

CRISIS HOUSING ASSISTANCE FUNDS

State Authorization: The Hurricane Recovery Act of 2005, Senate Bill 7

Department of Crime Control and Public Safety
North Carolina Redevelopment Center

Agency Contact Person - Program

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the Supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

Auditors may request documentation of monitoring visits by the State Agencies.

I. PROGRAM OBJECTIVES

The objective of the Crisis Housing Assistance Fund (CHAF) Program is to assist families whose homes suffered significant damage in counties and municipalities that received either a Federal or State Declaration in the aftermath of the hurricanes and tropical storms of 2004 in recovering from their losses. The funding will provide grants to eligible homeowners and renters to assist them in returning to safe, decent and sanitary housing.

II. PROGRAM PROCEDURES

Units of local government within the counties included in the Hurricane Act of 2005 must submit an application requesting assistance from five set-aside grants. The only grant that is administered by the North Carolina Redevelopment Center (NCRC) is the Grants to Successful Small Business Administration (SBA) Loan Applicants Program. In cases where a local government is not administratively capable or is unwilling to administer the CHAF Program: the local government may delegate to the NCRC the responsibility of undertaking or carrying out specific 2005 CHAF activities as specified in CHAF state rules 4NCAC 19L.0902; or CHAF rule 4NCAC 19L.0104 states, “The Secretary may issue a waiver of any requirement of this subchapter, not required by law, whenever he/she determines that undue hardship to recipients or beneficiaries will result from applying the requirement and when application of the requirement would adversely affect the act”.

The CHAF application must describe the type of assistance that the local government will make available and the procedures and policies it will follow in making the assistance available; these policies must be consistent with those established for the CHAF Program. The governing board must adopt the application.

Absent the inclusion of rules in the Hurricane Act of 2005, the Redevelopment Center requested that the rules that governed the Hurricane Floyd Act remain in effect and that Executive Order No. 8 be revised for that purpose. Executive Order No. 75 re-established and modified programs established under the Hurricane Floyd Recovery Act of 1999 (S.L. 1999-463 Extra Session and amending Executive Order No. 8). Therefore, the state administrative rules for the Hurricane Act of 2005, CHAF Programs are the same state administrative rules that governed Hurricane Floyd CHAF Programs i.e. Hurricane Floyd Recovery Act (Session Law 1999-462 Extra Session, House Bill 2 and the document entitled “Hurricane Floyd Relief Emergency Funding package” dated December 16, 1999). The administrative rules for the 2005 CHAF Programs are found at Chapter 4 of the N. C. Administrative Code, Subchapter 19L. Section 5.1 (a) of the Hurricane Recovery Act of 2005 states that the Governor shall reestablish and may modify, as necessary, all of the programs implemented as part of the Hurricane Floyd Recovery Act of 1999. Section 4 of the Hurricane Floyd Act of 1999 states that every agency may adopt temporary rules necessary to implement the provisions of the Hurricane Floyd Act of 1999. The Department of Commerce announced that it: will follow the administrative rules for the North Carolina Community Development Block Grant Program, 4 NCAC 19L in administering the Hurricane Floyd Recovery Assistance appropriated by the General Assembly; specifically 4 NCAC 19L .0100, .0800, .0900, .1100. Executive Order #8 transferred the Housing and Business Redevelopment from the Department of Commerce to the Department of Crime Control and Public Safety as well as the NCRC from the Governor’s Office and the rules that governed the CHAF Program in Commerce remained in effect. Additionally, Policy Memoranda #1 through #14 as amended apply to the 2005 CHAF Programs except those that were rescinded. Thus, Policy Memoranda #1, 2, 7, and 14 were rescinded and are no longer valid. Policy Memoranda #3 and 11 were rescinded in Part.

The 2005 CHAF Guidelines can be found at www.nccrimecontrol.org; click Divisions and then select Redevelopment Center from the list.

Senate Bill 198, the 2006 Technical Correction Act was signed into law on August 10, 2006. Senate Bill 198 authorizes the inclusion of 110 persons in the 2005 CHAF Program who did not register or apply for assistance from FEMA and who did not qualify solely because they failed to apply for federal assistance through FEMA. Section 5.1(c) of the Technical Correction Act that modified state law in the 2005 Act states:

Section 1. S.L. 2006-66 is amended by adding a new section to read:
“Section 6.11.(a) Section 5.1(c) of S.L. 2005-1 reads as rewritten:
“Section 5.1.(c) The Department of Crime Control and Public Safety shall modify the Crisis Housing Assistance Fund (CHAF) to provide money to persons who do not qualify for CHAF assistance solely because they failed to apply for federal assistance through FEMA or the Small Business Administration’s (SBA) Real Property Disaster loan program. The Department shall review these persons’ applications for CHAF assistance using the same criteria employed by the SBA to determine eligibility for an SBA Real Property Disaster loan. The Up to 110 applicants shall be eligible for CHAF assistance if it is determined that they would have failed to qualify for assistance under the SBA Real Property disaster loan criteria and that they otherwise meet the criteria for CHAF.”

The language in the technical correction amends Section 5.1(c) and is now a part of the 2005 Act and must be reconciled with the language in other sections of the 2005 Act regarding providing state funds to meet critical needs not met by other existing state and federal program and funds. Thus, the maximum amount of assistance that FEMA provided for the 2004 Emergency Home

Repair Program was \$5,100 and the maximum amount for the 2004 Emergency Home Replacement Program was \$10,200. Therefore, the NCRC requires local governments, administrators and contractors to add the amount of the FEMA EHR assistance that the applicant would have received (either \$5,100 for Repair or \$10,200 for Replacement) to the homeowners DOB and/or to the CHAF Promissory Note and Deed of Trust. With this approach, the homeowner will still be able to receive comparable repairs or replacement home from the 2005 CHAF Program.

- 1) State Acquisition Relocation Funds (SARF), for Homeowners, CHAF: Relocation assistance for homeowners participating in a Hazard Mitigation Grant Program (HMGP) buyout. If the acquisition price of the home that is to be acquired is not sufficient to allow the homeowner to purchase a comparable replacement house within the same general geographic area and outside the floodplain, the homeowner may receive assistance to make up the difference between the acquisition price of the displacement unit and the price of the replacement unit, and costs which are normally paid by the buyer in a real estate transaction. The recipient unit of local government must adopt an Optional Coverage Relocation Plan which specifies the means of calculating the benefits that the homeowner may receive. Assistance is provided as a five-year deferred loan, which is forgiven 20% per year, so that a homeowner who occupies the replacement house for five years does not repay the loan. If the replacement house is sold within five years, a pro-rated portion of the loan is recaptured by the unit of local government and is counted as program income.

SARF for homeowner assistance will only be used for the cost differential between the pre-flood fair market value of the home being purchased under the HMGP buyout and the supplement needed to purchase a comparable replacement home. The supplement cannot exceed \$50,000 without written approval from the NCRC.

- 2) State Acquisition Relocation Funds (SARF), for Renters, CHAF: Relocation assistance for renters who were involuntarily displaced and their primary residence is being acquired in a Hazard Mitigation Grant Program (buyout) and whose assistance from FEMA is inadequate to provide comparable housing. Eligible persons include those who reside in a rental unit that will be acquired or have moved into a temporary housing unit from a unit that will be acquired under the buyout program and the additional cost of renting a comparable apartment for 42 months exceeds the FEMA relocation assistance in the judgment of a professional knowledgeable in local real estate. SARF for renters should not exceed \$50,000 per displaced renter without prior written approval from the NCRC. SARF for renter assistance will be in the form of a grant, which does not have to be repaid by the displaced renter.
- 3) Home Repair, CHAF: Grants for low or moderate income homeowners with housing damage not covered by insurance, other disaster assistance, or any other funds. The homeowner is eligible for a maximum amount of \$35,000 for a repair. An exception to this maximum may be granted upon receipt of written justification from the local government and approval by the NCRC. Houses must be repaired to Community Development Block Grant (CDBG) Rehabilitation Standards, which are available from the North Carolina Redevelopment Center, 102 N. Salisbury St., Raleigh, North Carolina 27699. Beneficiaries may not be eligible for an HMGP buyout. They must have teleregistered with the Federal Emergency Management Agency (FEMA) and pursued a Small Business Agency (SBA) loan if instructed by FEMA. Section 5.1(c) of Senate Bill 7 states that "The Department of Crime Control and Public Safety shall modify the Crisis Housing Assistance Fund (CHAF) to provide money to persons who do not qualify for

CHAF assistance solely because they failed to apply for federal assistance through the SBA Real Property Disaster Loan Program. The Department shall review these persons' applications for CHAF assistance using the same criteria employed by the SBA to determine eligibility for an SBA Real Property Disaster Loan. The applicants shall be eligible for CHAF assistance if it is determined that they would have failed to qualify for assistance under the SBA Real Property Disaster Loan criteria and that they otherwise meet the criteria for CHAF." At the conclusion of repairs, the unit must be in compliance with the local floodplain management ordinance. Repair assistance is extended as a five-year no-interest loan, forgiven 20% per year. If the house is sold within the five years, a prorated portion of the loan comes due as program income.

- 4) Home Replacement, CHAF: When an eligible home is not economically feasible to repair, the homeowner may be eligible for a replacement home. Replacement funds are for low or moderate income homeowners with housing damage not covered by insurance, other disaster assistance, or any other funds. The homeowner is eligible for a maximum amount of \$75,000 for a replacement. An exception to this maximum may be granted upon receipt of written justification from the local government and approval by the NCRC. Beneficiaries may not be eligible for an HMGP buyout. They must have tele-registered with the Federal Emergency Management Agency (FEMA) and pursued a Small Business Agency (SBA) loan if instructed by FEMA. Section 5.1(c) of Senate Bill 7 states that "The Department of Crime Control and Public Safety shall modify the Crisis Housing Assistance Fund (CHAF) to provide money to persons who do not qualify for CHAF assistance solely because they failed to apply for federal assistance through the SBA Real Property Disaster Loan Program. The Department shall review these persons' applications for CHAF assistance using the same criteria employed by the SBA to determine eligibility for an SBA Real Property Disaster Loan. The applicants shall be eligible for CHAF assistance if it is determined that they would have failed to qualify for assistance under the SBA Real Property Disaster Loan criteria and that they otherwise meet the criteria for CHAF." Demolition, site preparation and temporary relocations costs are included in the victim's benefits package as an add-on to the comparable property costs, and are not to be charged against service delivery. A replacement unit may not be located in the floodplain unless the unit of local government has certified that no sites or replacement units are available within the jurisdiction outside the floodplain. Replacement assistance is extended as a ten-year no-interest loan; if the unit is sold within five years, the entire amount of the loan becomes due. 20% of the loan is forgiven in years six through ten. Recaptured funds count as program income.
- 5) Aid to Local Government, CHAF: Provides grants to local government or administrators to hire additional building inspectors, counselors and project coordinators to assist the community in the implementation of their recovery efforts. The local government/administrator must provide a description of the duties and a budget for the positions associated with these funds. The determination of funding will be weighed on a case-by-case basis and depends on the needs of individual local governments.

Grants to Successful Small Business Administration (SBA) Loan Applicants, (CHAF): Property owners whose primary residence received real property damage from a declared storm may be eligible for a state grant if the homeowner applied for a SBA home loan and was approved for the loan. For persons successful in receiving a SBA home loan, the state may provide a grant to pay back or reduce the principal of the SBA home loan. Similarly, persons successful in receiving notice of a SBA home loan approval, but did not accept the SBA loan may be provided with a grant to assist with additional repairs or replacement of their damaged primary residence.

Grants may be awarded in amounts of \$2,500, \$5,000, or \$10,000. Eligibility is based on the applicant's age, income and amount of property damage as assessed by SBA. Eligibility is determined by NCRC and benefits are awarded directly to the applicant. The NCRC forwards the amount of each award to the appropriate local government for the purpose of determining future duplication of benefits.

III. COMPLIANCE REQUIREMENTS

1. Activities Allowed

Compliance Requirement

Funds must be spent on the activity for which the award was made. Homeowner relocation funds must be provided at closing to meet the differential between the HMGP purchase price of the house being acquired and the price of the home being purchased; repair and replacement funds must be provided for repair or replacement of an owner-occupied unit damaged by the storms of 2004; Aid to Local Governments must be used to pay salaries or contract fees for technical services such as building inspectors, or as approved and authorized through a written agreement with the Director of the Crisis Housing Assistance Fund Program on a case-by-case basis.

Suggested Audit Procedures

1. Identify the activity from which funds were drawn.
2. Perform procedures to verify that individual transactions were properly classified and accumulated into the activity total.
3. Verify the date the local governing body adopted or passed a resolution and copy of the contract/agreement with contractor or administrator of CHAF if applicable.
4. Verify procurement policy for meeting State Requirements, if applicable and a written code of conduct regarding officers, agents, and employees benefits for work related to the grant, if applicable.
5. Verify back/up supporting documentation required to demonstrate that the costs incurred are related to eligible activities in order to receive timely payments. Documentation must be activity/task performed, job title, and name of who performed each task. List applicants, specific tasks performed and costs incurred for applicant and task.

2. Allowable Costs/Cost Principles

Compliance Requirement

Because this program adopted the State CDBG federal guidelines, grantees must comply with the cost principles contained in federal OMB Circular A-87 and OMB Circular A-133.

Suggested Audit Procedures

Verify that grant expenditures comply with the cost principles contained in OMB Circular A-87 and A-133.

3. Cash Management

Compliance Requirement

Because this program adopted the State CDBG rule which incorporates federal guidelines, grantees must comply with the cash management procedures incorporated in the U.S. Department of Housing and Urban Development's 24 CFR Part 85.

Suggested Audit Procedures

Review requisitions to determine that requisitions are supported by appropriate documentation (invoices or claims for payment) and signed by at least two people reviewing invoices prior to payment. Proper financial records should be maintained to support the CHAF Administrative Rules at 4 NCAC 19L (3-day rule).

4. Conflict of Interest

Compliance Requirement

Unless otherwise approved by the N. C. Redevelopment Center, none of the following or their immediate family members, during the tenure of the subject person or for one year thereafter, shall have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with the program assisted under this agreement: employees or agents of the recipient who exercise any function or responsibility with respect to the program, and officials of the recipient, including members of the governing body. The same requirements must be incorporated in all such contracts or subcontracts.

Suggested Audit Procedures

Review contracts to determine whether a beneficiary or contractor is not an employee, or immediate family member or agent of the recipient who exercises any function or responsibility with regard to the CHAF Program (in accordance with 4NCAC 19L and 24 CFR 570.489h). If a conflict exists, determine whether the recipient has received a written waiver of the conflict of interest provision for the beneficiary or contractor.

5. Eligibility

Compliance Requirement

Households receiving relocation funds must be in an approved HMGP buyout, owner occupied, the homeowner's primary residence, and must relocate in the same geographic areas as stipulated in the local government's or administrators Optional Coverage Relocation Plan (OCRP)

Homeowners applying for 2005 CHAF Repair/Rehabilitation or Replacement assistance must meet approximately nine criteria in order to be eligible. The homeowner must:

1. Not be subject to HMGP buyout;
2. Not be covered by adequate insurance;
3. Not be eligible for an adequate SBA loan;
4. Be Low Income as defined under the 2005 CHAF program;
5. Register with FEMA;
6. Apply for all available federal and state resources and seek all other public and private sources of assistance such as public or private loans or government grants (i.e., loans from USDA, N.C. Housing Finance Agency or private loans);
7. Have suffered damage to his/her primary residence as a result of the Hurricanes and Tropical Storms of 2004;
8. Have occupied the primary residence at the time of the Hurricanes and Tropical Storms of 2004; and
9. Qualify as the Owner-Occupant at the time of the Hurricanes and Tropical Storms of 2004. Owner-occupant is defined as the homeowner-applicant who occupied the residence at the time of the Hurricanes and Tropical Storms of 2004 and is the legal owner. A person who does not hold formal title to the residence and pays no rent, but is responsible for the payment of taxes or maintenance of the residence, or a person who has lifetime occupancy rights with formal title vested in another, may still qualify for 2005 CHAF assistance, but will need to exercise one of the Options listed below. See page 24 and 30 of the 2005 CHAF Guidelines. (For additional guidance, see similar federal FEMA rule 44 C.F.R. 206.101).

Suggested Audit Procedures

Perform procedures to verify that household eligibility is documented through the monitoring of individual files located in recipient offices.

Refer to the website for policies, notices and other updates pertaining to program requirements.

Utilize closeout forms to determine if the 2005 CHAF Guidelines, rules and its authorities were adhered to during the execution of the grant.

7. Matching, Level of Effort, Earmarking

Compliance Requirement

Local governments or Administrators may receive funding to cover service delivery costs associated with the administration of the CHAF relocation for homeowner and renters as well as the repair and replacement programs. The amount spent on service delivery may not exceed the amount approved in the application, usually no more than 10% unless otherwise documented and approved by the NCRC.

Suggested Audit Procedures

Test expenditures and related records to determine the amount spent for service delivery.

10. Program Income

Compliance Requirement

Program income may be generated from the CHAF Grant Program when a grant beneficiary moves and the house is no longer occupied as their primary residence, rents the home, sales or loses the home through bankruptcy, foreclosure, tax default and etc. prior to the end of the five or ten year recapture period. The local government is required to recapture funds after providing notice of the default and giving the homeowner the opportunity to cure the default and return the proceeds immediately to the state, minus appropriate legal and/or administrative fees.

Suggested Audit Procedures

Perform procedures to determine whether program income has been generated and used for the purpose from which the income was generated.

Local Governments (LGUs) were provided with a policy and a sample check list to assist with the execution of lien releases. The NCRC recommended that each local government develop systems to allow them to periodically monitor the status of taxes through the local tax office, insurance policy (through the carrier since the LGU is required to be listed lien holder on the policy) and other events of default per the CHAF Promissory Note and Deed of Trust prior to and at the end of the 5 year or 10 year recapture period for the individual CHAF funded homes. Once it is determined that the homeowner is not in default of any of the terms of the Promissory Note and Deed of Trust, the lien may be released. LGUs were advised not to allow taxes and insurance to remain in default for years before notifying the homeowner of the default and allowing time to cure the default. In addition, LGUs were advised not to foreclose on their CHAF lien for delinquent taxes since the tax foreclosure will extinguish the CHAF lien. LGUs were advised to foreclose on the entire CHAF lien and recapture as much CHAF as possible from the sell of the property minus delinquent taxes, and reasonable administrative fees. The NCRC examines the Register of Deeds Offices to review activity to determine whether properties have been encumbered since the placement of the CHAF lien and check bankruptcy records to determine the staff on CHAF funded properties. The NCRC provides technical assistance to local governments when there is an event of default such as foreclosure and bankruptcy. Monitor local government lien release records to determine whether LGUs are in compliance with recapture requirements that may require an entity to react to default issues and/or return funds.

11. Real Property Acquisition and Relocation Assistance

Compliance Requirement

Relocation assistance to homeowners must be provided in accordance with an Optional Relocation Assistance Plan, which defines a comparable unit and the same general geographic area in which beneficiaries may relocate. The plan defines the eligibility of individuals and the means of computing benefits. The plan must be adopted by the governing board and be available for review in the local government offices.

Suggested Audit Procedures

Records of relocation assistance to homeowners should be consistent to the Optional Coverage Relocation Plan, HMCP appraisals and comparables must be assessed to determine if the benefit received is in compliance with the CHAF Guidelines. The agency

monitors periodically during the execution of the grant and at closeout to determine if the project guidelines were met and if the funds were expended properly.