

*General, a Subpoena, or Other Legal Process.* If the Department receives a request on behalf of a congressional committee or subcommittee, the Comptroller General, or a subpoena from a court of competent jurisdiction, or is otherwise compelled by law to release information determined to be proprietary under this section, the Secretary shall provide the information in accordance with the request without regard to the provisions of this section. In releasing requested information under this paragraph, the Secretary will, where applicable, include a statement with the information to the effect that the GSE regards the information as proprietary, public disclosure of the information may cause competitive harm to the GSE, and the Secretary has determined that the information is proprietary under this section. To the extent practicable, the Secretary will provide notice to the GSE after a request under this paragraph is received and before the information is provided in response to the request.

#### § 81.77 Protection of GSE Information.

(a) *Protection of information by officers and employees.* The Secretary will institute all reasonable safeguards to protect GSE information, including, but not limited to, advising all departmental officers and employees having access to information submitted by or pertaining to either GSE of the legal restrictions against unauthorized disclosure of such information under HUD Standards of Conduct regulations, 24 CFR part 0; the government-wide Standards of Ethical Conduct, 5 CFR part 2635; and the Trade Secrets Act, 18 U.S.C. 1905. Officers and employees shall be advised of the penalties for unauthorized disclosure ranging from disciplinary action under 24 CFR part 0 and 5 CFR part 2635 to criminal prosecution.

(b) *Protection of information by contractors.* (1) In relevant contracts and agreements where contractors have access to confidential business information submitted by or pertaining to either GSE, the Department shall include detailed provisions specifying that neither the contractor nor any of its officers, employees, agents, or subcontractors may release data submitted by or pertaining to either GSE without HUD's authorization, and that unauthorized disclosure may be a basis for:

- (i) Terminating the contract for default;
- (ii) Suspending or debarring the contractor; or
- (iii) Criminal prosecution of the contractor, its officers, employees,

agents, or subcontractors under the Federal Criminal Code.

(2) Contract provisions shall require safeguards against unauthorized disclosure, including training of contractor and subcontractor agents and employees, and that the contractor indemnify and hold HUD harmless against unauthorized disclosure of data belonging to the GSEs or HUD.

#### Subpart G—Procedures for Actions and Review of Actions

##### § 81.81 General.

This subpart sets forth procedures for the Secretary to issue cease-and-desist orders and institute civil money penalties to enforce housing goal provisions at subpart C of this part and information submission and reporting requirements under subpart E of this part. The subpart also provides procedures for hearings, enforcement of Secretarial actions, public disclosure of agreements, and judicial review of enforcement actions.

##### § 81.82 Cease-and-desist proceedings.

(a) *Issuance.* The Secretary may issue and serve upon a GSE a notice of charges for a cease-and-desist order, in accordance with this section, if the Secretary determines:

(1) The GSE has failed to submit a housing plan that substantially complies with § 81.22 within the applicable period for submission under that section;

(2) The GSE is engaging or has engaged, or the Secretary has reasonable cause to believe that the GSE is about to engage, in any failure to make a good faith effort to comply with a housing plan submitted and approved by the Secretary; or

(3) The GSE has failed to submit any of the information required under sections 309 (m) or (n) of the Fannie Mae Charter Act, or 307 (e) or (f) of the Freddie Mac Act, or under §§ 81.62 or 81.63 of this part.

(b) *Procedure for issuance.*—(1) *Notice of charges.* The Secretary shall notify the GSE in writing of the notice of charges. The notification shall provide:

(i) A concise statement of the facts constituting the conduct upon which the Secretary has relied in determining that an order should be issued and the violations with which the GSE is charged;

(ii) Notice of the GSE's right to a hearing on the record on the cease-and-desist order;

(iii) A time and date for a hearing on the record on whether the order should issue;

(iv) The consequences of failing to contest the matter; and

(v) The effective date of the order if the GSE does not contest the matter.

(2) *Administrative Law Judge.* The hearing and other proceedings conducted under this section shall be presided over by a HUD Administrative Law Judge, in accordance with § 81.84 and 24 CFR 30.10, 30.15, and part 30, subpart E, to the extent such provisions are not inconsistent with any of the procedures in these regulations or the Act.

(3) *Issuance of order.* If the Administrative Law Judge finds, based on the record, that any of the conduct specified in the notice of charges sufficient to sustain the charges has been established by substantial evidence (or a GSE consents to the order), the Administrative Law Judge may issue and serve upon the GSE an order requiring the GSE to:

(i) Submit a housing plan in compliance with § 81.22;

(ii) Comply with the housing plan; or

(iii) Provide the information required under subpart E of this part.

(4) *Effective date.* An order under this section shall be effective upon the expiration of the 30-day period beginning on the service of the order upon the GSE (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the Secretary stays, modifies, terminates, or sets aside the order as provided in § 81.84(l).

##### § 81.83 Civil money penalties.

(a) *Imposition.* The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on a GSE that has failed:

(1) To submit a housing plan that substantially complies with § 81.22 within the applicable period required under the regulations;

(2) To make a good faith effort to comply with a housing plan for the GSE submitted and approved by the Secretary; or

(3) To submit any of the information required under subsection (m) or (n) of Section 309 of the Fannie Mae Charter Act, under subsection (e) or (f) of section 307 of the Freddie Mac Act, or under §§ 81.62 or 81.63.

(b) *Amount of penalty.* The Secretary shall determine the amount of the penalty, and such penalty shall not exceed:

(1) For any failure described in paragraph (a)(1) of this section, \$25,000 for each day that the failure occurs; and

(2) For any failure described in paragraphs (a) (2) or (3) of this section,