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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 20, 2007

Mr. Kraig Kosena, Chairperson
Board of Real Estate Appraisers
Department of Labor and Industry
- Business Standards Division
301 S Park, 4th Floor
Helena, MT 59620-0513

Dear Mr. Kosena:

Thank you for the Department of Labor and Industry, Business and Standards Divisions (“Department”) and the Board of Real Estate Appraisers’ (“Board”) cooperation and assistance during the March 5-6, 2007 Appraisal Subcommittee (“ASC”) review of Montana’s appraiser regulatory program (“Program”). Based on our review, Montana needs to address the one concern discussed below to bring its Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

- **The Board and Department do not have a reliable means of validating continuing education affidavits used by appraisers to support credential renewal applications.**

Under ASC Policy Statement 10 F., State agencies can accept education-related affidavits from appraisers for credential renewal. State agencies, however, must establish a reliable means of validating those affidavits, *e.g.*, selecting a representative sample of the renewing appraiser population and auditing each selected appraiser’s continuing education claims.

While on-site, ASC staff discovered that the Board failed to conduct continuing education audits during the 2005 and 2006 renewal cycles. File documentation indicated that an audit might have been started for the 2004 cycle, but Department staff did not recall performing that audit. Other than a listing with some notations regarding 47 appraisers, Department staff was unable to locate any documentation supporting that the audit was completed.

During an on-site meeting with ASC staff, the Board and Department staff agreed to conduct, consistent with ASC Policy Statement 10 F., continuing education audits of appraisers who renewed their credentials during the 2005 and 2006 renewal cycles. The State also agreed to perform an audit of appraisers who renewed their credentials during the 2004 renewal cycle, if sufficient documentation could not be located to indicate that an audit had been completed. If documentation were found, the Board and staff agreed to provide a spreadsheet on the audit results to the ASC and keep all supporting audit documentation for the ASC’s examination during our next field review.

To address this concern, the Board and Department need to take the following actions:

1. Within 30 days of receiving our field review letter, prepare a listing of all appraisers whose credentials were renewed during the 2004, 2005, and 2006 renewal cycles;

2. Within 60 days of receiving this letter, audit the continuing education claims of at least ten percent of the appraisers identified in step 1;
3. Identify appraisers who failed to conform to AQB criteria and determine whether the appraiser's failure resulted from a good faith mistake on the appraiser's part, or whether the appraiser knowingly misrepresented his or her eligibility for renewal. Intentional falsification of a government document (*e.g.*, appraiser credential renewal application) is a serious matter that calls into question the individual's ethics, a core requirement for impartial appraisal practice. Should any instances of intentional falsification be determined, we expect the State to take appropriate disciplinary action;
4. For appraisers identified in step 3 whose failure to conform to AQB criteria resulted from a good faith mistake on the appraiser's part, notify each appraiser that he/she has 60 days in which to make up the continuing education deficiency, and take disciplinary action as the State determines appropriate. Continuing education taken for this purpose cannot be counted to subsequent continuing education cycles.
 - a. For certified appraisers who do not obtain the necessary education within the 60-day period, immediately begin the necessary steps to downgrade the appraisers to non-certified classifications. Alternatively, the Board could recall existing certifications and over stamp 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";
 - b. For licensed appraisers who do not obtain the necessary education within the 60-day period, immediately notify ASC staff of the appraisers' names and credential numbers. The appraisers' National Registry records will be updated to reflect that the appraisers are not AQB-compliant;
5. For appraisers identified in step 3 whose failure to conform to AQB criteria resulted from intentional falsification, immediately initiate disciplinary actions appropriate to the seriousness of this violation;
6. Provide a spreadsheet detailing the status of each appraiser identified in step 1 to ASC staff within 90 days of receiving this field review letter; and
7. Amend the Board's and Department's credential renewal procedures to ensure compliance with ASC Policy Statement 10 F.

Please respond to our findings and recommendations within 60 days from the date of this letter, unless otherwise specified above. 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.

Please contact us if you have any questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Grace Berger, Executive Officer
Barbara McAlmond, Program Manager