

Sample

Mark-to-Market

Form 2.1

PAE Conflict of Interest and Civil Rights Action Certifications (Standard Form)

Each PAE who signs a PRA must provide the following information within 10 business days of signing a PRA. PAE's must provide OAHF with a completed copy of the PAE Conflict of Interest and Civil Rights Action Certifications (Short Form) within 10 business days of being assigned any asset pursuant to the PRA. Certifications must be submitted for each assigned asset. Please refer to the Operating Procedures Guide and 24 CFR Part 401 for definitions and other information prior to completing these certifications. All answers must be typed or printed.

PAE Name _____

Address _____

Name of Person Certifying _____

Title of Person Certifying _____

Telephone Number of Person Certifying _____

E-mail Address of Person Certifying _____

Fax Number of Person Certifying _____

Date of Certification _____

Part I The PAE's "Restricted Persons" and Limited Partners List

- A. Attach a list of the PAE's restricted persons ("restricted persons," defined at 24 CFR § 401.310(a)(3), means a PAE, any management official of the PAE, any legal entity that is under the control of the PAE, is in control of the PAE or is under common control with the PAE, or any employee, agent or contractor of the PAE, or employee of such agent or contractor, who will perform or has performed services under a PRA with HUD). This list will constitute the individuals and business entities about whom the PAE makes certifications in response to questions in parts II, III, and IV that ask about restricted persons. (Note, if the PAE is a joint venture or partnership, its list of restricted persons must include all of the restricted persons of each joint venture participant or partner who controls the PAE ("control" defined at 24 CFR § 401.310(a)(2)). This list shall contain:
1. An initial statement, "The restricted persons, as defined at 24 CFR § 401.310(a)(3) of [PAE name] are:...";
 2. The name and address of each restricted person;
 3. The title of each "management official" restricted person;
 4. The tax identification number of each business restricted person.

B. Certify whether the list of restricted persons includes the following and explain any negative answer:

	Yes	No
1. The PAE's management officials.		
2. The entities that are under control of the PAE.		
3. The entities that are in control of the PAE.		
4. The entities that are under common control with the PAE.		
5. Employees of the PAE who will perform or has performed services under a PRA with OAHP or HUD.		
6. Agents of the PAE who will perform or has performed services under a PRA with OAHP or HUD.		
7. Contractors of the PAE who will perform or has performed services under a PRA with OAHP or HUD.		
8. Employees of agents or contractors who will perform or has performed services under a PRA with OAHP or HUD.		

Part II Civil Rights Violations Certifications

If any affirmative answer is provided to this question, the PAE must attach a detailed explanation about the matter.

	Yes	No
Is the PAE or any restricted person associated with the PAE currently involved in any legal action involving civil rights laws or is the PAE or any restricted person or limited partner associated with the PAE aware of any ongoing investigation into allegations of violations of civil rights laws by the PAE or any restricted person associated with the PAE? (For these purposes, civil rights laws include: Title VIII of the Civil Rights Act of 1968, as amended; Affirmative Fair Housing Marketing Requirements; Title VI of the Civil Rights Act of 1964, as amended; Section 109 of Title I of the Housing and Community Development Act of 1974; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments Act of 1972; Executive Order 12892; Equal Credit Opportunity Act; Executive Order 11246, as amended by Executive Order 11375; Executive Order 11063, as amended by Executive Orders 12259 and 12892; Title II of the Americans With Disabilities Act; Age Discrimination Act of 1975, as amended; Architectural Barriers Act of 1968; and Section 3 of the Housing and Development Act of 1968, as amended.)		

Part III Conflict of Interest

If any affirmative answer is provided in Part III, the PAE must attach a detailed explanation about the matter.

Note, a conflict of interest is often asset specific, requiring the PAE and each of its restricted persons to examine:

- 1) the prospective PRA and/or asset (including the work to be done, institutions and parties associated with the PRA); and
- 2) their business and financial interests, relationships (including past, current and expected client relationships), and prior current work performed for OAHF or HUD; and
- 3) any other factors relevant in light of the prospective PRA and/or asset.

If the PAE selection or asset assignment processes have not provided information necessary to make conflict of interest determinations the examination described above must be done when the PAE receives the information. A PAE must also monitor for and disclose conflicts of interest that arise during the course of a PRA, e.g., those caused by changes in the PRA, Operating Procedures Guide, the PAE, its restricted persons or limited partners or their interests or relationships.

	Yes	No
1. Does the PAE or any restricted person associated with the PAE have a financial interest outside the direct consideration of the PRA in a matter relating to the PRA or an assigned asset?		
2. Does the PAE or any restricted person associated with the PAE have any personal, business or financial interest or relationship outside the direct consideration of the PRA in a matter relating to the PRA or an assigned asset which would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under the PRA?		
3. Is the PAE or any restricted person associated with the PAE taking an adverse position to HUD, OAHF or to an owner whose project is covered by a PRA in a lawsuit, administrative proceeding or other contested matter?		

Part IV Signature Agreements

In signing the OAHP Conflict of Interest and Civil Rights Action Certifications:

1. I warrant that I have the authority to execute these certifications on behalf of the PAE.
2. I certify that the above answers and all attached information are true and correct.
3. OAHP and/or HUD is authorized to make any investigations they deem necessary to verify these certifications and to obtain any information they deem appropriate from any financial institution about the PAE.
4. The PAE agrees to maintain a procedure to monitor for changes in the information provided in Parts I, II and III and to notify OAHP and HUD in writing within 10 days of discovery of any change.
5. The PAE agrees to require any subcontractor that will be used to perform PRA related contract work to provide certifications on copies of this form and to obtain clearance regarding any issue disclosed from OAHP (or HUD if OAHP is no longer in existence) before the subcontractor performs work pursuant to the PRA.

Signature of Authorized PAE Representative

Date

NOTICE: Submitting false certifications shall constitute grounds for termination of a PRA with cause.

NOTICE: Whoever knowingly or willfully makes false or fraudulent statements or representations in connection with the disclosures and certifications herein may be subject to fines and/or imprisonment (18 U.S.C. Sections 1001, 1007 and 1014).