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Appraisal Subcommittee

Federal Financial Institutions Examination Council

October 12, 2004

Mr. R. Doyle Pugmire
Chairperson, Idaho Real Estate Appraiser Board
1109 Main Street, Suite 220
Boise ID 83702-5642

Dear Mr. Pugmire:

Thank you for the cooperation and assistance of the Idaho Real Estate Appraiser Board ("Board") and the Bureau of Occupational Licenses ("Bureau") in the August 16-17, 2004 Appraisal Subcommittee ("ASC") review of Idaho's appraiser regulatory program ("Program").

Idaho's Program has serious weaknesses that require the Board's and Bureau's prompt attention. The most serious of these weaknesses involves the Program's complaint investigation and resolution process. To assess your progress in addressing this weakness, ASC staff will return for a follow-up review in approximately six to nine months. Also, we are placing Idaho on an 18-month review cycle to allow us to maintain closer supervision of your Program. Failure by the Board and Bureau to address these concerns and to resolve the underlying weaknesses could cause the ASC to consider a non-recognition proceeding regarding Idaho's Program.

- **Given the significant backlog in unresolved complaint cases and the continued degradation of the effectiveness of the process, Idaho's complaint investigation and resolution process does not comply with Title XI or ASC Policy Statement 10.**

Idaho's Program does not have an effective complaint investigation and resolution program. We identified the weaknesses in this area during our May 1998 field review and again in our July 2001 review. Following each of those reviews, the Board and Bureau promised resolution. The weaknesses, however, continue to worsen. For your convenience, we have included copies of our June 12, 1998 and September 14, 2001 field review letters.

During our current field review (August 2004), we found a significant increase in the number of complaints open for more than one year. On average, Idaho currently receives 33 complaints per year. This is only slightly higher than the 31-complaint average calculated during our previous field reviews. Despite this relatively stable complaint level and the increase in investigators from one to five, the number of outstanding complaints has continued to increase. At the time of our review, 103 cases awaited disposition, of which 73 had been in process for more than one year. Of these 73 cases, 18 are from 2003, 11 from 2002, 23 from 2001, two from 2000, 14 from 1999, four from 1998, and one from 1997. Because of delays in resolving complaints, several individual appraisers are subject to multiple outstanding complaints. Of the 31 cases pending resolution in the Legal Department, 29 involved three appraisers.

The Board and Bureau informed ASC staff that they have addressed this concern in three ways. First, the chief investigator recently was moved from the central office to the field to help with outstanding complaint investigations. Second, an additional investigator was hired the

week of our review. Third, the Board began screening initial complaints, and Bureau staff has attempted to identify less egregious cases to expedite their disposition.

The Board's and Bureau's efforts have not proven adequate, as evidenced by the continuing increase in outstanding cases and the aging of cases. Both Title XI and ASC Policy Statement 10 emphasize the State's responsibility to effectively supervise certified and licensed appraisers. An effective complaint investigation and resolution process is a critical component of adequate supervision. ASC Policy Statement 10 provides that complaints should be processed within one-year of their filing date, absent special documented circumstances. There is no evidence that such circumstances exist. To address this concern and to comply with Title XI and ASC Policy Statement 10, the Board and Bureau need to:

1. Inform us of how you plan to reduce the backlog of outstanding complaint cases and how you plan to manage the ongoing complaint investigation and resolution process in a timely manner; and
 2. Provide a complaint log to the ASC quarterly.
- **The Board and Bureau grant blanket approval of educational courses offered by Appraisal Foundation sponsors.**

The Board and Bureau grant blanket approval to courses offered by Appraisal Foundation sponsors, while courses offered by organizations not Foundation sponsors are reviewed on an individual basis. We identified this concern in our September 14, 2001 field review letter. In your response letter to our 2001 review, the Board and Bureau assured us that you would resolve this concern.

During our 2004 review, ASC staff found that the Board and Bureau continued to grant blanket approval to courses offered by Appraisal Foundation sponsors. The Board informed ASC staff that the Board needs to amend its regulations because the regulations "require" that the Board approve all courses from Appraisal Foundation sponsors. After reviewing the regulations, the ASC's general counsel opined that the regulations do not appear to require such blanket approval.

To resolve this concern, the Board needs to amend its practice of blanket approval of educational offerings by Appraisal Foundation sponsors. If necessary, the Board needs to amend its regulations promptly. If the Board believes that its regulations need to be amended, please have the Board's legal counsel contact ASC General Counsel Marc Weinberg to discuss the regulation. Please keep ASC staff informed of the Board's progress regarding this situation.

- **The Bureau does not have a reliable means of verifying continuing education claims of appraisers applying to renew certified credentials.**

Idaho recently changed its continuing education and credential renewal cycles from three years to one year, ending on the appraiser's birth date. The Bureau allows certified appraisers applying to renew their credentials to submit affidavits attesting to the required hours of continuing education. The Bureau provides a notice of upcoming renewal to each appraiser approximately six weeks prior to the expiration date of the appraiser's credential. On

approximately 10% of renewal notices, the Bureau includes a conspicuous statement instructing the appraiser to submit documentation supporting his or her continuing education. This statement, in effect, provides advance notice to the appraiser that his or her education claims will be audited.

We are concerned that if this approach becomes generally known to appraisers, an appraiser could wait until he or she receives the renewal notice to determine whether the Bureau would require continuing education documentation. If so, the appraiser would have approximately six weeks to obtain the necessary 14 hours of education. If not, the appraiser could decide not to take any continuing education knowing that he or she would not be audited. During our review of renewal files, we noted that several renewing appraisers took their continuing education courses after the renewal/audit notice was mailed.

To address this concern, the Bureau needs to restructure its affidavit audit process so that it provides a significant incentive to all appraisers to ensure that they obtain the necessary continuing education. Also, please note that the ASC has adopted a revision to ASC Policy Statement 10 regarding the acceptance of affidavits. The revised policy statement becomes effective January 1, 2005.

- **Idaho's regulations allowing for carry-over of continuing education hours do not conform to AQB criteria for certified appraisers.**

Idaho regulations allow appraisers to carryover continuing education hours from one cycle to the next. This policy does not conform to AQB criteria and, for certified appraisers, Title XI. Idaho recently changed from a three-year continuing education cycle to a one-year cycle. In March 2004, in an effort to encourage appraisers to take more substantive courses, the Board amended its regulations to allow carryover of continuing education hours from one cycle to the next. Hours earned in excess of the 15 hours required per year can be applied toward the education requirements for the next credential renewal period.

In early 1998, the AQB issued a criteria interpretation stating that continuing education carryover to future cycles is not permitted. In a July 1998 letter, we notified all States of this interpretation and instructed States with carryover provisions to initiate corrective action. Because the Board's regulation is new, continuing education credit has not yet been awarded for carryover hours. The Board, however, needs to amend its regulations to eliminate this provision.

- **Idaho has not fully adopted the January 1, 2003 AQB criteria changes.**

Idaho has not fully adopted the January 1, 2003 AQB criteria changes regarding National Uniform Standards of Professional Appraisal Practice ("USPAP") courses and instructors. Although Board regulations require applicants to take a 15-hour USPAP course for qualifying education and appraisers to take a 7-hour USPAP update course, the regulations do not specify that the USPAP courses must be the National USPAP courses or the equivalent, and that such courses must be taught by an AQB-certified USPAP instructor.

In practice, it appears that applicants for licensed or certified credentials who applied after January 1, 2003, have taken the appropriate National USPAP course or its equivalent. The

Board, however, needs to amend its regulations to conform to AQB criteria and to eliminate any conflicts between the regulations and actual practice.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time 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 contact us.

Sincerely,

Virginia M. Gibbs
Chairman

Enclosures

cc: Rayola Jacobsen, Bureau Chief
Budd Hetrick, Deputy Bureau Chief