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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 18, 2004

Ms. Sharon K. Lowman, Chairperson
Missouri Real Estate Appraiser Commission
3605 Missouri Boulevard
Jefferson City, MO 65102-1335

Dear Ms. Lowman:

Thank you for the cooperation and assistance of the Missouri Real Estate Appraiser Commission (“Commission”) and the Department of Commerce and Economic Development’s Division of Professional Registration (“Division”) staff in the October 4-5, 2004 Appraisal Subcommittee (“ASC”) review of Missouri’s appraiser regulatory program (“Program”).

Based on our review of the Program, we find that Missouri is not in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”). The Program has weaknesses in the following areas: complaint investigation and resolution; accepting examinations that do not conform to Appraiser Qualifications Board (“AQB”) criteria; accepting affidavits to support credential renewal without having an acceptable validation process; granting continuing education waivers and extensions that do not conform to AQB criteria; approving education courses that do not conform to AQB criteria; and failing to adopt the January 1, 2003 AQB criteria changes. The Commission and Division must address these issues to bring the Program into compliance with Title XI.

ASC staff will perform a follow-up review in approximately six months to verify the progress of the Commission and Division to implement the corrective actions discussed in this letter.

- **Missouri does not investigate and resolve complaints promptly.**

ASC Policy Statement 10 E, among other things, requires States to “ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.” Moreover, the Policy Statement provides that, “State agencies need to process complaints of appraiser misconduct or wrongdoing on a timely basis. Absent special documented circumstances, final State agency administrative decisions regarding complaints should occur within one year of the complaint filing date.”

Missouri’s complaint investigation and resolution program does not comply with this Policy Statement. We first noted that significant delays existed during our 2001 field review. Following our December 2001 field review letter, the Commission and Division implemented an electronic system to track each event in the complaint process in a database program called PROMO and created a Complaint/Anonymous Complaint Committee that would meet monthly to reduce the turnaround time for complaints not warranting full Commission review. Based on our 2004 field review, these two changes have not been adequate to offset the increasing number

and complexity of complaints. In fact, the situation has deteriorated. Following is a summary of complaint information from our 2001 and 2004 field reviews.

| Field Review | Complaints received in preceding 3 years | Complaints outstanding | Complaints outstanding more than 1 year |
|---------------------|---|-------------------------------|--|
| 2001 | 51 | 28 | 18 |
| 2004 | 240 | 98 | 50 |

It is also important to note that of the 50 complaints outstanding for more than one year at the time of our 2004 field review, 23 were more than two years old, and three were more than three years old.

To address this situation, the Commission and Division need to:

1. Develop and implement a plan to obtain the necessary resources to investigate and resolve complaints in a timely manner, as provided in ASC Policy Statement 10. Please provide us a copy of the plan within 90 days of receiving this letter;
2. Work with the Attorney General's office to identify policies and procedures that would reduce the time it takes the Attorney General's office to process appraiser complaint cases. This should include a prioritization of appraiser cases referred to the Attorney General, based on the seriousness of the identified violations. Please provide a copy of these policies and procedures to the ASC within 90 days of receiving this letter; and
3. Provide the ASC with quarterly complaint logs identifying each open complaint, the date it was received, and its current status.

- **Missouri accepts examinations that do not conform to AQB criteria.**

Missouri issues certified appraiser credentials based on examinations that fail to conform to AQB criteria, which specify that examination results are valid for not more than two years. Section 339.515 (3) of Missouri's appraiser regulatory statute ("Statute") provides that appraiser examination results are valid for three years. We brought this concern to your attention in our 2001 field review letter. In its January 15, 2002 response, the Commission pledged to introduce curative legislation in 2003. Based on our 2004 field review findings, curative legislation was not introduced in the State legislature. As a result, Missouri has issued certified appraiser credentials that fail to conform to AQB criteria and, therefore, do not comply with Title XI.

To address this situation, the Commission and Division need to:

1. Review their records regarding individuals issued certified credentials since July 1, 2000;
2. Within 30 days of receipt of this letter, determine whether the examination used to support the certified credential was passed more than 24 months prior to issuance of the credential;
3. Require all certified appraisers whose examinations failed to meet AQB criteria to successfully complete the appropriate examination within 90 days from the Commission's and Division's receipt of this letter;
4. Take the necessary steps to downgrade to the licensed level any certified appraiser who fails to successfully complete the appropriate examination within the 90-day period;

5. Initiate necessary amendments to State statutes, regulations, and/or Commission policies and implement the necessary procedures to ensure compliance with AQB criteria regarding examination validity; and
6. Refrain from issuing appraiser certifications that fail to conform to AQB criteria and Title XI.

- **Missouri's policy to accept affidavits in support of credential renewal is inconsistent with ASC Policy Statement 10.**

Missouri accepts affidavits attesting to continuing education from certified appraisers to support their credential renewals. ASC Policy Statement 10 provides that States, at a minimum, should have a reliable means of validating both the education and experience credit claimed for certification or licensing. It also states that the lack of routine verification procedures is both an invitation to potential fraud and a threat to the integrity of a State's appraiser regulatory program. Missouri does not have a reliable means of validating affidavits.

Until July 2004, the Commission employed an auditor to randomly audit on average 20 renewal applications each month - approximately 12% of Missouri appraisers during a two-year renewal cycle. The audits focused primarily on appraisers' appraisal reports and practices. The audit letter asked appraisers for such items as sample appraisal reports, the appraiser's stamp, and copies of his/her advertisements from newspapers and yellow pages. Since the auditor resigned in July 2004 and has not been replaced as of the date of our on-site visit, Missouri has not been auditing applications.

While there was no reference to continuing education documentation in the audit scope, ASC staff found that the audits performed in 2004 at least minimally meet Policy Statement 10's provisions regarding validation of education credits. From our review of file documentation, it appears that the auditor, in some fashion, reviewed the continuing education claims of appraisers. However, the auditor's method of validation is unknown. Each file contained a one-line statement by the auditor affirming the continuing education hours claimed or noting how many hours the appraiser was deficient. If found deficient, appraisers were required only to take the continuing education hours needed to make up the deficiency. Files indicating deficiencies included the certificate for the course or courses taken by the appraiser to make up the necessary hours. One file revealed that the auditor verified with the education provider that a course listed by an appraiser as a 14-hour course was, in fact, a three-hour course. In this case, the Commission did not take disciplinary action against the appraiser even though the appraiser appeared to have committed a fraud in filing the application.

To address this concern, the Commission and the Division need to:

1. Within 30 days of receipt of this letter, prepare a listing of all certified appraisers whose credentials were renewed effective June 30, 2004;
2. Within 90 days of receipt of this letter, audit the continuing education claims of at least ten percent of the identified appraisers;
3. Identify appraisers who failed to conform to AQB criteria, take appropriate disciplinary actions against those appraisers, including but not limited to a requirement to obtain the necessary education within a specified time period;

4. Downgrade to the licensed level any certified appraiser who fails to obtain the necessary education; and
 5. Comply with ASC Policy Statement 10's new part F, beginning January 1, 2005.
- **The provisions in Missouri's statute for granting a continuing education waiver and extension are not consistent with the AQB criteria.**

Section 339.519 of the Statute allows the Commission to waive continuing education requirements for retirees, disabled persons, or for any other cause. Section 339.525 (2) of the Statute allows the Commission to extend a certified appraiser's credential period for up to six months when the appraiser fails to meet renewal requirements "through mistake, misunderstanding, or circumstances beyond the appraiser's control." Discussions with the Commission and its attorneys also revealed that exemptions are made for military personnel.

AQB criteria do not authorize waivers or extensions for any reasons. During previous field reviews, we cautioned the Commission regarding this issue. Division staff assured us that these provisions were never exercised. Also, in our July 19, 2002 letter to Executive Director Roger Fitzwater commenting on draft statutory amendments, we commented on this statutory provision and the fact that AQB criteria did not authorize or recognize waivers or extensions.

During the current field review period, it appears that at least three certified general appraisers were granted continuing education waivers at least once, possibly twice. All appear to be practicing certified general appraisers and are listed on the National Registry. We could not determine whether the Commission granted relief to any appraiser for military service reasons.

To ensure that all certified appraisers meet AQB criteria, the Commission and Division need to:

1. Within 30 days of receipt of this letter, identify all certified appraisers granted continuing education waivers and/or extensions;
2. Within 60 days of receipt of this letter, contact each identified appraiser and request proof of continuing education hours necessary to conform to AQB criteria and Title XI for the June 30, 2004 renewal cycle;
3. Within 90 days of receipt of this letter, require any appraiser who failed to obtain the necessary education to obtain that education within 60 days;
4. Within 150 days of receipt of this letter, downgrade to the licensed level or inactivate the certificate of any appraiser who fails to respond or fails to obtain the necessary education; and
5. Initiate the necessary procedures to amend these portions of the Statute to comply with Title XI and AQB criteria.

- **Missouri's approval process for education courses needs to ensure that a course conforms to AQB criteria.**

During our field review, we identified three continuing education courses approved by the Commission that do not conform to AQB criteria. These were distance education courses that did not have the necessary approval for distance education courses. While this is a marked improvement from the ASC 2001 review where we identified 60 nonconforming courses, the Commission still needs to ensure that courses meet AQB criteria.

Going forward, the Commission needs to:

1. Within 30 days of receipt of this letter, determine whether each of the courses discussed during the field review conform to the distance education provisions in the AQB criteria;
2. Immediately revoke approval of any course determined not to conform to AQB criteria; and
3. Remain aware of AQB criteria and ensure that non-conforming courses are not approved in the future.

- **Missouri's statutes and regulations do not conform to 2003 AQB criteria changes.**

Missouri has not amended its Statute or regulations to adopt the January 1, 2003 AQB criteria changes. In practice, however, the Commission and Division have implemented these changes. Letters sent to all applicants and renewing appraisers specifically require adherence to the revised criteria, including the 15-hour National USPAP Course for initial applicants and the 7-hour National USPAP Update Course for renewing appraisers.

We encourage the Commission to initiate amendments to the Statute and/or its regulations to avoid conflicts between law and practice. Further, to avoid similar discrepancies in the future, we remind the Commission that it should begin to make the necessary statutory and regulatory changes to conform to the January 1, 2008 AQB criteria changes.

In addition, the provisions in Commission's regulations on distance education (4 CSR § 245-6.030) no longer conform to AQB criteria. On December 1, 2003, the AQB removed ACE/Credit from its authorized distance education approval process, effective April 1, 2004. The Commission needs to amend its regulations to remove this reference and to incorporate the International Distance Education Certification Center as the recognized body for approval of delivery mechanisms for distance education courses.

Please respond to our findings and recommendations within 60 days from the date of this letter or such other time as specified above. 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: Rodger L. Fitzwater, Executive Director