



## ARIZONA BOARD OF APPRAISAL

1400 West Washington, Suite 360  
Phoenix, Arizona 85007  
(602) 542-1539 FAX (602) 542-1598  
e-mail: appraisal@appraisal.state.az.us  
Web Site: www.appraisal.state.az.us

MAY 20 2008

May 16, 2008

Appraisal Subcommittee  
2000 K Street NW, Suite 310  
Washington, DC 20006

Re: Proposed Amendments to ASC Policy Statement 10 G

Gentlemen:

The Arizona Board of Appraisal applauds the Appraisal Subcommittee for revisiting ASC Policy Statement 10 G which was adopted August 9, 2007, and thanks the ASC for the opportunity to comment to new proposed amendments to ASC Policy Statement 10 G.

The Board has reviewed the proposed ASC Policy Statement 10 G which will become effective on October 1, 2008. The proposed policy statement clarifies the process for validation of qualifying experience and proper use of experience logs to be used by States in their determination of whether an applicant is capable of performing USPAP-compliant work under Title XI and the AQB's certification criteria. The proposed policy statement clarifies how states are to measure experience hours and time periods to meet the AQB criteria.

The proposed amendments are supported.

Sincerely,

  
Deborah G. Pearson  
Executive Director



**GEORGIA  
REAL ESTATE  
APPRAISERS BOARD**

Suite 1000  
International Tower  
229 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1605  
404-656-3916 Voice  
404-656-6650 Fax  
Internet www.greab.state.ga.us  
E-mail jledford@grec.state.ga.us

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Real Estate Commissioner

May 29, 2008

JUN 03 2008

Hon. Virginia Gibbs  
Chairman  
The Appraisal Subcommittee  
2000 K Street – Suite 310  
Washington DC 20006

RE: Proposed Revision to Policy Statement 10G

Dear Ms. Gibbs

In revisiting Policy Statement 10 G, the Appraisal Subcommittee should carefully consider that the proposed revisions will hinder future enforcement actions by the states. Additionally, the Subcommittee should consider experience validation alternatives that will preserve the ability of the regulating state to pursue future enforcement actions.

It is clear that certification of USPAP compliance and verification of work itemized on experience logs is essential. However, mandating a stratified sampling for review of all experience logs will bring serious consequences in the realm of future enforcement.

Subsection 1. of Policy Statement 10 G currently provides that “[s]tates, in some reliable manner, must validate that the experience listed on the log actually exists.” The proposed revision retains the phrase “some reliable manner” but inserts a paragraph that requires all states to employ stratified sampling based on the classification sought. Furthermore, the new paragraph would require that the state perform a review of the applicant’s work product, assumably for verification against the log.

Subsection 2. of Policy Statement 10 G currently provides that all appraisal experience listed on the log must be USPAP compliant. While this subsection provides a suggestion to the states for a “reasonable approach” to making the determination, it does not currently mandate that the state perform the review of the applicants work product. Thus,

the manner in which the review is conducted is left to the discretion of the state regulatory body.

The Georgia Real Estate Appraisers Board has built upon Policy Statement 10 G, and further placed a requirement on the supervising appraiser to review the work product of the applicant to both verify the work performed and certify that it is USPAP compliant. This verification and certification is documented in a required written agreement for each assignment; the original agreement must be retained in the work file and a copy is provided to the state.

The current "reasonable approach" employed in Georgia not only places full responsibility on the supervisor for the appraisal work of the applicant, but also for the review of that work ensuring and certifying the USPAP compliance of the work. Should any of the appraisal work referenced in the log become subject to an enforcement action, both the applicant appraiser and the supervising appraiser would be held accountable for both the work performed and the log submitted.

Under the proposal, the state regulatory agency would be required to perform the review of the selected appraisal work from the log. Subsequent to the review, the agency would be required to deem the work as compliant, or not. Thus, the agency would place a ruling or finding of fact that the appraisal work selected is compliant with standards (USPAP compliant) before granting a classification.

Having made a final ruling as to the standards being met, the agency cannot revisit that report without being met with a res judicata defense preventing enforcement action. Thus, should a future request for investigation be received by the agency regarding the previously ruled upon appraisal report, the agency could not have a finding any different from its original finding.

Furthermore, if the request for investigation pertained to another appraisal report listed on the log, but not specifically reviewed, the agency could encounter a collateral estoppel defense preventing enforcement action. In order to approve the original log, the agency

Page 3  
Virginia Gibbs  
May 29, 2008

would have to deem the work cited in the log, based on a sampling reviewed, as compliant with standards. Thus, despite the cause of action being a different appraisal report, having been included on a log deemed to be compliant through a ruling of the agency, a legitimate claim of collateral estoppel could be raised.

Before any revision is adopted, the Subcommittee should consider the negative impact on future enforcement it would create with the current language. Consideration should be given to the continued flexibility of meeting the verification and certification that currently exists so that the states, as Georgia currently does, may employ techniques that go beyond the current criteria and increase the strength of future enforcement.

For the Board

  
Jeffrey T. Ledford  
Real Estate Commissioner



JOHN ELIAS BALDACC  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BOARD OF REAL ESTATE APPRAISERS  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0035

ANNE L. HEAD  
DIRECTOR

May 9, 2008

Virginia Gibbs, Chairman  
Appraisal Subcommittee  
2000 K Street NW  
Suite 310  
Washington, DC 20006

Re: Proposed Amendments to ASC Policy Statement 10

Dear Chairman Gibbs:

This letter responds to the request for comments to the proposed amendments to Policy Statement 10.

On behalf of the Maine Board of Real Estate Appraisers, I offer a comment regarding the "Supporting Documentation" section of the proposal, specifically, the statement that "a State needs to maintain adequate documentation to support its validation method." It is unclear whether the documentation refers to the process adopted by the board to validate experience, which would include copies of the log, any correspondence, and copies of board minutes, for example, or it means the appraisals submitted for review. The process adopted by the Maine board requires applicants for a certified-level license to submit copies of 4 appraisals selected by board staff for review. After review, if the applicant's experience is deemed to be in compliance the applicant is notified and the copies of the 4 appraisals are either returned to the applicant or destroyed. If the applicant's experience is not approved, the applicant is given an opportunity to appeal the denial to the board at a hearing. Should a hearing be conducted, the copies of the appraisals submitted for review become hearing exhibits and are maintained as part of the hearing record.

It is burdensome and unnecessary to require State's to keep copies of appraisals for applicants who have either been approved for licensure or denied but did not appeal the denial. First, in Maine all state records are subject to the record retention schedule approved by the State Archivist. Second, USPAP requires appraisers to

PHONE: (207)624-8520

  
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(888) 577-6690 (HEARING IMPAIRED)

FAX: (207)624-8637

OFFICES LOCATED AT:  
122 NORTHERN AVENUE, GARDINER, MAINE 04345

**MAY 15 2008**

retain the workfile, including reports, for a period of at least five (5) years after preparation. If, for some reason, it should become necessary during a field review for an employee of the ASC to review a copy of the appraisal for candidates either approved for licensure or denied but no appeal followed, the appraisal would be available from the candidate.

Thank you.

Sincerely,

Carol J. Leighton  
Administrator



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
DIVISION OF LICENSING SERVICES  
ALFRED E. SMITH STATE OFFICE BUILDING  
80 SOUTH SWAN STREET  
PO BOX 22001  
ALBANY, NY 12201-2001

DAVID A. PATERSON  
GOVERNOR

LORRAINE A. CORTÉS-VÁZQUEZ  
SECRETARY OF STATE

April 29, 2008

VIA: FACSIMILE ONLY (202-293-6251)

Virginia Gibbs, Chairman  
Appraisal Subcommittee  
2000 K Street, N.W., Suite 310  
Washington, DC 20006

Re: Proposed Amendments to ASC Policy Statement 10

Dear Ms. Gibbs:

I am writing in response to your correspondence dated April 11, 2008 regarding proposed amendments to ASC Policy Statement 10. If adopted, ASC Policy Statement 10 would require States to review a representative sample of an applicant's work product based on the types of assignments included on the applicant's experience log. While the Policy Statement permits States to use discretion to establish the procedures for the selection of the sample appraisals and the appropriate size of each sample, the Policy Statement appears to require a review of every appraiser application.

New York, like many States, is in the midst of difficult financial times. State agencies continue to be stressed by funding cuts and the addition of new programs without the commensurate allocation of new resources. Currently, the NYS Department of State, Division of Licensing Services has only one staff person designated to audit appraiser applications. This staff member is also responsible for auditing applications for real estate professionals, cosmetologists, private investigators and watch, guard and patrol agencies. It is highly unlikely that new resources will be allocated due to the adoption of the proposed Policy Statement.

New York currently audits random appraiser applications for experience. This procedure has worked well. I am aware of only one complaint in the past three years where it was alleged that an appraiser was able to obtain a license without the necessary experience and am unaware of any administrative hearing determinations where it was found that USPAP violations were the result of an appraiser's lack of required qualifying experience.

Virginia Gibbs, Chairman  
April 29, 2008  
Page 2 of 2

It is respectfully requested that the ASC reconsider proposed Policy Statement 10 and revise the same so as to permit States to audit random samples of appraiser applications for experience.

Thank you for the opportunity to comment.

Very truly yours,

Whitney A. Clark  
Associate Attorney



## NORTH CAROLINA APPRAISAL BOARD

5830 SIX FORKS ROAD

RALEIGH, N.C. 27609

Telephone: 919/870-4854

Facsimile: 919/870-4859

Website: [www.ncappraisalboard.org](http://www.ncappraisalboard.org)

May 6, 2008

Ms. Virginia Gibbs  
Chairman  
Appraisal Subcommittee  
2000 K Street  
Suite 310  
Washington, DC 2006

Dear Appraisal Subcommittee,

The North Carolina Appraisal Board thanks you for giving us the opportunity to comment concerning the proposed amendments to ASC Policy Statement 10.

When the ASC adopted Policy Statement 10G in August of 2007 it surprised us and many other jurisdictions that states were being required to review samples of an applicant's residential work for the certified general classification. It is becoming more prevalent that applicants for the certified general classification do not begin their careers as residential appraisers. The new AQB 2008 criteria for education will also require that individuals in the future take a residential or general tract of courses unlike the pre2008 requirements. We are very appreciative that the Appraisal Subcommittee agreed to amend item one, the validation of qualifying experience and proper use of experience logs.

The amended wording under item one is well expressed and requires that states review a representative sample of the applicant's work product. The North Carolina Board agrees with this wording as it gives us the authority to place additional requirements on applicants such as requiring a variety of work for different levels of certification.

The change in information under item number three is consistent with the addition you made to item number one and we agree with this change. Item three should only address experience hours and time periods. Your additions make it clear that all jurisdictions must comply with AQB criteria.

The proposed amendments to policy statement 10 do not address supporting documentation which is the last paragraph of this document. This issue came up at a recent national meeting and there appeared to be some different opinions of your policy managers concerning what documentation is required. One manager indicated that copies of actual appraisal reports should be retained for the two year period between reviews. This is not feasible in North Carolina and most other states due to the liability of disclosing confidential information. Any and all documents we retain become public documents that we must allow anyone to view and receive copies. Therefore we would be required to give out copies of appraisal reports that are retained to support our documentation and would become liable for disclosing potential confidential information. I request that you review this policy and not make it a requirement that copies of appraisal reports be retained.

The North Carolina Board prides itself on being a leader in the regulatory community and we also enjoy our excellent relationship with the Subcommittee and its professional staff.

Sincerely,

Philip W. Humphries  
Executive Director

cc: Vicki Ledbetter



# OKLAHOMA REAL ESTATE APPRAISER BOARD

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May 5, 2008

The Appraisal Subcommittee, FFIEC  
Attn: Virginia Gibbs  
2000 K Street, Northwest, Suite 310  
Washington, DC 20006

Dear Ms. Gibbs:

Thank you for the opportunity to respond to the proposed revisions relating to your Policy Statement 10 G. The Oklahoma Real Estate Appraiser Board agrees with the ASC as to the concerns delineated in the "Feedback on ASC Policy Statement 10 G" section of your letter of transmittal.

The proposed revision to Policy Statement 10 G 1 appears to adequately address some very serious issues that have been raised, with particular regard to direction contained in the deleted paragraph in Policy Statement 10 G 3. It will be very helpful to be able to understand exactly what is to be required of our process.

With respect to the deleted portion of Statement 10 G 3, again the Board believes that this is most appropriate. The added language is probably not necessary, it would appear that it is pretty well understood that the standard for experience review is the Appraiser Qualification Criteria. At the same time, making reference to the Criteria certainly does not detract, and does not appear objectionable in any way.

Accordingly, the Oklahoma Real Estate Appraiser Board would support the changes as they have been set forth by the Subcommittee. If there are questions, or if you would require assistance, please contact the Board's Director at your convenience.

Very truly yours,

  
**GEORGE R. STIRMAN III**, Director  
Real Estate Appraiser Board

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