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Appraisal Subcommittee

Federal Financial Institutions Examination Council

October 16, 2006

Mr. Paul Morgan, Chairman
Idaho Real Estate Appraiser Board
1109 Main Street, Suite 220
Boise ID 83702-5642

Dear Mr. Morgan:

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 15-16, 2006 Appraisal Subcommittee (“ASC”) review of Idaho’s real estate appraiser regulatory program (“Program”). Based on our review, we find that Idaho’s Program fails to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”). Idaho needs to cure promptly its serious, longstanding deficiencies regarding complaint investigation and resolution and the lack of a reliable means of validating continuing education claims. Additionally, we set forth several additional findings and recommendations in other less significant areas.

Because of the seriousness of Idaho’s Program weaknesses, we will perform a follow-up review of your Program in six to nine months, and will perform a full field review of your Program in approximately one year. If Idaho does not show significant progress toward resolving our concerns expeditiously, we will consider initiating a non-recognition proceeding against the State under § 1118 of Title XI, 12 U.S.C. 3347. A non-recognition determination by the ASC would have substantial impacts on the State’s real property appraisers and on commercial and residential lending activities State-wide.

- **Idaho’s complaint investigation and resolution program does not comply with Title XI and ASC Policy Statement 10 because complaints are not investigated and resolved in a timely manner.**

As discussed below, Idaho’s complaint investigation and resolution program fails to conform to Title XI and ASC Policy Statement 10 that 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 investigated and resolved within one-year of receipt, absent special documented circumstances.

Idaho’s Program has not had an effective complaint investigation and resolution program for many years. We identified the weaknesses in the program during our 1998, 2001, and 2004 field reviews, and again in our 2005 follow-up review. You should refer to our field review letters following each of those reviews for additional information regarding the findings in those years. Following each field review, the Board and Bureau committed to correct the weaknesses. Despite efforts by the State, the weaknesses have not been corrected.

During our current field review, we found that Idaho had 90 outstanding complaints, 65 of which had been outstanding for more than one year. Many of those complaints had been outstanding for two to six years. We also noted that the average number of complaints had decreased from 30-40 per year to approximately 17 per year. We are concerned that this reduction in the number of complaints received might reflect the public's loss of faith in the effectiveness of the State's enforcement program.

We also found that Idaho's "Pro-Reviewer" program largely has been ineffective. The Board and Bureau uses volunteer appraisers called "Pro-Reviewers" to review appraisal reports to assist the Board and Bureau when evaluating whether or not to take enforcement action. The process is very time consuming, even when all parties take action promptly.

We found, however, that the Pro-Reviewers were not performing their duties in a timely manner. We made the same finding during our 2004 field review. While Pro Reviewers are required by contract to complete their reviews and reports within thirty days, they often take many months and even years to complete assigned reviews.

To cure this longstanding problem, the Bureau and Board need to:

1. Ensure that all complaints are investigated and resolved in a timely manner, with the goal of resolving complaints within one-year of receipt, as provided in ASC Policy Statement 10;
 2. Within 30 days from receipt of this letter, provide a written plan describing in detail how the Board and Bureau will reduce its backlog of outstanding complaint cases, and how it will ensure that future complaints are investigated and resolved in a timely manner; and
 3. Continue providing the complaint log on a quarterly basis.
- **The Board and Bureau do not have a reliable means of verifying continuing education claims of appraisers applying to renew certified credentials.**

During our August 2004 field review, we found that Idaho had changed its continuing education and credential renewal cycles from three years to one year, ending on the appraiser's birth date. The Bureau allowed appraisers applying to renew their credentials to submit affidavits attesting to the required hours of continuing education. In our October 12, 2004 field review letter, we notified the Board and Bureau that the affidavit process was not acceptable and detailed the changes needed in the process. After exchanging additional correspondence regarding this concern, the Bureau advised us in an April 29, 2005 letter that the Bureau had revised its continuing education audit policy and that "[a]udits to insure compliance are now conducted after the licenses are renewed, rather than before."

During the current field review, we found that the Bureau failed to perform any continuing education audits as required by ASC Policy Statement 10. Bureau staff explained that this failure was inadvertent and occurred because of staff changes and the overall lack of resources in light of its greatly expanded workload.

While ASC staff was on-site, the Bureau randomly selected via computer 53 renewing appraisers (24 certified general, 12 certified residential, and 17 licensed residential) for continuing education audits. The Bureau sent audit letters to the selected appraisers on August 22nd, with responses required by September 22, 2006.

To address this concern, the Bureau and the Board need to:

1. Within 15 days from the date of this letter, review the education documentation for the 53 appraisers subject to the continuing education audit to determine whether they conform to Appraiser Qualifications Board (“AQB”) criteria;
2. Within 30 days from the date of this letter, initiate appropriate disciplinary actions against certified appraisers who failed to conform to AQB criteria or failed to respond to the August 22nd audit letter. For certified appraisers who do not meet AQB criteria, immediately begin the necessary steps to downgrade the appraisers to non-certified classifications. Alternatively, the Board could recall existing certifications and conspicuously overstamp them with wording similar to “Not eligible to appraise federally related transactions.” In this case, the appraiser’s status on the National Registry would be changed from “Active” to “Inactive;”
3. For any appraiser determined not to conform to AQB criteria, determine whether the appraiser failed to conform after making a good faith attempt to conform, or whether the appraiser simply falsified his or her renewal application. Falsifying a government document is a serious offense that calls into question the ethics of the individual. Ethical behavior is critical to appraisal practice. Should the Bureau and Board determine that any appraiser falsified his or her application, the Bureau and Board need to take substantive disciplinary action;
4. The Board and Bureau may take disciplinary action against licensed residential appraisers who failed to conform to AQB criteria or failed to respond to the August 22nd audit letter. Licensed residential appraisers who failed to comply with AQB criteria will have their “AQB Compliant” status on the National Registry changed to “No,” and licensed residential appraisers who failed to respond to the audit letter will have that status changed to “Unknown”;
5. Within 45 days from the date of this letter, provide the ASC with a spreadsheet listing the 53 audited appraisers detailing: the name and credential number of each appraiser; number of documented continuing education hours taken during the continuing education cycle(s); number of hours needed to conform to AQB criteria; status of AQB compliance; the determination of whether an appraiser’s failure to conform to AQB criteria resulted from a good faith effort or a falsification of the application; and any enforcement actions taken, or to be taken, against non-complaint appraisers; and
6. Provide the ASC with a detailed description of how the Bureau will validate appraisers’ continuing education claims in the future, consistent with ASC Policy Statement 10.

- **Idaho's regulations allow for approval of continuing education courses that do not meet AQB criteria.**

Idaho amended its regulations on April 6, 2005, to allow the 15-hour National USPAP Course to be considered equivalent to the 7-hour National USPAP Update Course for continuing education purposes. Effective January 1, 2005, the AQB issued an Interpretation to the criteria that no longer allowed the 15-hour National USPAP Course to be considered equivalent to the 7-hour National USPAP Update Course. At the time of our field review, the Board and Bureau had not accepted the 15-hour course as equivalent to the 7-hour update because the next continuing education cycle had not yet ended.

While ASC staff was on-site, Bureau staff and the Board Chairman drafted changes to the Board's regulations to bring them into compliance with the AQB Interpretation. The Board needs to complete the regulatory change as quickly as possible and ensure that the 15-hour National USPAP Course is not accepted as continuing education in lieu of the 7-hour National USPAP Update Course in any upcoming renewal applications.

- **Idaho does not report disciplinary actions to the ASC for inclusion on the National Registry.**

Idaho failed to report disciplinary actions to the ASC as required by ASC Policy Statement 9A. During the field review, the Bureau Chief instructed Bureau staff to email all disciplinary actions to the ASC immediately after each Board meeting.

The Board and Bureau need to ensure that the Bureau Chief's instructions are implemented and followed to ensure that all disciplinary actions are reported promptly to the ASC as required by ASC Policy Statement 9A.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time 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

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

