous additional information requests on behalf of Ms. S. have not resolved Ms. S.'s situation. Road Home cannot locate Ms. S.'s rental application number, even though Ms. S. provided the application number Road Home had given her. Further, Road Home seems to have lost the Katrina Clinic's appeal letter.*

Later, with little more than a month's notice and just after the State had fined ICF over one million dollars for widespread shortcomings,<sup>138</sup> Road Home imposed a broad September 5, 2008, deadline for all applicants to submit "all necessary documents" and "proof of ownership."<sup>139</sup> Two other deadlines—one in October 2008 and one in November 2008—were also publicized.<sup>140</sup> With countless homeowners waiting for successions—the required judicial process to transmit the deceased's estate to successors—these deadlines were essentially impossible to meet. The deadlines could have dropped tens of thousands of applicants with pending Road Home applications as they awaited information from ICF and/or resolution of title and property issues.<sup>141</sup> Because of Road Home's failures in supplying written information, completing appeal determinations, providing consistent or reliable instructions and information, and extending delays in handling

applicant files, it is Road Home—the State and ICF—not the homeowner, that should have been given deadlines.<sup>142</sup>

Backed by over two hundred organizations, advocates requested that Governor Jindal promptly rescind all deadlines, explaining that litigation would be necessary should applicants be dropped from Road Home under the arbitrary deadlines.<sup>143</sup> The New Orleans City Council was supportive and adopted a strongly worded resolution against the deadlines, noting that additional burdens should not be placed upon those who had already been subject to Road Home's long delays and conflicting information. The Council's resolution explained that extensive Road Home deficiencies had already burdened applicants, that the the deadlines did not serve a meaningful or just purpose, and that all benefits should be given to applicants to continue in the program.<sup>144</sup> Pertinent parts of the resolution follow:

WHEREAS, ICF has been unable to effectively implement the program and it is well documented that ICF has lost applicants' documents, failed to provide written notice of award amounts, failed to timely produce responsive information and documents to answer applicants' questions about application status and how to move forward toward closing in the Road Home Program, made errors in calculating grant awards, failed to produce written determinations on disputes and appeals, and failed to consistently and timely produce information about individual program files to applicants; and

WHEREAS, the State of Louisiana is aware of the systemic barriers individuals face in moving through the Road Home Program because of ICF's widespread program failures and recently fined ICF one million dollars for its deficiencies; and

WHEREAS, the State of Louisiana has regularly changed Road Home Program rules without making these new rules public when passed leaving homeowners with almost no current information regarding the most recent policies further compounding homeowners' difficulties in moving through the Road Home Program; and

WHEREAS, the State of Louisiana has, without adequately informing the public, changed key policies without sufficient disclosure, such as those related to home valuation, which is the anchor to ICF's determination of Road Home grants; and

...

WHEREAS, homeowners awaiting specific documentation and/or information requirements from ICF have no knowledge when ICF will communicate this information to homeowners; and

WHEREAS, low income homeowners are in an especially vulnerable situation because many cannot complete successions by the established deadline and the State is well aware that there are currently wait lists for low income people in need of affordable legal assistance to complete successions and who consequently cannot provide "proof of ownership" within the established deadline period; and

WHEREAS, tens of thousands of Louisiana homeowners, including low income homeowners in desperate need of rebuilding funds, could be permanently cut out from receiving federal rebuilding funds because of arbitrary deadlines

...

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, that it does not agree that the September 5th deadline serves a meaningful or just purpose.

In addition, advocates also put pressure on the State to rescind the deadlines through the following methods: distributing petitions in churches, throughout community organizations, and on the internet; passing a second resolution written by the Terrebonne Parish Council condemning the deadlines; and meeting multiple times with Paul Rainwater, LRA's executive director.

In an attempt to justify the widely publicized and burdensome deadlines, an LRA spokesperson explained to the New Orleans City Council that the deadlines were actually meant to be the State's request for "an update from applicants about where they are in the process."<sup>145</sup> Despite this initial

excuse, the State eventually relented and rescinded most of the deadlines.<sup>146</sup> Mr. Rainwater explained, “[a]fter meeting with homeowners and community leaders, it became clear that many applicants affected by the deadlines were elderly and low income Louisianians who would be unable to comply with the program deadlines.”<sup>147</sup> However, since the announcement about the unattainable deadlines had been made weeks prior, homeowners had already endured additional stress, confusion, and panic about maintaining their place in the program. As of August 27, 2008, the only deadline remaining was for applicants to return benefit selection letters by November 1, 2008.<sup>148</sup> However, the State continued to advertise all deadlines in the local newspaper, even following its rescission of the September and October 2008 deadlines.<sup>149</sup>

*I'm almost eighty years old. I want to get my little house that Daddy and I built for the kids. My neighborhood was so nice. We all got our homes at around the same time, and it was like a big family, looking out for each other all the time. I go by to look at my lot where our house used to be, and we make sure to take care of that lot. We didn't save anything—just one picture that's a drawing of me when I was young and good looking.*

*The neighbors—real good neighbors—saved that picture for me. This Road Home is a rat race. They told me I didn't need a succession. I went down to that Poydras Center so many times. Then, out of the blue, they called me and said I had three weeks to get everything in. They never sent me any letters, but this time on the phone, they said I did need a succession. Road Home told me if I don't get my succession in, that's it—I'll be shut out completely. They told me that on the phone. What kind of deadline is that? On my limited income, I can't get a lawyer. This Road Home just says no to me and my neighbors. I want my house to be started before I kick it, so I know the kids will have something.*

—Ms. A., Lower Ninth Ward<sup>150</sup>

### III. CONCLUSION

Road Home has not “succeeded in resolving the acute housing shortage face[d] as a result of Katrina and Rita” nor has it “produced a template that could be used to address housing issues created by future disasters.”<sup>151</sup> As a disaster response mechanism, Road Home cannot be considered a programmatic success—it sheds no light on how to equitably implement a post-disaster rebuilding program except by presenting lessons learned of what *not* to do. Road Home has contributed to leaving those returning to Louisiana without meaningful options.

Louisiana government agencies have demonstrated inefficient and ineffective systems at a time when the people could least afford bureaucratic dysfunctionality. Indeed, the Louisiana inspector general concluded that the relationship between LRA and OCD, the Louisiana state agencies charged with Road Home responsibilities, was one of intense disagreement—rife with internal conflict and hostility that impeded the free flow of information.<sup>152</sup> This government conflict did not benefit those who needed the CDBG rebuilding funds. The State has not meaningfully improved results. At the federal level, oversight has not enabled equitable distribution of funds.

Government failures with Road Home have squandered precious CDBG rebuilding dollars. Beyond overall Road Home inequities, the State has continued to pay ICF to produce botched results. While ICF’s billing to the State has prompted an audit into unjustified and unauthorized expenses, this does not change the fact that the State’s contract with ICF has been implemented despite significant, known errors.<sup>153</sup>

The distress Road Home has caused applicants deepens government failures. While there is no question that Road Home funds have provided some assistance, homeowners have been stranded in an unnecessarily difficult and painful process. Homeowners seeking nothing more than fair access to federal rebuilding funds have been put through the worst kind of bureaucracy. Applicants’ experiences should be taken seriously and should

result in vastly improved procedures, substantive policies, and accountability measures.

Disaster response mechanisms should be planned and implemented with emphasis on equity. Road Home reform should begin by introducing clarity into procedural rules; all program rules should be distributed, explained, and consistently implemented. As highlighted in this article, one of the most critical failings of Road Home is its confusing communication methods. Road Home must improve its ability to effectively and accurately communicate at all program stages and with all applicants. Road Home should provide an open appeals process with clear statements and supporting policy documents describing the information Road Home uses to calculate grant awards. Further, the appeals process should detail the information that applicants must provide during the process, along with an explanation of relevant Road Home policies.

Rather than being a burden on Road Home, such clear statements would provide applicants with the information necessary for timely and accurate grant awards. Furthermore, transparency in all aspects of Road Home would allow applicants and advocates significantly greater ease in correcting erroneous grant awards, especially where Road Home's policies were incorrectly applied. Road Home should welcome these mechanisms as the means of providing applicants with accurate grant awards.

Substantively, Road Home policies, especially valuation policies, must be overhauled with equitable changes retroactively applied. All applicants should receive the federal rebuilding funds that they are entitled to.

The State has had ample opportunity to provide more oversight of its contractor ICF, and it has shirked that responsibility.<sup>154</sup> The State can still improve and correct its policies, communication, and results. Additionally, the State should create meaningful review mechanisms for applicants to question grant awards that may not have provided them with the highest possible grant amount. Applicants should have an opportunity to raise issues that would increase grant awards where those issues have gone

unaddressed. The State should levy additional fines on ICF for its failed performance.

By describing these problems with Road Home, I hope that improved post-disaster mechanisms will result. Increased government transparency and accountability should be applied in Louisiana so that Road Home applicants receive basic measures of justice from government and much needed rebuilding assistance. Our communities can ill afford post-disaster government responses that do not prioritize equity.

*I am eighty-three years old and a lifelong resident of New Orleans. I lived on — Street from my birth in 1925 until Katrina forced me to leave. My dad built the house at the same time he built my two sisters' house next door. Listen, during my childhood, adolescence, adulthood, and now, golden years, I have always played by the rules, been a law-abiding citizen, paid my taxes, voted, and never complained! I swallowed my pride when segregation prevented me equal status in my homeland. Conversely, I felt great pride when America abolished Jim Crow legislation. I cheered when New Orleans, in particular, and America, in general, opened the voting booths, courts, jobs, etc. to all citizens. In 1943, I didn't make excuses or look the other way when our country was at war. No, I served in the U.S. Navy. I stood up and fought for America. I didn't ignore my country's call. So, somebody tell me why I am being ignored now by my government?*

*I didn't cause the levees to fail. Yet, when I try to get a simple call back from the Road Home representatives, at all levels of the process, I am treated like a villain. I am given the feeling that I no longer matter. . . . I no longer count. . . . My plight is falling on deaf ears!*

*I am not asking much, only that someone at Road Home just takes the time to review the inspector's reports and simply update my file to reflect the true nature of my property as a 'double.' Once that simple act is done, I can move forward as the 'eligible' applicant that I am and begin the process of repair. I was told the*

*Road Home's mission is to help Louisiana citizens return home.  
That's all I want—To Come Home!*

...

*I'm imploring you to help me now that I need you to stand up for  
me, a son of America.*

Mr. C., New Orleans<sup>155</sup>

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<sup>1</sup> Davida Finger is a staff attorney at the Law Clinic (Katrina Clinic), Loyola University New Orleans College of Law. I am grateful to the many applicants who shared their Road Home stories—their stories and perseverance shed light on the systematic problems with this government program. Thanks to Salmun Kazerounian for his research assistance on this article and for his and Audrey Stewart's dedication in assisting Road Home applicants at the Katrina Clinic. Thanks also to David Marcello for reviewing an early draft of this article and to Bill Quigley for guidance and support.

<sup>2</sup> Press Release, The Road Home, The Road Home Opens Ten Housing Assistance Centers Statewide (Aug. 22, 2006), available at [http://road2la.org/news\\_releases/HACs-082206.htm](http://road2la.org/news_releases/HACs-082206.htm). Throughout this article, "Road Home" refers to the program overseen by the state of Louisiana and implemented by ICF, the private contractor hired by the state.

<sup>3</sup> Press Release, The Road Home, The Road Home Pilot Opens in Baton Rouge (July 12, 2006), available at [http://road2la.org/news\\_releases/pilot-opening-071206.htm](http://road2la.org/news_releases/pilot-opening-071206.htm).

<sup>4</sup> KALIMA ROSE, ANNIE CLARK & DOMINIQUE DUVAL-DIOP, POLICYLINK, A LONG WAY HOME: THE STATE OF HOUSING RECOVERY IN LOUISIANA 47 (2008), available at <http://www.policylink.org/threeyears/eq/eqatlas.pdf>.

<sup>5</sup> The Road Home applicants mentioned here received assistance with their Road Home application and/or Road Home appeal during 2007 and 2008 at Loyola's Katrina Clinic, which provides free assistance on post-disaster housing issues including Road Home. All client records are on file with the author. To protect anonymity, clients' names are limited to initials and addresses are omitted—the neighborhoods of clients' damaged homes in and around New Orleans are listed. References to "Poydras" in applicant narratives denote the Road Home office located on Poydras Street in downtown New Orleans.

<sup>6</sup> 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](http://road2la.org/Docs/policies/Homeowner_Program_Policies_070908.pdf) [hereinafter HOMEOWNER POLICIES v. 6.0]. Note that applicants must have owned and occupied the damaged property as a primary residence on the date of Hurricane Katrina (August 29, 2005) or Hurricane Rita (September 24, 2005). *Id.* at 1–10.

<sup>7</sup> *Id.* at 16.

<sup>8</sup> *Id.* at 27.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See The Road Home, Policies & Resources (last visited Oct. 28, 2008); THE ROAD HOME, CLOSING & TITLE INSURANCE PROCESS (2008), available at <http://road2la.org/Docs/faq/Closing%20and%20Title%20Insurance%20Process.pdf>.

<sup>12</sup> THE ROAD HOME, APPEALS AND SECOND DISBURSEMENTS 1 (2008), available at [http://www.road2la.org/Docs/policies/Appeals\\_fact\\_sheet\\_061808.pdf](http://www.road2la.org/Docs/policies/Appeals_fact_sheet_061808.pdf) [hereinafter APPEALS AND SECOND DISBURSEMENTS].

<sup>13</sup> Bill Quigley, *Lessons From Katrina: How to Destroy an African American City in 33 Steps*, COUNTERPUNCH (Out of Bounds Magazine, Petrolia, Cal.), June 28, 2007, available at, <http://www.counterpunch.org/quigley06282007.html>. Pre-Katrina, New Orleans was approximately 66.6 percent African American. Greater New Orleans Community Data Center, Orleans Parish, People & Household Characteristics, <http://www.gnocdc.org/orleans/people.html> (last visited Nov. 5, 2008).

<sup>14</sup> THE ROAD HOME, WEEK 25 SITUATION & PIPELINE REPORT 4 (2006), available at <http://road2la.org/Docs/pipeline/Week%2025%20Combined%20Report.pdf> (indicating that only ninety-six grants had been closed as of Dec. 21, 2006).

<sup>15</sup> RICK EDEN & PATRICIA BOREN, RAND GULF STATE POLICY INSTITUTE, RAND CORPORATION, TIMELY ASSISTANCE: EVALUATING THE SPEED OF ROAD HOME GRANTMAKING 68 (2008), available at [http://www.rand.org/pubs/documented\\_briefings/2008/RAND\\_DB557.pdf](http://www.rand.org/pubs/documented_briefings/2008/RAND_DB557.pdf).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at xiv (“Some features of the grantmaking process itself . . . were correlated with delays in grantmaking: [a] backlog of applications built up quickly in initial processing and persisted until the program closed to new applications in July 2007; [t]he program induced two large surges of applications into the process in October 2006 and July 2007, exacerbating large backlogs in the initial processing segment; [n]o timeliness goals for grantmaking were established that focused on meeting expectations of the individual applicant[, and] [p]rogram goals and metrics focused on quantity of activities performed in a time period, not on speed; [t]he program sent ‘batches’ of applications for rework based on errors found in samples, thus delaying mostly applications without errors; [t]he program relied on three title companies whose utilization and performance have been uneven.”)

<sup>18</sup> *Id.*

<sup>19</sup> Editorial, *The Long Wait Home*, TIMES-PICAYUNE (New Orleans), Mar. 23, 2008, at 6 (noting that the RAND report found that ICF systematically treated some homeowners worse than others); see also ROSE ET AL., *supra* note 4, at 44.

<sup>20</sup> Press Release, U.S. Sen. Mary L. Landrieu, Landrieu Puts Spotlight on Road Home Problems (May 24, 2007), available at <http://landrieu.senate.gov/~landrieu/releases/07/2007524E52.html>. Testimony was submitted from around the state, including written testimony from Terrebonne Readiness Assistance Committee (TRAC), a disaster preparedness organization in Houma, Louisiana, whose Director, Peg Case, along with a dedicated team of advocates provide direct assistance and advocacy work on Road Home issues for many in south Louisiana. Terrebonne Readiness Assistance Committee (TRAC), Written Testimony Submitted to Sen. Mary Landrieu (unpublished, on file

with author) (explaining that TRAC is “one of the oldest disaster recovery community organizations in the U.S. . . . You can imagine our total disbelief and shock in witnessing and documenting the disaster of a recovery program entitled The Road Home.”)

<sup>21</sup> Press Release, *supra* note 20.

<sup>22</sup> *See supra* note 5.

<sup>23</sup> Office of Community Development, Disaster Recovery Unit, Disaster Recovery Unit Overview, <http://www.doa.louisiana.gov/cdbg/DRAbout.htm> (last visited Oct. 31, 2008).

<sup>24</sup> *Id.*

<sup>25</sup> 42 U.S.C. § 5301(c) (2006).

<sup>26</sup> Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, Pub. L. No. 109-148, 119 Stat. 2680 (2005) (authorizing an allocation of \$11.5 billion with no state receiving more than 54 percent, which for Louisiana amounted to \$6.2 billion); Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, Pub. L. No. 109-234, 120 Stat. 418 (2006) (allocating an additional \$5.2 billion for the Community Development Fund with no state to receive more than \$4.2 billion, thus bringing Louisiana’s total to \$10.4 billion); Department of Defense Appropriations, Pub. L. No. 110-116, 112 Stat. 1295 (2007) (allocating \$3 billion for the Community Development Fund; therefore, bringing Louisiana’s total to \$13.4 billion).

<sup>27</sup> *See* 42 U.S.C. §§ 5301 (c) (2006); 5304(b)(3)(A) (2006); Allocations and Waivers Granted to and Alternative Requirements for CDBG Disaster Recovery Grantees, 71 Fed. Reg. 7,666–67 (Feb. 13, 2006).

<sup>28</sup> 71 Fed. Reg. 7,666, *supra* note 27.

<sup>29</sup> Office of Community Development, Community Development Block Grant Program, <http://www.doa.louisiana.gov/cdbg/cdbgHome.htm> (last visited Oct. 19, 2008).

<sup>30</sup> *See* Exec. Order No. 63 (2005), 31 La. Reg. 2671 (Nov. 2005); *see also* Memorandum of Understanding Between the La. Recovery Auth. and the La. Div. of Admin. 1 (Feb. 8, 2006), *available at* <http://www.doa.louisiana.gov/cdbg/dr/MOU.pdf> [hereinafter Memorandum of Understanding] (explaining that the OCD assists LRA by reviewing draft plans and proposed activities for eligibility and compliance with federal requirements). When elected in January 2008, Governor Jindal appointed Paul Rainwater as the new director of the LRA. Mr. Rainwater explained that he “replaced Office of Community Development officials who were too chummy with ICF.” David Hammer, *Road Home Smooths Way to Appeals*, TIMES-PICAYUNE (New Orleans), May 15, 2008, at 1.

<sup>31</sup> Memorandum of Understanding, *supra* note 30; *see also* Kathleen Babineaux Blanco, Governor of La., Public Statement Regarding Louisiana Recovery Authority (Oct. 15, 2005), *available at* <http://www.governorblanco.com/index.cfm?md=newsroom&tmp=detail&catID=4&articleID=968&navID=13>.

<sup>32</sup> Memorandum of Understanding, *supra* note 30. HUD retains oversight on the plan it approved. Perhaps its most significant finding concerning Road Home was its assessment that Road Home violated federal regulations by “dictating that homeowners collect their awards in installments instead of allowing lump-sum payments.” David Hammer, *Huge Roadblock for Road Home*, TIMES-PICAYUNE (New Orleans), Mar. 17,

2007, at 1. The Road Home tied disbursements to stages of completed construction, which made Road Home, according to HUD, a “rehabilitation” or “rebuilding” program rather than the “compensation” program it was approved as. Practically speaking, this meant that Road Home was required to eliminate or make voluntary escrow accounts and give homeowners the power to handle funds directly as needed. *Id.* For homeowners, this was significant because while the Road Home’s action plan did not require homeowners to use Road Home funds to pay off the damaged home’s mortgage, this is precisely what lenders required. *See id.* Road Home funds were thus unavailable for much needed repairs and the homeowner was left with a ruined home that was completely paid off. *See id.* Demonstrating intense communication difficulty between federal and state officials, the State was “enraged” and “blindsided” by HUD’s position. *See id.*

<sup>33</sup> Office of Community Development, Disaster Recovery Unit, <http://doa.louisiana.gov/cdbg/drhome.htm> (last visited Nov. 5, 2008).

<sup>34</sup> *See Emergency CDBG Funds in the Gulf States: Uses, Challenges, and Lessons for the Future: Hearing Before the Subcomm. on Housing and Cmty Opportunity of the H. Comm. on Fin. Serv.s*, 110th Cong. 11, 68 (2008) [hereinafter *Emergency CDBG Funds in the Gulf States Hearing*] (statement of David J. Bowman, Director, Research and Special Projects for the Louisiana Recovery Authority) (stating that the LRA would meet its low- and moderate-income requirements, and referring to the prepared written testimony of Mr. Bowman, which states that based on the ACG, the RHP would have 53% to 55% of funding allocated to low- to moderate-income applicants) (last visited Oct. 31, 2008) [hereinafter ACG FAQ].

<sup>35</sup> ACG FAQ, *supra* note 34; *see also* LOUISIANA LEGISLATIVE AUDITOR, PERFORMANCE AUDIT OF ROAD HOME PROGRAM: ADDITIONAL COMPENSATION GRANT DOCUMENTATION 2 (2007), available at [http://app1.la.state.la.us/PublicReports.nsf/619093610D99BD5C862573770066DB86/\\$FILE/00001773.pdf](http://app1.la.state.la.us/PublicReports.nsf/619093610D99BD5C862573770066DB86/$FILE/00001773.pdf) [hereinafter ACG DOCUMENTATION AUDIT]. Note that the Louisiana Legislative Auditor completed a serious of reports on Road Home in 2007. *See infra* Part III.B (discussing problems with ACG).

<sup>36</sup> *See* LA. REV. STAT. ANN. § 40:600.66 (2008).

<sup>37</sup> ICF International (ICF) originated in 1969 as a venture capital firm called the Inner City Fund, and has since developed as a consulting company that “partners with government and commercial clients to deliver consulting services and technology solutions in the energy, . . . environment, transportation, social programs, . . . defense, and [homeland security] markets.” ICF, Company Overview, [http://www.icfi.com/About\\_Us](http://www.icfi.com/About_Us) (last visited Oct. 28, 2008); *see also* ICF, History of ICF International, [www.icfi.com/About\\_Us/history.asp](http://www.icfi.com/About_Us/history.asp) (last visited Oct 28, 2008).

<sup>38</sup> ICF INTERNATIONAL, 2006 ANNUAL REPORT 16 (2006), available at [http://media.corporate-ir.net/media\\_files/irol/20/201331/ICFI\\_2006%20Annual3.pdf](http://media.corporate-ir.net/media_files/irol/20/201331/ICFI_2006%20Annual3.pdf).

<sup>39</sup> *Id.* at 10; ICF International, Inc., Amendment No. 2 to Form S-1 Registration Statement (Form S1/A), Exhibit 10.14 at 4 (July 21, 2006) (“This Contract shall begin on June 12, 2006, and shall end on June 11, 2009.”). The largest subcontractor employed by ICF, the Shaw Group, stands to earn an approximate \$127.6 million from the Road Home

Program. David Hammer, *Road Home Can Lead to Big Payday; 3 Subcontractors Paid Over \$200 Million*, TIMES-PICAYUNE (New Orleans), Apr. 6, 2008, at 1 (noting that the Shaw Group's founder and chairman Jim Bernard was a major campaign contributor to Governor Blanco, whose administration awarded the contract, and that Mr. Bernard formerly chaired the Louisiana Democratic Party).

<sup>40</sup> Laura Maggi, *Road Home Finalists Gets Ethics OK*, TIMES-PICAYUNE (New Orleans), June 9, 2006, at 6.

<sup>41</sup> *Id.*

<sup>42</sup> ICF INTERNATIONAL, 2007 ANNUAL REPORT 17, available at <http://library.corporate-ir.net/library/20/201/201331/items/292833/ICF%202007%20Annual%20Report.pdf>.

<sup>43</sup> *Id.* at 19.

<sup>44</sup> John Gonzales, *Katrina Victims Complain About Red Tape*, ABC NEWS, Mar. 13, 2008 <http://abcnews.go.com/US/wireStory?id=4446702>.

<sup>45</sup> Jeffrey Meitrodt, *State Blasts Road Home Firm*, TIMES-PICAYUNE (New Orleans), Dec. 24, 2006, at 1 (state administrator "blasted" ICF less than two weeks after it signed the contract for ICF to run Road Home explaining that the program could not afford the kind of management ICF was providing).

<sup>46</sup> 2007 ANNUAL REPORT, *supra* note 42, at 13.

<sup>47</sup> *Id.* at 12.

<sup>48</sup> *Id.* at 13.

<sup>48</sup> *Id.*

<sup>50</sup> Press Release, ICF, ICF International Announces Pricing of Its Initial Public Offering (Sept. 27, 2006), available at <http://www.icfi.com/Newsroom/IPO-2006.asp>.

<sup>51</sup> Yahoo! Finance, Income Statement for ICF International, <http://finance.yahoo.com/q/qs?s=ICFI&annual> (last visited Oct. 19, 2008).

<sup>52</sup> *Louisiana Hurricane Recovery Contractor Pays CEO \$1.5M Bonus*, INT'L HERALD TRIB., May 1, 2008, <http://www.iht.com/articles/ap/2008/04/30/america/Katrina-Contractor.php>.

<sup>53</sup> John Moreno Gonzales, *Katrina Victims May Have to Repay Money*, USA TODAY, Mar. 29, 2008, [http://www.usatoday.com/news/nation/2008-03-29-katrinacollections\\_N.htm](http://www.usatoday.com/news/nation/2008-03-29-katrinacollections_N.htm).

<sup>54</sup> 2006 La. Sess. Law Serv. H. Con. Res. 34 (West).

<sup>55</sup> 2006 La. Sess. Law Serv. H. Res. 17 (West); S. Res. 26, 2006 Leg., 2d Extraordinary Sess. (La. 2006), <http://www.legis.state.la.us/billdata/streamdocument.asp?did=415465&reason=0>.

<sup>56</sup> *See, e.g.*, Citizens' Road Home Action Team (CHAT), <http://www.chatushome.com> (last visited Aug. 21, 2008) (founded in September 2006). In my work on Road Home, I have found that the advocacy efforts of the CHAT co-founders, Melanie Ehrlich and Frank Silvestri, have been tireless and tremendous. From successfully advocating for the Road Home to adopt an applicant's Bill of Rights that was broadly endorsed by city and parish councils from around the state, the co-founders and CHAT members have worked on scores of Road Home policy, legislative, legal, and individual applicant issues. *See* CHAT, Accomplishments in Citizens' Road Home Action Team, <http://www.chatushome.com:2500/chat/published/CHAT+Accomplishments> (last

visited Oct. 31, 2008). A volunteer organization, CHAT has collected surveys of thousands of Road Home applicant experiences, which has prompted countless positive policy changes and enabled the media to better understand the difficulties of Road Home. *Id.* The efforts of Ms. Ehrlich, Mr. Silvestri, and CHAT members to promote accountability and transparency are voluminous in every aspect. *Id.*; see also *New Orleans Congregations Will March to Protest Road Home Contractor*, CITY BUSINESS, March 23, 2007 (All Congregations Together organized a rally against ICF in Baton Rouge).

<sup>57</sup> See, e.g., Leslie Eaton, *Slow Home Grants Stall Progress in New Orleans*, NY TIMES, Nov. 6, 2006, at A1; Jeffrey Meitrodt, *Understaffed and Overwhelmed*, TIMES-PICAYUNE (New Orleans), Jan. 28, 2007, at A1 (“Hundreds of e-mail messages and documents [showed] state officials fretting privately over the company’s bungled efforts almost from the moment its \$756 million contract kicked in June” and finding that “ICF [made] critical misjudgments almost every step of the way, typically by failing to bring sufficient staff resources to bear as applicants move through the process.”).

<sup>58</sup> See, e.g., The Public Affairs Research Council of Louisiana & Nelson A. Rockefeller Institute of Government, *Spending Federal Disaster Aid 11–12*, available at <http://www.la-par.org/Publications/PDF/GulfGovFederalDisasterAid.pdf> (last visited Oct. 19, 2008). See generally ROSE ET AL., *supra* note 4; see also David Marcello, *Housing Redevelopment Strategies in the Wake of Katrina and Anti-Kelo Constitutional Amendments: Mapping a Path Through the Landscape of Disaster*, 53 LOY. L. REV. 763 (2007) (providing additional background detailing documentation of problems with Road Home).

<sup>59</sup> David Hammer, *Blanco Administration Quietly Gave Raise to Road Home Operator*, TIMES-PICAYUNE (New Orleans), Mar. 13, 2008, available at [http://www.nola.com/news/index.ssf/2008/03/road\\_home\\_operator\\_got\\_25\\_perc.html](http://www.nola.com/news/index.ssf/2008/03/road_home_operator_got_25_perc.html).

<sup>60</sup> *Id.* The State Inspector General concluded that the \$156 million increase was not intentionally concealed by the Blanco administration. See David Hammer, *ICF Raise Was No Secret, Report Says*, TIMES-PICAYUNE, Dec. 11, 2008, at 1. “The [inspector general’s] report says nothing about how ICF’s performance, widely derided even by the Blanco team, was itself the cause of many policy changes and increased costs.” *Id.* “Even if there was no misconduct on [Blanco’s] administration’s part, that does not change the fact that her team negotiated a sloppy contract leaving taxpayers little recourse to recoup unjustified payments—and then failed to properly inform the public about the terms.” Editorial, *Missing the Point of ICF*, TIMES-PICAYUNE, Dec. 14, 2008.

<sup>61</sup> 2006 La. Sess. Law Serv. H. Res. 17 (West).

<sup>62</sup> David Hammer, *Blanco Spurned Plea from Legal Aid*, TIMES-PICAYUNE (New Orleans), Mar. 26, 2008, at 1 (“[T]he Road Home’s legal aid program has used up the \$570,000 it had to serve needy applicants who can’t afford to pay attorneys to help them work through obstacles. The program helps needy homeowners whose applications are complicated, such as those who have homes that have been in families for generations even though the resident at the time of Hurricane Katrina often had not established clear title through succession.”).

<sup>63</sup> Press Release, La. Recovery Auth., LRA Calls for Inspector General Investigation of ICF Contract (Mar. 17, 2008), available at <http://www.lra.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=34>; see also, Bill Barrow, *Jindal Seeks to Broaden Inquiry Into ICF Raise*, TIMES-PICAYUNE (New Orleans), Mar. 17, 2008, [http://blog.nola.com/updates/2008/03/jindal\\_seeks\\_to\\_broaden\\_inquir.html](http://blog.nola.com/updates/2008/03/jindal_seeks_to_broaden_inquir.html).

<sup>64</sup> See Barrow, *supra*, note 63.

<sup>65</sup> *Senator Landrieu Presses ICF Boss for Answers About Louisiana's Road Home Program*, NEW ORLEANS CITY BUSINESS, May 10, 2007, available at 2007 WLNR 8952643 (noting that weeks prior to the Disaster Recovery Subcommittee of the Senate Homeland Security and Governmental Affairs Committee hearing, Senator Landrieu also explained, "From the White House's opposition to adequate funding and flexibility in developing the program, down to the initial crafting and continuing management, the projected shortfall and other bureaucratic impediments to The Road Home's success are the product of many mistakes made at several levels . . .").

<sup>66</sup> David Hammer, *State to Fine Road Home Contractor*, TIMES-PICAYUNE (New Orleans), July 16, 2008, at 1.

<sup>67</sup> ICF, Q2 2008 ICF International Earnings Conference Call, Final Transcript 5, 9 Aug. 6, 2008, available at [http://media.corporate-ir.net/media\\_files/irol/20/201331/ICFI-Transcript-2008-08-06T12-30.pdf](http://media.corporate-ir.net/media_files/irol/20/201331/ICFI-Transcript-2008-08-06T12-30.pdf). Notably, Mr. Stewart received a 2006 salary of \$218,526, and a bonus of \$650,000, up from a \$140,000 bonus in 2005. ICF International, Inc., US Securities and Exchange Comm'n, Schedule 14A (2007).

<sup>68</sup> Editorial, *A Much-Reach Benchmark*, TIMES-PICAYUNE (New Orleans), Dec. 9, 2007 ("Even if ICF failed at every benchmark through the remainder of its contract, maximum penalties would only reach \$3.2 million. That's a fraction . . . ICF expects in profits.")

<sup>69</sup> Jarvis DeBerry, *Lose the Attitude, Not the Paperwork*, TIMES-PICAYUNE (New Orleans), Oct. 28, 2008, at 7. Mr. DeBerry, a columnist with the *Times-Picayune*, detailed his own Road Home grant saga, which resulted in Road Home attempting to overpay him by approximately \$100,000. See Jarvis DeBerry, *Man Bites Road Home*, TIMES-PICAYUNE (New Orleans), Jan. 20, 2008, at 7; Jarvis DeBerry, *Road Home Process Still Creaking Along*, TIMES-PICAYUNE (New Orleans), Sept. 28, 2008, at 5; Jarvis DeBerry, *ICF's Horn Tooting Doesn't Fool Anybody*, TIMES-PICAYUNE (New Orleans), Apr. 13, 008, at 7.

<sup>70</sup> ANNIE CLARK & KALIMA ROSE, POLICYLINK, BRINGING LOUISIANA RENTERS HOME 9 (2007), available at <http://www.policylink.org/documents/LRHC.pdf>.

<sup>71</sup> Shaila Dewan, *With Resources Scarce, Homelessness Persists in New Orleans*, N.Y. TIMES, May 28, 2008, at A14.

<sup>72</sup> POLICYLINK, HOPE NEEDS HELP, ISSUE BRIEF: BUILDING A BETTER NEW ORLEANS 5 (2007), available at <http://www.policylink.org/HopeNeedsHelp/HopeNeedsHelp.pdf>.

<sup>73</sup> Road Home, Small Rental Property Owners, <http://road2la.org/rental/default.htm> (last visited Oct. 31, 2008). While the Small Rental Property Program is not the focus of this article, it too has been plagued by many of the same issues as the Homeowner's program. See, e.g., ROSE ET AL., *supra* note 4, at 27–29 (finding that 85 percent of Small Rental Repair applicants had not begun the construction stage and the vast majority of applicants are still in the initial stage of the program). "The [Road Home's Small Rental Repair

Program has] suffered from a complex application process and a series of rule changes for eligibility. This programmatic confusion was exacerbated by applicants being unable to access their [own] files and or [sic] receive the technical assistance they needed to complete program requirements. Applicants also experienced many problems similar to Road Home applicants in accessing their files and repeatedly having to verify their documentation.” *Id.* at 27.

<sup>74</sup> Administrative Complaint, Challenging the Misuse of Federal Community Development Block Grants by the State of Louisiana in “Road Home” Expenditures of Federal Funds Because There is No Guarantee of a “Fair Share” for Low and Moderate Income Renters and Homeowners (U.S. Dep’t of Hous. and Urban Dev. Jun. 20, 2006), available at <http://www.justiceforneworleans.org/jfnodocs/CDBG.pdf>.

<sup>75</sup> Letter from William P. Quigley & Tracie Washington, Loyola Univ. New Orleans, Coll. of Law, to Sec’y Alphonso Jackson, U.S. Dep’t of Hous. and Urban Dev., & Governor Kathleen Blanco, Governor of La. (Nov. 8, 2006), available at <http://www.justiceforneworleans.org/index.php?module=article&view=87>.

<sup>76</sup> See 42 U.S.C. §§ 3608(d)–(e) (2006).

<sup>77</sup> 71 Fed. Reg. 7671 (Feb. 13, 2006).

<sup>78</sup> See Administrative Complaint, *supra* note 74, at 7.

<sup>79</sup> *Id.* at 3.

<sup>80</sup> Letter from Thomas Brennan, Assistant Executive Dir., Office of Cmty. Dev., to Bill Quigley, Loyola Univ. New Orleans, Coll. of Law (Mar. 13, 2007), at 2, available at <http://www.justiceforneworleans.org/index.php?module=article&view=87>.

<sup>81</sup> ROSE ET AL., *supra* note 4, at 15.

<sup>82</sup> See The Road Home, Homeowners’ Frequently Asked Questions, Compensation Grant, <http://road2la.org/homeowner/faqs.htm#7> (last visited Nov. 9, 2008).

<sup>83</sup> ROSE ET AL., *supra* note 4, at 38, 43.

<sup>84</sup> David Hammer, *Did Road Home Treat All Neighborhoods Fairly?*, TIMES-PICAYUNE (New Orleans), May 27, 2008, at 1 (homeowners in more affluent and lower-income neighborhoods “face similar costs, on a per-square-foot basis, in paying for materials, labor and other construction costs.”).

<sup>85</sup> ROSE ET AL., *supra* note 4, at 42–43.

<sup>86</sup> *Id.* at 42, 46. See also *Emergency CDBG Funds in the Gulf States Hearing* *supra* note 34, at 36 (statement of James Perry, Executive Director of the Greater New Orleans Fair Housing Action Center and President of the Louisiana Housing Alliance).

<sup>87</sup> Hammer, *supra* note 84 (acknowledging arguments that residents of African American neighborhoods may have been the most affected and that “the disparity can be traced . . . to a decision . . . to calculate grants based on a home’s pre-storm value or an estimate of how much it should cost to rebuild it—but mandating that the grant must be the lower of the two figures.” But also questioning whether richer neighborhoods are in fact worse off than poorer neighborhoods, even though “[i]n areas with modest-to-low property values before Katrina hit, the formula typically means a lower grant amount.”)

<sup>88</sup> *Greater New Orleans Fair Housing Action Center et al. v. U.S. Dep’t of Housing and Urban Development and Paul Rainwater*, District Court for District of Columbia, Case No. CV-01938.

<sup>89</sup> See ROSE ET AL., *supra* note 4, at 42.

<sup>90</sup> In response to the Katrina Clinic's public records request, the State sent several versions of letters that were distributed to applicants appealing awards based on prestorm 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 (undated)(on file with author). While the State points to HUD as the arbiter of the 20 percent policy, HUD has advised that there is no federal requirement for such a policy. Email from Jessie Kome, Dir., HUD Disaster Recovery and Special Issues, to Melanie Ehrlich, CHAT (July 22, 2008) (on file with author) ("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."). Note that legislation is pending, which would require that applicants actually receive a grant award based on the highest value. LOUISIANA OFFICE OF COMMUNITY DEVELOPMENT, CHANGES TO THE ROAD HOME APPRAISAL DETERMINATIONS 8 (2008), available at <http://www.doa.louisiana.gov/cdbg/dr/plans/Amend28-PUBLIC-COMMENT-Appraisal-Determination-08-08-08.pdf> ("If more than one method of determining pre-storm value is available, the pre-storm value used in the Road Home calculation will be based on the method with the highest value, regardless of any difference between the values determined by different methods.")

<sup>91</sup> See HOMEOWNER POLICIES v. 6.0, *supra* note 6, at 24 ("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.")

<sup>92</sup> See *id.*, at 22–24.

<sup>93</sup> *Id.* at 23–24. As of January 14, 2007, a Louisiana-certified appraisal completed prior to the hurricanes but after January 1, 2000, should control over all other values. See *id.* at 22–23. Where the applicant does not have a prestorm appraisal, Road Home uses a Louisiana-certified appraisal completed after the storm at the applicant's expense. See *id.* If the applicant does not provide a "post-storm appraisal of pre-storm value," or if the appraisal is not within an "acceptable range" of Road Home's estimate of market value, a lender or government agency appraisal obtained by Road Home is used to determine prestorm value. *Id.* at 23; see also *supra* note 88. Where no such appraisal is provided, a "pre-storm market analysis (2055 appraisal)" is used. HOMEOWNER POLICIES v. 6.0, *supra* note 6, at 23. If no prestorm market analysis exists, a "drive-by of the property and the surrounding neighborhood" called a broker's price opinion (BPO) determines value. *Id.*

<sup>94</sup> See, e.g., HOMEOWNER POLICIES v. 6.0, *supra* note 6 at 22–25; THE ROAD HOME, THE ROAD HOME HOMEOWNER PROGRAM POLICIES VERSION 5.2, at 20–24 (2008) (on file with author); THE ROAD HOME, THE ROAD HOME HOMEOWNER PROGRAM POLICIES VERSION 5.1, at 18–21 (2008) (on file with author); THE ROAD HOME, THE ROAD HOME HOMEOWNER PROGRAM POLICIES VERSION 4.3, at 15–18 (2007) (on file with author).

<sup>95</sup> See *HOMEOWNER POLICIES V. 6.0*, *supra* note 6 at 24–25. For benefit selection forms generated before January 14, 2007, “arms length appraisals” and “Automated Valuation Methods” are included in Road Home’s hierarchy of valuation methods. *Id.* at 23. These are omitted from policies applied to applications processed after January 14, 2007, and are replaced by applicant-provided post-storm appraisals of prestorm value and market analyses. *Id.* at 22–23. Additionally, three different sets of policies govern appeals depending on whether they were filed before December 17, 2007, between December 17, 2007, and March 4, 2008, or after March 4, 2008. *Id.* at 24–25. Road Home offers applicants appealing the prestorm value the opportunity to request a 1004 URAR appraisal. *Id.* at 24. Before December 17, 2007, if a 1004 appraisal resulted in a value unfavorable to applicant, the highest PSV on file controlled. *Id.* Under the newest rules, the 1004 appraisal controls whether higher or lower than other PSV valuation methods, effectively deterring 1004 requests from many applicants unsatisfied with home valuations. *Id.* at 25.

<sup>96</sup> See *infra* Part III.C.

<sup>97</sup> See *supra* note 5.

<sup>98</sup> *Id.*

<sup>99</sup> ACG FAQ, *supra* note 34.

<sup>100</sup> *Id.*

<sup>101</sup> ACG DOCUMENTATION AUDIT, *supra* note 35, at 2, app. B (describing three different ACG policies). Since then, additional ACG requirement changes were released on December 28, 2007 and April 14, 2008. THE ROAD HOME, HOMEOWNER PROGRAM INCOME POLICIES AND PROCEDURES 3 (2008), available at [http://www.road2la.org/Docs/Income\\_Policies\\_Procedures\\_14April2008.pdf](http://www.road2la.org/Docs/Income_Policies_Procedures_14April2008.pdf).

<sup>102</sup> See email from Al Blankenship, Chief of Staff, Road Home, ICF International, to author (April 16, 2008) (on file with author) (stating that a policy with “written procedure” on the issue of how applicants and their advocates could access individual file information would be productive).

<sup>103</sup> See David Hammer, *Road Home Forecast Steady for Rest of Year: Cash Not Expected to Run Out before ICF’s Dec. 31 Deadline*, TIMES-PICAYUNE (New Orleans), Sept. 25, 2007 at 1, available at 2007 WLNR 1880738.

<sup>104</sup> The Road Home, Homeowners’ Frequently Asked Questions, Request for File, <http://road2la.org/homeowner/faqs.htm#20> (last visited Nov. 7, 2008).

<sup>105</sup> See *supra* note 5.

<sup>106</sup> See email from author to Paul Rainwater (Aug. 20, 2008, 11:56:00 CST) (on file with author); email from author to Lara Robertson and Paul Rainwater (Sept. 12, 2008, 14:31:00 CST) (on file with author); email from author to Robin Keegan and Paul Rainwater, (Oct. 7, 2008, 19:21:00) (on file with the author).

<sup>107</sup> LOUISIANA LEGISLATIVE AUDITOR, PERFORMANCE AUDIT OF ROAD HOME PROGRAM: REVIEW OF POLICY CHANGE APPROVAL PROCESS 1 (2007), available at [http://app1.la.state.la.us/PublicReports.nsf/97D7D2F86F9DDAAB862572FA005815F7/\\$FILE/0000117A.pdf](http://app1.la.state.la.us/PublicReports.nsf/97D7D2F86F9DDAAB862572FA005815F7/$FILE/0000117A.pdf) (“OCD did not always sign policy changes it approved in accordance with ICF’s process. We found that 32 of 45 (71 percent) policy forms did not have evidence of OCD signatures. Instead of signed policy forms, OCD provided

minutes of meetings as documentation of approval of policies. As a result, ICF's tracking log was not accurate. The forms ICF used to submit proposed policy changes were inconsistent and did not contain sufficient information. As a result, we could not determine if these policies had formally been approved. At the time of this review, ICF's tracking log did not show where policy changes were in the process or when policy changes were implemented. Therefore, we could not determine the status of policies. OCD did not provide criteria to ICF for who approves policy changes. Therefore, we could not evaluate which policy changes needed approval by OCD and LRA because no criteria exist for who should approve each policy change.”).

<sup>108</sup> See LOUISIANA LEGISLATIVE AUDITOR, PERFORMANCE AUDIT OF ROAD HOME PROGRAM: PRE-CLOSING PROCESS 6 (2007), available at [http://app1.la.state.la.us/PublicReports.nsf/586D89F06776B0DC8625730C006EF43D/\\$FILE/000011F1.pdf](http://app1.la.state.la.us/PublicReports.nsf/586D89F06776B0DC8625730C006EF43D/$FILE/000011F1.pdf) [hereinafter PRE-CLOSING PROCESS AUDIT] (noting large numbers of errors and wait times).

<sup>109</sup> Records on file with the author.

<sup>110</sup> John Moreno Gonzales, *\$99M Raise for Road Home Contractor Quietly Paid*, WWLTV.COM, Sept. 23, 2008, <http://www.wwltv.com/topstories/stories/wwl092308mlroadhme.a6b08bb0.html>.

<sup>111</sup> See Barrow, *supra* note 63.

<sup>112</sup> Gonzales, *supra* note 110.

<sup>113</sup> See Administrative Complaint, *supra* note 74, at 2, 7.

<sup>114</sup> Letter from Thomas Brennan, *supra* note 80.

<sup>115</sup> LOUISIANA LEGISLATIVE AUDITOR, PERFORMANCE AUDIT OF ROAD HOME PROGRAM: PIPELINE RELIABILITY 3 (2007), available at [http://app1.la.state.la.us/PublicReports.nsf/3357B9DD602F24CB86257385006C2F51/\\$FILE/00002650.pdf](http://app1.la.state.la.us/PublicReports.nsf/3357B9DD602F24CB86257385006C2F51/$FILE/00002650.pdf).

<sup>116</sup> Editorial, *Road Home Oversight is Weak*, TIMES-PICAYUNE (New Orleans), Feb. 11, 2008, at Metro 4.

<sup>117</sup> Some information about appeals is available on the Road Home website. The Road Home, Homeowners' Frequently Asked Questions, PALs and Appeal, <http://road2la.org/homeowner/faqs.htm#11> (last visited Nov 7, 2008); APPEALS AND SECOND DISBURSEMENTS, *supra* note 12. I submitted a July 1, 2008, public records request for appeal rule information that, as of the date of this publication, has not been fully answered. I hand delivered a follow-up request to Paul Rainwater, executive director of the Louisiana Recovery Authority, on August 26, 2008. After written and oral follow-ups, an appeal rule document—dated May 29, 2008—was produced on October 6, 2008. While the detailed May 2008 rules were available, the Road Home website did not include all appeal rule information. The public record requests and email communications regarding this matter are on file with the author. See also LA. RECOVERY AUTH., OFFICE OF SENIOR EXECUTIVE DIR., STATE APPEALS PROCESS (2008), available at [http://chatushome.com/chatusfiles/Appeals%20Procedure\\_5\\_08%5b1%5d.pdf](http://chatushome.com/chatusfiles/Appeals%20Procedure_5_08%5b1%5d.pdf) (providing the appeal rules, which are not available via the Road Home website).

<sup>118</sup> See PRE-CLOSING PROCESS AUDIT, *supra* note 108, at 4.

<sup>119</sup> *Id.* at 6.

<sup>120</sup> Editorial, *Stranded on the Road Home*, TIMES-PICAYUNE (New Orleans), Dec. 15, 2006, at Metro 6. Note that homeowners regularly inform the Katrina Clinic about Road Home's phone calls encouraging them to go to closing and then appeal later, if necessary. Similarly, I have been contacted by Road Home to set up closings even though our clients' appeals are pending.

<sup>121</sup> See PRE-CLOSING PROCESS AUDIT, *supra* note 108, at 4.

<sup>122</sup> KPMG, Road Home Homeowner Assessment, Task Order 1A 37 (Dec. 7, 2007) (unpublished, on file with author).

<sup>123</sup> See, e.g. Road Home appeal, Ms. F (2008)(confidential client records on file with the author).

<sup>124</sup> See David Hammer, *Road Home Fix Falls Short*, TIMES-PICAYUNE (New Orleans), Sept. 26, 2008, at 1.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> See *supra* note 5.

<sup>128</sup> See Meeting Minutes, LRA Hous. Taskforce (Jan. 4, 2008) (unpublished, on file with author) (confirming that in response to Dr. Melanie Ehrlich's dogged questioning about the lack of written information, ICF's Frank Abramacheck verified that applicants do not receive written information even about the most critical matters such as ICF's decisions about their disputes); see also David Hammer, *Road Home Fails to Provide Letters*, TIMES-PICAYUNE (New Orleans), Nov. 29, 2007, at 1 (explaining that State Road Home housing program manager, Mike Spletto, justified the lack of written information because providing written information would "only further delay delivery of the grant").

<sup>129</sup> *Id.*

<sup>130</sup> See, e.g., David Hammer, *Road Home Fix Falls Short*, TIMES-PICAYUNE (New Orleans), Sept. 26, 2008, at 1 (explaining new appeal procedures were supposed to "fix" the previous informal "dispute resolution" process that auditors had cited for mishandling).

<sup>131</sup> See Meeting Minutes, *supra* note 128 (showing that ICF's Frank Abramacheck indicated that disputes are considered resolved with a phone call and sometimes written information is sent out and sometimes it is not). Mr. Abramacheck did not answer the Chair, Walter Leger's direct question about how "one would know that you have to move into the appeal process." *Id.* Instead, Abramacheck said, "If a letter has to be sent to document every conversation, it will take time. Communication cannot be through e-mail because correspondence must go through a QA check." *Id.* In response to Taskforce member K.C. King's comment that ICF had traded quality for speed, Mr. Abramacheck responded that you can debate quality in speed, quality, or cheapness, but you only get two of these. *Id.* Without giving any details, "Mr. Abramacheck commented that the rate of change has decreased and stability has come to the Road Home program." *Id.*

<sup>132</sup> See The Road Home, CP 189A: Written Documentation Required at All Stages of the Road Home Process (May 11, 2007), available at [http://thinknola.com/files/chat/CCB\\_WrittenDocumtn\\_23189A\\_11\\_07.pdf](http://thinknola.com/files/chat/CCB_WrittenDocumtn_23189A_11_07.pdf); see Editorial, *Common Sense Wins*, TIMES PICAYUNE, Dec. 26, 2007, at 6 ("Advocates for Road Home applicants and critics of the

program can pat themselves on the back for forcing the state to use common sense regarding two Road Home procedures.”).

<sup>133</sup> The Road Home, CP 189A, *supra* note 132.

<sup>134</sup> See *supra* note 5.

<sup>135</sup> Press Release, La. Recovery Auth., Deadline to Apply to Road Home is July 31 (May 30, 2007), available at <http://www.lra.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=182>.

<sup>136</sup> David Hammer, *Extension of Road Home is Requested*, TIMES-PICAYUNE (New Orleans), July 28, 2007, at 1.

<sup>137</sup> See *supra* note 5.

<sup>138</sup> See Hammer, *supra* note 66.

<sup>139</sup> Press Release, La. Recovery Auth., Louisiana Announces Critical Road Home Deadline in September (July 30, 2008), available at <http://www.lra.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=434>.

<sup>140</sup> Press Release, Louisiana Recovery Authority, State Adds Outreach Session in New Orleans, Clarifies Road Home Deadlines (Aug. 22, 2008), available at <http://www.lra.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=442>.

<sup>141</sup> Months prior and three days before former Gov. Kathleen Blanco agreed to pay ICF an additional \$156 million, the State advised that it could not pay less than \$500,000 to continue legal services to help low-income applicants. Specifically, the State could not guarantee payment to legal services organizations contracted to assist homeowners with title cases—the same low-income applicants who would be adversely impacted by the deadline. See David Hammer, *Blanco Spurned Plea from Legal Aid*, TIMES-PICAYUNE (New Orleans), Mar. 25, 2008 at 1, available at 2008 WLNR 5741333.

<sup>142</sup> See Hammer, *supra* note 66. Note that the State’s deadline on applicants was issued just weeks after the State fined ICF approximately \$1 million for widespread program failures. The State recognized that ICF’s system was broken yet still shifted the burden to applicants to navigate the slow and complex system on an expedited schedule that was in the hands of ICF.

<sup>143</sup> See Letter from David H. Williams, Litig. Dir., Se. La. Legal Serv.s, William P. Quigley, Dir., Loyola Univ. Law Sch. Clinic, and Davida Finger, Staff Attorney, Loyola Univ. Law Sch. Clinic, to Bobby Jindal, Governor of La. and Paul Rainwater, La. Recovery Auth. (Aug. 5, 2008), available at <http://justiceforneworleans.org/roadhome/docs/RoadHomeDeadline.8.5.pdf> (requesting deadline rescission); Letter from David H. Williams, Litig. Dir., Se. La. Legal Serv.s, William P. Quigley, Dir., Loyola Univ. Law Sch. Clinic, and Davida Finger, Staff Attorney, Loyola Univ. Law Sch. Clinic, to Bobby Jindal, Governor of La. (Aug. 7, 2008), available at <http://justiceforneworleans.org/roadhome/docs/RH.Remove.Deadline.8.7.pdf>.

<sup>144</sup> CITY OF NEW ORLEANS RESOLUTION, R-08-481, (Aug. 21, 2008). The Terrebonne Parish Council adopted a substantially similar resolution on August 25, 2008, with an additional statement that the deadline should not be prior to December, 2009.

<sup>145</sup> David Hammer, *Road Home Flexible on Deadline*, TIMES-PICAYUNE (New Orleans), Aug. 14, 2008, at Metro 3.

<sup>146</sup> Press Release, La. Recovery Auth., Louisiana Lifts Deadlines for Most Road Home Applicants (Aug. 27, 2008), available at <http://www.lra.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=443> [hereinafter LRA Press Release].

<sup>147</sup> *Id.*; see also David Hammer, *Road Home Deadlines Are Rescinded*, TIMES-PICAYUNE (New Orleans), Aug. 28, 2008, at 1, available at 2008 WLNR 16220088.

<sup>148</sup> LRA Press Release, *supra* at note 146; see also HOMEOWNER POLICIES v. 6.0, *supra* note 6 (explaining Benefit Selection Process).

<sup>149</sup> See Advertisement, TIMES-PICAYUNE (New Orleans) (Sept. 3, 2008) (on file with the author).

<sup>150</sup> See *supra* note 5.

<sup>151</sup> Public Affairs Research Council of Louisiana, GulfGov Reports: Three Years After Katrina and Rita, Challenges Remain, Dec. 2008, at 11. available at [http://www.lapar.org/Publications/PDF/Gulf\\_Gov\\_Dec2008.pdf](http://www.lapar.org/Publications/PDF/Gulf_Gov_Dec2008.pdf).

<sup>152</sup> See STATE OF LOUISIANA OFFICE OF INSPECTOR GENERAL, ICF CONTRACT AMENDMENT #7, 10-12, 17 (2008), available at <http://doa.louisiana.gov/OIG/pdf%20reports/2008/1080019.pdf>.

<sup>153</sup> Editorial, *ICF Billings Warrant Review*, TIMES-PICAYUNE (New Orleans), Dec. 13, 2008, at 2.

<sup>154</sup> See, e.g., David Hammer, *Road Home Will Add Case Workers: Customer Service Now is Focus for LRA Promises More Customer Service*, TIMES-PICAYUNE (New Orleans), Jan. 5, 2008, at Metro 1 (indicating that the state interprets its new case management system to satisfy Road Home's ombudsman requirement).

<sup>155</sup> See *supra* note 5.