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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 18, 2004

Mr. John Howden, Chairperson  
New Mexico Real Estate Appraisers Board  
2550 Cerrillos Road  
Santa Fe, NM 87505

Dear Mr. Howden:

Thank you for the cooperation and assistance of the New Mexico Real Estate Appraisers Board (“Board”) and Regulation and Licensing Department (“Department”) staff in the September 14-15, 2004 Appraisal Subcommittee (“ASC”) review of New Mexico’s appraiser regulatory program (“Program”).

While New Mexico’s Program has improved since the previous field review, the Program continues to have weaknesses that keep it from substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”) and ASC Policy Statements. The State has made important progress in the past three years to address concerns identified in our August 22, 2001 field review letter. During our current review, however, we identified several concerns that need to be addressed, including two that were noted in that 2001 field review letter. New Mexico needs to resolve the concerns discussed below to bring the Program into compliance with Title XI.

- **New Mexico does not offer an easy extension to temporary practice permit holders.**

New Mexico issues temporary practice permits in a timely manner and in accordance with ASC Policy Statement 5, with one exception. Policy Statement 5 requires States to provide temporary practitioners with an effortless method to obtain an extension. New Mexico does not provide for extensions. When we noted this concern in our 2001 field review, Department staff told us that they would consider extension requests informally on a case-by-case basis. At that time, we did not see any indication that appraisers were requesting, and being denied, extensions. During the current review, however, Department staff told us that a few appraisers inquired about receiving an extension and were advised that they would need to obtain another temporary practice permit.

The Board and Department need to initiate the necessary actions as soon as possible to make its statute, regulations, and/or practices consistent with ASC Policy Statement 5’s extension requirement. Within 60 days from the date of this letter, please provide us your plan and timeline for curing this longstanding concern.

- **New Mexico failed to submit accurate appraiser records to the ASC for inclusion in the National Registry of State Certified and Licensed Appraisers.**

While New Mexico corrected the reporting deficiencies identified in our 2001 field review, the State submitted inaccurate data to the National Registry again in 2004. The current inaccuracies appear to have resulted from a computer glitch that surfaced after the Department

relocated its offices in May 2004. It appears that an old database file was reintroduced into the computer system. Numerous records were affected because it occurred shortly after the State's April 30, 2004 credential renewal period.

ASC staff has worked with Department staff to review New Mexico appraiser records to identify these discrepancies, including inaccurate credential types and credential numbers that created duplicate records on the National Registry. Our review confirmed that 62 appraisers who opted to be on the National Registry were not reported to the ASC. We also identified 23 records with inaccurate expiration dates. ASC staff will continue to work with Department staff to correct these inaccuracies and the reporting of information to the National Registry.

During the ASC on-site review, we also identified two appraisers where the file documentation indicated that the State issued the wrong type of credential. In one case, the appraiser applied for, and was approved as, a Licensed appraiser, and is listed as Licensed on the National Registry. The copy of the credential in the appraiser's file, however, indicated that the State granted a certified residential credential to the individual. In the other case, the appraiser submitted a renewal form expressly stating a preference not to be included on the National Registry. The copy of the credential in the appraiser's file, however, was over stamped with the words "eligible to do work for federally related transactions." If an appraiser is not listed on the Registry, the appraiser is not eligible to appraise a property for a federally related transaction. These two cases suggest that the Department should strengthen its control process for issuing credentials.

The Department and Board need to:

1. Complete corrections of all inaccuracies identified during and after the field review to ensure that the New Mexico data is correctly reported on the Registry;
  2. Correct, if necessary, the credentials for the two identified appraisers; and
  3. Ensure that, in the future, appraisers are issued appropriate credentials and are reported correctly to the National Registry.
- **New Mexico approved distance education courses that failed to conform to the Appraiser Qualifications Board ("AQB") criteria.**

During the previous field review, we identified seven distance education courses that were inconsistent with AQB criteria. The Board rescinded its approval of those courses. During the current review, we again identified several Board-approved distance education courses that failed to comply with AQB criteria because the courses were not offered by accredited colleges or universities or their delivery methodologies were not approved by the International Distance Education Certification Center.

To rectify this recurring situation, the Board needs to:

1. Identify each distance education course that does not conform to the AQB's distance education course criteria for certified appraisers and rescind their approvals; and
2. Become knowledgeable regarding AQB criteria and ensure that, in the future, only education courses conforming to AQB criteria are approved for certified appraisers.

- **New Mexico is not investigating and resolving all complaints in a timely manner.**

ASC Policy Statement 10 encourages the disposition of enforcement matters within one year of receipt. During our field review, we noted 13 cases that have been in process for more than a year. While this reflects progress since our 2001 review, additional work still is needed. It appears that the Board referred these 13 cases and 19 others to the Attorney General's office for disposition. The Attorney General's office, however, appears not to have brought these cases to resolution. Several factors appear to have been instrumental in the failure to bring these cases to closure. These factors include prolonged settlement negotiations that go on for months or years and cases where an appraiser requests and is granted a continuance beyond the original hearing date with no new hearing date set. Consequently, these cases remain indefinitely in limbo.

While on site, ASC staff met with Assistant Attorney General Frank Weisbarth and Department Superintendent Jaramillo. Both agreed that this area needed improvement and agreed to provide date-certain continuances in the future and to try to improve the settlement negotiation process.

To resolve this weakness, the Board and Department need to work with the Attorney General's office to identify policies and procedures that will reduce the timeframe 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 from the date of this letter.

- **The Department needs to develop and employ a reporting system to the ASC regarding the disciplinary actions taken by the Board.**

ASC Policy Statement 9, Information Sharing, requires States to report expeditiously to the ASC any disciplinary action taken against an appraiser. This information must be submitted with the State's monthly, or more frequent, data submission. For the most serious disciplinary actions, *i.e.*, suspensions and revocations, the ASC strongly encourages States to immediately report disciplinary actions to the ASC.

During the current field review, we found that the New Mexico had not reported disciplinary actions to the ASC since January 2003. These non-reported actions included two revocations. Department staff conceded that the Department did not have a system to routinely provide the ASC with disciplinary information. This concern was noted previously to the Board in the ASC's 2001 field review letter.

When informed of this concern by our staff during the on-site visit, the Administrator immediately provided our staff with information concerning disciplinary actions taken to date. We understand that, in the future, the Board Administrator, following each Board meeting, will email or send a memorandum to the ASC identifying disciplinary actions taken.

- **The Board needs to make a housekeeping amendment to its regulations to reflect a change in AQB criteria.**

The Board's regulations need to be amended to reflect a change in AQB criteria. Effective April 1, 2004, the AQB removed ACE/Credit from its authorized distance education approval process and added the International Distance Education Certification Center. Please provide us with your timeline to accomplish prompt adoption of these amendments.

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