

(b) *Expense and profit/loss information.* The PAE should remove project expense, property valuation, and profit and loss information before disclosing any information obtained by the PAE directly from an owner or project manager, unless the owner has given written consent to disclosure with that information included.

(c) *Consideration of comments.* The PAE must consider written public comments on the information listed in paragraph (a) of this section, if the comments are submitted within 30 days after giving notice under paragraph (a), and document the consideration for HUD. No public meeting is required.

[65 FR 15485, Mar. 22, 2000, as amended at 65 FR 53900, Sept. 6, 2000]

§ 401.503 Access to information.

(a) *PAE responsibilities.* The PAE must provide to parties entitled to notice under § 401.501 access to information obtained by the PAE about the project and its management if the PAE determines that such information is reasonably likely to contribute to effective participation by those parties in the restructuring process, or if HUD requires the PAE to provide access to the information. The PAE is not required to make public any information received from the owner or manager that the PAE reasonably characterizes as confidential or proprietary information that would not ordinarily be made public, except:

(1) Owner evaluation of physical condition (OEPC), or a comprehensive needs assessment (CA) if used instead of an OEPC, as required by § 401.450;

(2) Owner-prepared 1-year project rent analysis; and

(3) As directed by HUD.

(b) *Information on expenses and profit/loss.* Before disclosing any information, the PAE must remove any information obtained by the PAE directly from the owner or project manager that is related to project expenses, property valuation, or profit and loss, unless the owner gives written consent to disclosure with that information.

Subpart D—Implementation of the Restructuring Plan After Closing

§ 401.550 Monitoring and compliance agreements.

(a) *Compliance agreements.* The PAE must ensure long-term compliance by the owner with MAHRA, this part, and the Restructuring Plan. As part of this responsibility, the PAE must require each owner with an approved Restructuring Plan to execute and record a Use Agreement that satisfies the requirements of § 401.408. All provisions of this subpart apply as long as the Use Agreement is in effect.

(b) *Periodic monitoring and inspection.* At least once a year, a PAE must review the status of each project for which it developed an executed restructuring Plan. Monitoring must include on-site inspections. HUD will accept an inspection by a PAE that complies with subpart G of part 5 of this title in lieu of an inspection required by any other party under that subpart.

(c) *HUD acting instead of PAE.* HUD will perform, or contract with other parties to perform, the PAE's functions under this section if:

(1) The project is subject to a PRA with a PAE that is not qualified to be a section 8 contract administrator; or

(2) The project is not currently subject to a PRA.

(d) *Regulatory agreement.* As long as the Secretary is the holder of a second mortgage or an additional mortgage under § 401.461, HUD will regulate the operations of the mortgagor through a regulatory agreement providing terms, conditions, and standards established by HUD, which may be in addition to any regulatory agreement otherwise required in connection with mortgage insurance programs. The regulatory agreement must contain remedies for breach, including monetary damages in the event of non-compliance.

[65 FR 15485, Mar. 22, 2000, as amended at 65 FR 53901, Sept. 6, 2000]

§ 401.552 Servicing of second mortgage.

HUD or its designee will be responsible for servicing the second mortgage, including determining the amounts receivable by the owner under § 401.461(b)(3)(ii)(A). HUD may designate