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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

June 11, 1998

Yvonne Montoya, Chairperson  
New Mexico Real Estate Appraisers Board  
P.O. Box 25101  
Santa Fe, NM 87504

Dear Ms. Montoya:

Thank you for your cooperation and your staff's assistance in the April 29-30, 1998 Appraisal Subcommittee ("ASC") review of the New Mexico Real Estate Appraisers Board ("Board") and appraiser regulatory program ("Program").

Our review revealed that, in most respects, the New Mexico program is efficient and well operated. Following are areas that need attention.

- **The Board does not adequately inform the public that some of its certified and licensed appraisers do not pay the National Registry fee and therefore are not eligible to perform appraisals for federally related transactions.**

The Board allows certified and licensed appraisers the option of paying the National Registry fee. Appraisers certifying on the "Federal Registry Form" that they will not appraise in federally related transactions are not required to pay the National Registry fee. Appraisers are able to opt into or out of the National Registry each year when they renew their credentials. There is, however, no way for lenders or other users of appraisal services to know whether or not an appraiser has paid the National Registry fee and is therefore eligible to appraise in federally related transactions. Making such a determination is particularly difficult because each appraiser can opt in or out of the Registry on an annual basis.

ASC Policy Statement 8.A. provides that, if a State certified or licensed appraiser chooses not to pay the National Registry fee, then the credentialing State agency must ensure that any potential user of that appraiser's services is aware that the appraiser's certificate or license is limited to performing appraisals in connection with non-federally related transactions. The State agency must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible To Appraise Federally Related Transactions."

The Board, therefore, must either eliminate a certified or licensed appraiser's option to not pay the National Registry fee or, must place a conspicuous notice directly on the face of any evidence of the appraiser's authority to appraise stating, "Not Eligible to Appraise Federally Related Transactions." Additionally, the Board must notify all New Mexico lenders of its two-tiered licensing and certification program with clear information regarding how lenders can determine whether an appraiser is eligible to appraise in federally related transactions. Additionally, please provide us a written explanation regarding lenders located outside New Mexico, but obtaining appraisals of New Mexico properties, can determine whether a New Mexico appraiser is eligible to appraise for Federally related transactions.

- **The Board is not submitting National Registry data to us on a monthly basis.**

Since the revised National Registry program became effective in late 1997, the Board has submitted only one usable data file. To maintain an up-to-date, accurate National Registry, it is necessary that all States provide Registry data in a timely manner. As specified in ASC Policy Statement 8.C., provided to you on September 26, 1997, we require monthly submissions of Registry data files. As a result of the Board's failure to provide a usable data file with up-to-date appraiser information, only 274 of New Mexico's 600 plus appraisers are shown as "Active" on the Registry. More than 300 appraisers who should be "Active" are reflected as "Inactive" and are, therefore, not eligible to appraise in federally related transactions.

We understand that the Board has had difficulty in obtaining the necessary file from the State's data processing office, and that Board staff is having difficulty creating the necessary file using software provided by us. Ray Seward of our office will be working with Priscilla Archuleta of your staff to overcome the difficulty you are experiencing with our software. Ben Henson of our staff is available to discuss Registry file creation with the State's data processing staff.

The Board must take the necessary actions to ensure that a properly formatted, complete National Registry data file is forwarded to us on a monthly basis.

These first two issues (New Mexico's Registry fee option and New Mexico's failure to provide up-to-date Registry data) cause a situation in which lenders may unknowingly use appraisers who are not eligible to perform appraisals for Federally related transactions. In so doing, the lenders would violate their supervising agencies' regulations. If New Mexico, therefore, does not furnish an up-to-date National Registry data file to us within 30 days of the date of this letter and monthly thereafter, the ASC will notify the Agencies that certain New Mexico appraisers are no longer "active" on the National Registry and are ineligible to perform appraisals for Federally related transactions.

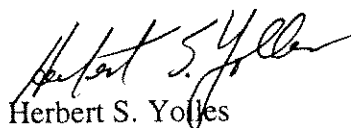
- **The Board's records destruction policy jeopardizes its ability to defend against potential allegations regarding discrimination and/or preferential treatment.**

The Board's records destruction policy provides that complaint files where no violation was found are destroyed six months after closing. As a result, there could be insufficient records for the Board to defend against discrimination or preferential treatment accusations. As an example, a complaint was filed against a Board member, investigated, and no violation was found. The complaint was closed, and the file destroyed six months later. If an appraiser who is under investigation alleges that the previously investigated Board member's situation was similar and that he or she is being unfairly treated, the Board member's file would be no longer available to substantiate the Board's actions. For these reasons, the Board should maintain all complaint files for at least three years after the date of closing and maintain complaint files regarding past or present Board members indefinitely.

Please respond to our findings and recommendations within either 30 or 60 days, as appropriate, from the date of this letter. Until the expiration of that period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

If you have any questions, please do not hesitate to contact us.

Sincerely,



Herbert S. Yolles  
Chairperson