

Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 13, 2007

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

Dear Mr. Morgan:

Thank you for your staff's assistance and cooperation in our February 20, 2007 follow-up review of Idaho's real estate appraiser regulatory program ("Program"). This letter sets forth the ASC's findings and the actions that the Board and Bureau need to take to bring the Program into substantial compliance with Title XI.

Our follow-up review focused on concerns identified during the Appraisal Subcommittee's ("ASC") August 2006 field review. During this follow-up review, we determined that the Idaho Real Estate Appraiser Board ("Board") and the Bureau of Occupational Licenses ("Bureau") cured some of our concerns and made some progress addressing other concerns. Nevertheless, the Program still failed to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI"). If the State fails to make substantial progress towards curing the remaining concerns by the time of our August 2007 field review, ASC staff will recommend that the ASC consider initiating a non-recognition proceeding against the State under § 1118 of Title XI, 12 U.S.C. 3347.

Previous Findings, Current Status, and Necessary Actions

- **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.**

Previous Finding: ASC staff found that Idaho's complaint investigation and resolution program failed 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. Following each field review, the Board and Bureau of Occupational Licenses ("Bureau") committed to correct the weaknesses. Despite efforts by the State, the weaknesses were not corrected.

In our October 16, 2006 field review letter, the ASC directed the Bureau and Board 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 that 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.

Current Status: Since our 2006 field review, the Board and Bureau initiated several actions designed to improve Idaho's complaint investigation and resolution process. Among other things, the Bureau assigned additional personnel to handle Board-related administrative matters, one of the Bureau's investigators was assigned to investigate real estate appraiser complaints on a full time basis, the Idaho Attorney General assigned two attorneys to prosecute appraiser related complaints, and the Board expanded and improved its Pro Reviewer program.

Following is a summary of complaint statistics:

Field Review	Complaints received during review period	Complaints outstanding	Complaints outstanding more than 1 year
May 1998	Unknown	51	26 (51%)
July 2001	Unknown (~31/yr)	76	42 (55%)
August 2004	102 (~33/yr)	103	73 (71%)
May 2005	32 (~43/yr)	74	35 (47%)
August 2006	21 (~17/yr)	90	65 (72%)
February 2007	71 (~121/yr) *	135	49 (36%)

* This number includes 34 complaints opened by the Bureau because of the continuing education audit.

At our August 2006 field review, 90 complaints were outstanding, with 65 (72%) being more than one year old. As of the end of February 2007, 135 complaints were outstanding, with 49 (36%) of those complaints being more than one year old. It appears the Bureau and Board have taken steps towards addressing this longstanding area of concern. Nevertheless, the number of complaints outstanding for more than one year remains unacceptably high.

Necessary Actions:

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

1. Make substantial progress toward reducing the outstanding and aged complaint cases by the time we return for our next field review in the fall of 2007; and
2. Continue providing an electronic copy of the complaint log quarterly to Denise Graves at denise@asc.gov.

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

Previous Finding: During our August 2004 field review, ASC staff 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 their affidavit process was not acceptable and detailed necessary changes. After exchanging additional correspondence regarding this concern, the Bureau advised us in an April 29, 2005 letter that it 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 our August 2006 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.

While we were on-site for our August 2006 field review, the Bureau randomly selected 53 renewing appraisers for continuing education audits. The Bureau sent audit letters to the selected appraisers on August 22nd, with responses required by September 22, 2006.

In our October 2006 field review letter, the ASC directed the Bureau and the Board to:

1. Within 15 days from the date of that letter, review the education documentation for the 53 appraisers subject to the continuing education audit to determine whether they conformed to AQB criteria;
2. Within 30 days from the date of that 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 did 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 would have their “AQB Compliant” status on the National Registry changed to “No,” and licensed residential appraisers who failed to respond to the audit letter would have that status changed to “Unknown”;

5. Within 45 days from the date of that 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 would validate appraisers’ continuing education claims in the future, consistent with ASC Policy Statement 10.

Current Status: In response to our October 2006 field review letter, Idaho completed its continuing education audit of 54 (instead of 53) appraisers who renewed their credentials between October 2004 and August 2006. That audit included 25 certified general appraisers, 12 certified residential appraisers and 17 state licensed appraisers. Following are the audit results:

- Twenty-one appraisers (eight certified general, five certified residential, and eight state licensed) were in compliance with the AQB’s continuing education criteria;
- Nineteen appraisers (nine certified general, five certified residential, and five state licensed) were issued warning letters for not obtaining fifteen hours of continuing education during each year of the audited cycles. These appraisers, however, earned sufficient continuing education hours over the entire two year renewal period, and, for that reason, the Board determined that they made a good faith effort to comply with the Board’s continuing education requirements;
- Ten appraisers (six certified general, one certified residential and three state licensed) were being sent consent orders requiring a thirty-day suspension of their credentials, payment of a \$250 fine, and the completion of the missing continuing education hours; and
- Four appraisers (two certified general, one certified residential and one state licensed) had cases pending for obtaining the required continuing education after their credentials were renewed.

Thirty-three of 54 appraisers failed the continuing education audit. The Board attributed this high failure rate to several factors, primarily the change from a three-year to a one-year continuing education cycle.

Because of the high failure rate in the August 2006 audit, the Bureau and Board conducted a continuing education audit of appraisers who renewed their credentials between January 1, 2006, and January 10, 2007. That audit included 55 appraisers and trainees. While the audit was not complete at the time of our follow-up review, the Board, in its March 5th letter to the ASC, reported an 18% failure rate.

During our follow-up review, the Board and Bureau agreed to take several steps to address the weaknesses in its credential renewal process. The Board agreed to: 1) publish on its Web site the names and sanctions of non-compliant appraisers; 2) distribute a letter to all appraisers, informing them of the continuing education requirements; 3) revise its renewal applications to identify the specific continuing education hours required for renewal; 4) identify a single point of contact to streamline the process for appraisers to obtain relevant information and help to meet their renewal requirements; and 5) audit, at a minimum, 10% of renewing appraisers monthly.

The Board and Bureau need to:

1. Implement the actions agreed to during the ASC's follow-up review; and
2. Provide the ASC with quarterly reports summarizing the monthly continuing education audit results regarding certified appraisers; and

If, after six months, the State continues to experience audit failure rates exceeding 10%, the ASC will require the Board and Bureau to audit all renewing appraisers or abandon the affidavit process.

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

Previous Finding: During our August 2006 field review, we found that 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.

Current Status: In response to our October 2006 field review letter, Idaho revised its proposed rules and submitted them to the 2007 Idaho Legislature. Those rules were approved and will become effective upon the legislature's adjournment at the end of March 2007.

Necessary actions: None.

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

Previous Finding: ASC staff found that 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.

Current Status: Idaho corrected this oversight and now promptly reports disciplinary actions to the National Registry.

Necessary actions: None.

If you wish to respond to our comments, please do so within 60 days from the date of this letter. 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 follow-up review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director

cc: Tana Cory, Bureau Chief
Budd Hetrick, Deputy Bureau Chief