

# APPRAISAL SUBCOMMITTEE

*Federal Financial Institutions Examination Council*

ANNUAL  
REPORT  
1996

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*Federal Financial Institutions Examination Council*

## ANNUAL REPORT 1996

*2100 Pennsylvania Avenue, N.W., Suite 200; Washington, D.C. 20037*

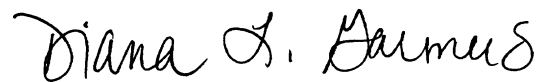
## Letter of Transmittal

January 31, 1997

The President of the Senate  
The Speaker of the House of Representatives

Pursuant to Section 1103 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3332), I am pleased to submit the 1996 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Sincerely,

A handwritten signature in black ink that reads "Diana L. Garmus". The signature is written in a cursive style with a large, stylized initial "D".

Diana L. Garmus  
Chairperson

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## The Appraisal Subcommittee - An Introduction

The Appraisal Subcommittee (“ASC”) of the Federal Financial Institutions Examination Council (“FFIEC”) was created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.” In general, the ASC monitors the real estate appraisal process as it relates to federally related transactions, as defined in Section 1121(4) of Title XI. The ASC is a FFIEC subcommittee. The FFIEC was established pursuant to Title X of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 as an interagency body empowered to prescribe uniform principles for the Federal examination of regulated financial institutions.

The ASC has six members, each designated respectively by the heads of the Office of the Comptroller of the Currency (“OCC”), the Board of Governors of the Federal Reserve System (“FRB”), the Federal Deposit Insurance Corporation (“FDIC”), the Office of Thrift Supervision (“OTS”), the National Credit Union Administration (“NCUA”), collectively, the Federal financial institutions regulatory agencies

(“Agencies”), and the U.S. Department of Housing and Urban Development (“HUD”). Section 1103 of Title XI sets out the ASC’s general responsibilities:

- Monitor the requirements established by the States, territories and the District of Columbia (“States”) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility. The ASC reviews each State’s appraiser regulatory agency (“State agency”) to determine its compliance with Title XI’s requirements and is authorized by Title XI to take action against non-complying States;
- Monitor the requirements established by the Agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State licensed or State certified appraisers;
- Maintain a national registry of State licensed and certified appraisers (“Registry”) who may perform appraisals in connection with federally related transactions;
- Monitor and review the practices, procedures, activities and organizational structure of the Appraisal Foundation (“Foundation”); and
- Transmit an annual report to Congress regarding the activities of the ASC during the preceding year.

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## Message from the Chairperson

In 1996, the national scheme of appraisal regulation envisioned by Title XI marked its fourth year of full operation, with related Federal and State regulatory programs working to fulfill Title XI's purposes. Contributing to this progress were the actions taken by the ASC, the State agencies, the Foundation, including its Appraiser Qualifications Board ("AQB" or "Qualifications Board") and Appraisal Standards Board ("ASB" or "Standards Board"), and the Agencies and HUD.

The ASC's expenses for the fiscal year ("FY") ending September 30, 1996, were \$1,405,000. This amount included \$505,000 in grant payments to the Foundation. Since the ASC's inception in 1989 to June 1994 (when the ASC began operating on fees received from State certified and licensed appraisers), the ASC used \$4,976,118 of its one-time, \$5 million "start-up" appropriation. The outstanding balance of the Treasury advance, on September 30, 1996, was \$3,000,000. (The ASC, at its September 1996 meeting voted to repay Treasury \$1.5 million. The transfer, however, was not effected until early FY 1997.) The ASC must repay the advance by September 30, 1998, under new Section 1108(c) of Title XI. The ASC's FY 1996 audited financial statements are presented in Appendix A.

The ASC continued to receive Registry submissions from all 50 States, plus the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands and Puerto Rico. At year-end, the Registry contained over 87,000 entries pertaining to more than 80,000 individual appraisers. During FY 1996, the ASC received Registry fees totaling \$2,185,000.

As in 1995, the ASC sent State agencies an off-site survey form entitled, *Annual Survey of State Appraiser Regulatory Agencies* ("Annual Survey"), to augment the ongoing field review process. The Annual Survey's purpose is to provide the ASC with a synopsis of each State's appraiser program activities as of the beginning of the calendar year

and to update the ASC on State activities since the last on-site review. Annual Surveys also are used to help determine the priority of future on-site field reviews. The Annual Survey consists of two parts. The first part contains a questionnaire requesting specific data about the operation of a State's appraiser regulatory program. This part was sent to every State agency, and the ASC received responses from all States. The second part of the Annual Survey requests supplemental information in narrative form. This part is not sent to each State annually; the ASC selects a number of States throughout the year to receive it.

During 1996, the ASC began its second cycle of on-site reviews of State agencies, with ASC staff visiting ten States. The focus of this review cycle has been different than the first cycle. The first cycle concentrated on whether States had an appropriate statutory, regulatory and organizational framework to implement Title XI. The second cycle has been focused primarily on how the State is enforcing compliance with Title XI.

The ASC continued to find States in substantial compliance with the intent of Title XI. The ASC's August 1993 *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* continued to contribute to greater consistency in the implementation and interpretation of Title XI. And, all States continued to have laws in place requiring applicants to meet at least the Qualifications Board-established minimum qualification criteria for certified appraisers and to pass a Qualifications Board-approved certification examination.

On October 21, 1996, the ASC published for public comment in the *Federal Register* a proposed *Policy Statement Respecting Temporary Practice and Reciprocity* ("Proposal"), which, if adopted, would implement Section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 ("CDRIA"). See 61 FR 54645. Section 315 added new language to Section 1122 of Title XI requiring a "State appraiser certifying or

licensing agency ... not [to] impose excessive fees or burdensome requirements, as determined by the [ASC], for temporary practice ..." and requiring "[t]he [ASC to] encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States." The Proposal was developed from the ASC's release of September 12, 1995 (60 FR 47365), requesting public comment on how the ASC should implement Section 315 of CDRIA.

The Proposal, among other things, stated that the ASC may consider the following fees, acts and practices of a State of temporary practice to be "excessive fees" or "burdensome requirements":

- Prohibiting temporary practice;
- Requiring temporary practitioners to obtain a permanent certification or license in the State of temporary practice;
- Taking more than five business days to issue a temporary practice permit (if issuance is required under State law) or failing to provide effective notice to the out-of-State appraiser regarding his or her temporary practice request;
- Requiring out-of-State appraisers requesting temporary practice to satisfy the host State's appraiser qualification requirements for certification which exceed the minimum required criteria for certification adopted by the Appraiser Qualifications Board ("AQB");
- Imposing a time frame on out-of-State certified appraisers to complete an appraisal assignment in a federally related transaction;
- Limiting out-of-State certified appraisers to a single temporary practice permit per calendar year;
- Requiring temporary practitioners to affiliate with an in-State certified or licensed appraiser;
- Failing to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State; and
- Charging temporary practice fees that impede

temporary practice. The ASC will consider fees of \$150 or less as reasonable. The ASC may ask State agencies to justify temporary practice fees.

The ASC also stated that it may consider certain fees, acts and practices of a certified or licensed appraiser's home State to be "excessive fees" or "burdensome requirements" if they impede the appraiser's ability to obtain a temporary practice permit in another State.

Regarding reciprocity, the ASC noted that each State should work expeditiously and conscientiously with other States with a view toward satisfying the purposes of the new language. The ASC stated its intention to monitor each State's progress and encourage States to work out issues and difficulties whenever appropriate. The ASC also specifically encouraged States to enter into reciprocal agreements that, at a minimum, contain the following features:

- Accomplish reciprocity with at least all contiguous States. For States not sharing geographically contiguous borders with any other State, such as Alaska and Puerto Rico, those States should enter into reciprocity agreements with States that certify or license appraisers who perform a significant number of appraisals in the non-contiguous States;
- Eliminate the use of letters of good standing or similar documents;
- Readily accept other States' certifications and licenses without reexamining applicants' underlying education and experience, provided that the other State: (1) has appraiser qualification criteria that meet the minimum standards for certification and licensure as adopted by the AQB; and (2) uses appraiser certification or licensing examinations that are AQB endorsed;
- Eliminate retesting, provided that the applicant has passed the appropriate AQB-endorsed appraiser certification and licensing examinations in the appraiser's home State;
- Recognize and accept successfully completed

continuing education courses taken to qualify for license or certification renewal in the appraiser's home State; and

- Establish reciprocal licensing or certification fees identical in amount to the corresponding fees for home State appraisers.

Twenty-four comments were received. At year-end, the ASC was analyzing the comments and planned to adopt a final *Policy Statement Regarding Temporary Practice and Reciprocity* during the first half of 1997.

The ASC began a major initiative to make the Registry current, accessible and easy to use. The ASC intends to use Internet technology to provide current information regarding State certified and licensed appraisers at no cost to appraisers, users of appraisal services, Federal and State agencies and the public. When completed, the Registry, among other things, should facilitate temporary practice and reciprocity, assist State agencies in enforcing their appraiser-related statutes and regulations and enable users of appraiser services to easily identify certified or licensed appraisers.

The ASC continued to monitor and review the activities of the Foundation and to fund the portions of its expenses that relate to the Title XI related activities of the Standards Board, the Qualifications Board and the membership activities of its Board of Trustees. The ASC approved a calendar year 1997 grant of \$577,065 to the Foundation in support of the activities

of its board of directors and the Standards and Qualifications Boards.

The ASC continued to work closely with the Agencies as part of its ongoing responsibility to monitor the requirements established by the Agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of a State licensed or State certified appraiser.

As discussed in last year's Annual Report, Congress was considering a bill that would have abolished or consolidated the ASC. In 1996, Congress did not adopt it. New legislation, however, added paragraph (c) to Section 1108 of Title XI, 12 U.S.C. 3337(c), which requires the ASC to repay Treasury the unpaid portion of the \$5 million "start-up" funds by September 30, 1998.

Finally, the ASC's Treasury related financial accounting, travel services and Federal grant administration services were shifted from the Department of Housing and Urban Development to the General Services Administration.

During 1997, the ASC plans to finish implementing the temporary practice and reciprocity provisions of CDRIA. It also will continue to supervise the activities of State agencies through its off- and on-site monitoring program and to oversee the Foundation and its activities through the grant administration process and participation in Foundation events.

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## Administration of the ASC

ASC meetings are held monthly. The ASC has a full-time, professional staff of seven employees in its administrative offices. The organization and responsibilities of the ASC's staff follow:

- *Executive Director*—Responsible for formulating, implementing and evaluating policies, procedures and programs for carrying out the day-to-day operations of the ASC. Responsible for the Registry and for providing financial and facilities management, personnel and payroll, procurement and contracting, and government technical representative services to the ASC and staff. Responsible for managing the analysis of Federal and State appraisal requirements, formulation of guidelines, development of analytical projects needed to achieve the goals of Title XI and for ASC field reviews of State appraiser regulatory programs to determine compliance with Title XI.
- *Associate Director for Policy and Programs*—Assists in policy oversight and program analysis, development and implementation of Title XI. Monitors the requirements and standards developed by the States for certification and licensing of individuals qualified to perform appraisals in connection with federally related transactions. Maintains liaison with the Appraisal Foundation, appraisal organizations and Federal regulatory agencies. Prepares the program's fiscal year budget and operating plan and provides cost estimates for projected program activities.
- *General Counsel*—Responsible for the ASC's professional legal work. Serves as legal advisor to the ASC, its Executive Director and the ASC staff, and renders legal advice with regard to statutes and other laws relating to

the regulation of the appraisal industry and ASC operations.

ASC members and their terms of service during 1996 were:

- Chairperson, Diana L. Garmus, Director for Corporate Activities, OTS, September 1990 to present;
- Member, Rhoger H Pugh, Assistant Director, Division of Banking Supervision and Regulation, FRB, November 1992 to present;
- Member, Robert F. Mialovich, Associate Director, Office of Policy, Division of Supervision, FDIC, November 1989 to April 1996;
- Member, Cary H. Hiner, Assistant Director, Office of Policy, Division of Supervision, FDIC, May 1996 to present;
- Member, P. Michael Yuenger, National Bank Examiner, OCC, April 1994 to present;
- Member, Herbert S. Yolles, Director, Division of Risk Management, NCUA, July 1994 to present; and
- Member, Mark W. Holman, Acting Branch Chief, Mortgage Underwriting Insurance Branch, HUD, April 1995 to present.

The Appraisal Subcommittee staff were:

- Edwin W. Baker, Executive Director, April 1991 to May 1996;
- Ben Henson, Executive Director, September 1996 to present;
- Ronald W. Peppe, Associate Director for Policy and Programs;
- Marc L. Weinberg, General Counsel;
- Vicki A. Ledbetter, Appraisal Policy Manager;
- Linda K. Matthias, Appraisal Policy Manager;
- Lori L. Schuster, Administrative Officer; and
- Ray M. Seward, Information Management Specialist.

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# Monitoring State Appraiser Regulatory Agencies

In addition to informal methods of obtaining information about State agency compliance with Title XI, such as telephone contacts and attending industry meetings, we use two complementary tools, the on-site field review and the off-site review of Annual Survey information, to monitor each State agency's compliance with Title XI.

## On-site Field Reviews

Each field review assesses every facet of a State's appraiser regulatory program. Reviews usually are scheduled to coincide with a meeting of the State agency's decisionmaking body and are conducted over two or three days. The staff reports its findings and recommendations to the ASC, and the ASC ordinarily issues a comment letter to the State agency. Further efforts to reconcile compliance issues occur, as necessary.

In 1996, the ASC began its second series of on-site field reviews. The ASC plans to have this second cycle completed in three years. Field reviews were completed for Arizona, Connecticut, the District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, Nevada, North Carolina and Pennsylvania. The ASC selected States for field reviews using several factors, including: the date of the State's previous field review; information received in the previous Annual Survey; written and telephone complaints; Registry problems; inequitable approvals of education courses; enforcement issues; temporary practice concerns; and reciprocity issues.

The ASC continued to find States in overall compliance with the intent of Title XI. Numerous specific instances of noncompliance were identified. The ASC documented the problem areas, discussed them with the States, made recommendations and obtained agreements for correction and followed-up to ensure implementation. Changes resulting from these on-site field

reviews continued to improve State appraiser regulatory programs. The most widespread areas of concern related to: (1) obstacles to temporary practice and reciprocity; (2) the uneven enforcement of USPAP; (3) outdated, specific USPAP references in State statutes and regulations; (4) State agency resources insufficient to perform Title XI-related duties; and (5) Registry reconciliation difficulties. For the most part, these and other issues have been resolved or are in the process of being resolved.

## Off-site Surveillance

In addition to on-site field reviews, the ASC monitors State appraiser regulatory programs by reviewing each State's responses to the Annual Survey. Several modifications were made to the Annual Survey to collect additional information, including:

- Exemptions permitted under State law;
- Date of sunset provision;
- Additional State appraiser designations;
- Portion of budget allocated for enforcement;
- "Surrender of license instead of discipline" was added to the list under "Disciplinary actions during 1995";
- Appeals of disciplinary actions involving education and experience violations; and
- Additional questions were added under "Reciprocity with other States" to determine if States accept other States' approved education, experience and examination.

The following information was gathered from State responses to the 1995 Annual Survey. A majority of States (31) accepted anonymous complaints. No correlation, however, appeared to exist between accepting or not accepting anonymous complaints and the total number of complaints for each State. In addition, the total

number of complaints did not appear to relate directly to the total number of appraisers. Of a total of 1,688 complaints, 792 were dismissed by the States. Complaints typically were dismissed for jurisdictional reasons or because they were unsubstantiated. The most frequently used disciplinary tool was the issuance of warning letters (a total of 294). Fines were levied against appraisers 134 times, and additional education was required in 144 cases. Twenty-one appraisers voluntarily surrendered their licenses to avoid disciplinary action. Another 21 appraisers had their licenses revoked, and 28 appraisers had their licenses suspended for specified periods of time. Formal hearings were held in 147 cases, and consent agreements were reached in 186 cases.

Overall, the Annual Survey information indicated wide-ranging differences among State appraiser regulatory programs. Some States had a large number of complaints and enforcement

actions when compared to their populations of State certified and licensed appraisers, while others had very few. A minority of States had education and experience requirements for appraiser certification that were substantially higher than the criteria established by the AQB. The higher requirements may be an obstacle to the ASC's efforts to encourage reciprocity among the States. While most State programs had sufficient resources to perform their Title XI-related responsibilities, several programs appeared to be significantly underfunded. Finally, even though most States have adopted the most current version of the Uniform Standards of Professional Appraisal Practice ("USPAP") by incorporating it by reference in their State statutes or regulations, several States have not, at times resulting in the enforcement of outdated standards. The ASC intends to continue to work with State agencies to resolve continuing areas of concern in enforcement, temporary practice and reciprocity.

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## Activities of the Federal Financial Institutions Regulatory Agencies

Title XI requires the Agencies, among other things, to adopt rules relating to appraisal standards and appraiser qualifications. Regarding standards, each Agency must prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under its jurisdiction. These rules require, at a minimum, that: (1) real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the ASB; and (2) such appraisals shall be written appraisals. Each Agency may require compliance with additional appropriate standards. Please refer to Appendix B for a complete description of the Agencies' statutory responsibilities.

Following the adoption of Title XI in 1989, each of the Agencies adopted appraisal related rules and policies implementing the Title. In their appraisal regulations, the Agencies identify categories of real estate-related financial transactions that do not require the services of a State certified or licensed appraiser in order to protect Federal financial and public policy interests relating to the safety and soundness of the banking system. These real estate-related financial transactions are not federally related transactions under the statutory and regulatory definitions. Further, in 1992, Congress confirmed that the Agencies may set a threshold below which the services of a State certified or licensed appraiser are not

required in connection with federally related transactions. The Agencies' appraisal regulations are contained in volume 12 of the *Code of Federal Regulations* at: part 34, subpart C (OCC); part 225, subpart G (FRB); part 323 (FDIC); part 564 (OTS); and part 722 (NCUA). In addition, the OCC, FRB, FDIC and OTS jointly adopted the *Interagency Appraisal and Evaluation Guidelines*, October 1994, which provide guidance on prudent appraisal and evaluation policies, procedures, practices and standards. The Agencies did not make any changes to their appraisal related rules and policies during 1996.

The Agencies, however, continued to monitor the effects of those rules and policies. In that regard, the Agencies provided speakers for several conferences and meetings held by the appraisal and banking industry. Moreover, the Agencies have been working to better coordinate State and Federal actions in connection with referrals of appraiser misconduct. The Agencies also have addressed issues surrounding the sharing of information with State agencies when a faulty appraisal is discovered by the Agencies during the examination process. The ASC expects this work to continue.

During 1996, Robert F. Mialovich, the FDIC ASC member, retired and was replaced by Cary H. Hiner, Assistant Director, Office of Policy, Division of Supervision.

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## Activities of the Appraisal Foundation

The Appraisal Foundation (“Foundation”) is a private, not-for-profit corporation chartered by Title XI with the responsibility of establishing, improving and promoting minimum uniform appraisal standards and appraiser qualifications criteria. The Foundation serves as the parent organization for two independent boards established to accomplish this mission: the ASB and AQB. These Boards respectively promulgate and maintain USPAP and the Appraiser Qualifications Criteria (“Criteria”).

To date, over 80,000 persons have become State certified or licensed appraisers based on the AQB Criteria, as imposed by the State agencies. In addition, all State appraiser certification and licensing laws require certified and licensed appraisers to conform to USPAP when performing appraisals in connection with federally related transactions and use USPAP as the basis for enforcement actions.

The Foundation also ensures that information regarding USPAP and the Criteria is disseminated to State and Federal regulators, appraisers, users of appraisal services and the general public. The Foundation sells copies of USPAP upon request and provides copies of the Criteria at no charge. The Foundation also provides every licensed and certified appraiser with a complimentary quarterly newsletter. This newsletter highlights the Boards’ activities; notes any changes, modifications or clarifications respecting USPAP or the Criteria; and invites comments on issues being addressed by the Boards. In addition, the Foundation sponsors appropriate activities relating to standards, qualifications and issues of importance to appraisers and users of appraisal services.

Title XI requires that the ASC provide grants to the Foundation in such amounts as the ASC deems appropriate to support the Title XI-related activities of the Foundation, *i.e.*, the activities of the ASB and the AQB. Title XI also requires the

ASC to monitor and review the practices, procedures, activities and organizational structure of the Foundation. In that regard, the ASC and its staff monitored and reviewed the following activities in 1996.

### The Appraisal Foundation Board of Trustees

The Foundation is headed by a 33-person Board of Trustees (“Trustees”), fourteen of which are elected at-large. The balance of the Board is appointed by the Foundation’s sponsoring organizations and advisory councils. During 1996, J. Carl Schultz was Chairman of the Trustees, and Karl Urda was Vice Chairman.

The Trustees held meetings in the Spring and Fall of 1996. At the meeting in May, the Trustees approved a Bylaw change to provide an opportunity for foreign appraisal organizations to become International Sponsors of the Foundation. During its October meeting, the Trustees voted to allow the Foundation to serve as the repository of an “Electronic Data Initiative Pick List.” This is a list of generally-agreed-upon values and definitions that may be used by appraisers in developing electronically transmitted residential appraisal reports. The list will be available electronically, upon request and without charge, from the Foundation’s soon-to-be-established Internet website and in paper form.

During the October meeting, the Trustees elected as its 1997 officers: Karl Urda, Chairman; Lloyd Hanford, Vice Chairman; Elizabeth Blagbrough, Secretary; Eugene Sussli, Assistant Secretary; James VanDerWerff, Treasurer; and Norman Goldberg, Assistant Treasurer. Effective January 1, 1997, W. David Snook and Laurie Van Court began their terms, respectively, as ASB Chairman and Vice Chairperson. Tim Leberman was reappointed for another term and, together with newly appointed Ken Kaiser, will serve on the ASB for the next three years. Regarding the

AQB, the Trustees reappointed Stephen Williams to another term and designated him Chairman. Scott Williams was appointed as Vice Chairman, and Arlen Mills was selected as an AQB member.

The Trustees supported the Foundation staff's efforts to broaden its audience and increase public feedback and awareness regarding appraisal issues. Towards that end, the Foundation made significant telecommunications and computer enhancements. The newly restructured The Appraisal Foundation Advisory Council ("TAFAC"), which began meeting in February 1996, provided comments to the ASB and AQB from the perspective of 55 governmental and non-profit organizations representing both appraisers and users of appraisal services. The Trustees also endorsed the establishment of an Industry Advisory Council which, beginning in June 1996, created an opportunity for corporations, partnerships and other for-profit organizations who are either users or providers of appraisal services to communicate directly with the Foundation.

### **The Appraiser Qualifications Board**

In response to inquiries and concerns expressed by appraiser regulatory officials, appraisers and users of appraisal services, the AQB addressed the following issues during the two meetings held in 1996:

#### Review of Criteria

The AQB performed a technical review of the Criteria to ensure that it is consistent with all AQB Interpretations/Clarifications and USPAP.

#### Interpretations/Clarifications of the AQB Criteria

The AQB exposed for public comment proposed Interpretations/Clarifications regarding the acceptability of mass appraisal experience for appraiser licensing or certification experience credit and the acceptability of remote education courses for credit towards appraiser initial certifi-

cation or licensing and continuing education credit.

#### Real Property Appraisal Body of Knowledge

The AQB began work on identifying a real property appraisal body of knowledge. The AQB Real Property Appraisal Body of Knowledge Task Force drafted an outline of a broad-based comprehensive description of the knowledge and skills that an individual must possess in order to appraise. The AQB anticipates that a draft Body of Knowledge document will be exposed for public comment during 1997.

#### Business Valuer Qualification Criteria

After reviewing the qualification criteria for designations in business appraisal organizations, the AQB determined that it will not develop criteria for business valuation specialists at this time.

#### Fair Housing

At the request of TAFAC, the AQB affirmed that Fair Housing-related courses are consistent with AQB continuing education requirements.

#### National Course Review Program

The AQB reactivated its voluntary national appraisal related course review program and made it available to all providers of real estate appraisal related education. The program assists both educational providers and State agencies by simplifying and streamlining the course approval process.

#### Continuing Education Diagnostic Examination

Outside of the formal, exposure draft process, the AQB floated a conceptual plan to develop a continuing education diagnostic examination. This examination would be intended to enable an appraiser to identify his or her weak areas and to provide the appraiser with ways to remedy those weaknesses. The AQB requested feedback from

appraisers, educators and State agencies regarding the feasibility and desirability of this examination. The AQB will further explore this matter during 1997.

## **The Appraisal Standards Board**

During its four 1996 meetings, the ASB addressed inquiries and concerns expressed by appraiser regulatory officials, appraisers and users of appraisal services and responded through the documents and actions discussed below:

### 1997 Edition of the Uniform Standards of Professional Appraisal Practice

The Foundation published the 1997 USPAP, its sixth edition, and made it available to all requesters. The 1997 USPAP was effective on January 1, 1997.

### USPAP Revisions

#### *Understandability and Enforceability of USPAP Task Force Report*

On August 2, 1996, the ASB's Understandability and Enforceability of USPAP Task Force provided the ASB with a comprehensive report containing numerous recommendations to improve both the understandability and enforceability of USPAP. The ASB studied the report and developed an initial work plan. Two immediate actions were taken and included in the 1997 USPAP: a clarification regarding the weight of footnotes in USPAP, and a declaration that signed certifications are required in written reports. The ASB identified major topic areas that will form the basis of its work goals in 1997. The ASC believes that this project is the ASB's most significant task.

#### *Ethics Provision Revisions*

The ASB approved revisions to the Conduct section of USPAP's Ethics Provision to clarify the appraiser's obligation, while performing an appraisal and writing an appraisal report, not to

use or rely on unsupported conclusions relating to characteristics of individuals or groups.

#### *Standard Rule 1-3 Revisions*

The ASB revised the Neighborhood Description portion of Standard Rule 1-3 by deleting language similar to that adopted in the Conduct section of the Ethics Provision and by replacing the term "neighborhood" with "market area."

#### *Statement 9 - Identification of the Client's "Intended Use" in Developing and Reporting Appraisal, Consulting or Review Assignment Opinions and Conclusions*

The ASB revised the definitions of "client," "intended user" and "intended use." Effective January 1, 1997, an appraiser is required to identify and consider the specified information regarding the client's intended use of an appraisal, consulting or review report.

### Advisory Opinions

#### *Advisory Opinion 10*

The ASB revised Advisory Opinion Number 10, *The Appraiser-Client Relationship*, to address regulated financial institution acceptance of an appraisal prepared by an appraiser engaged directly by another party. The ASB advised that simply changing the title page or transmittal letter of an appraisal report without full disclosure of the original appraiser-client relationship is misleading.

#### *Advisory Opinion 16*

The ASB issued Advisory Opinion 16, *Fair Housing Laws and Appraisal Report Content*, to provide guidance to appraisers on how to comply with applicable fair housing laws.

#### *Advisory Opinion 17*

The ASB issued Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*, to provide comprehensive advice to appraisers regarding whether a current or prospec-

tive value estimate of a property subject to completion of proposed improvements can be provided in compliance with USPAP.

#### Guide For USPAP Instructors

The ASB updated its *Guide for Instructors Teaching Courses or Seminars on the USPAP* to reflect the 1996 revisions and additions to USPAP. The Guide was effective January 1, 1997. The purpose of the Guide is to ensure that instructors teach USPAP in a uniform and consistent manner. The Guide is used with other teaching material provided by the course sponsor. To coincide with the publication of the 1997 USPAP and the updated Instructor's Guide, the ASB offered USPAP update and instructor training sessions in Charlotte, North Carolina and Phoenix, Arizona. Although the sessions were geared toward instructors, they were attended by a large number of appraisers, regulators and users of appraisal services.

#### Review of Standards 4, 5, 6, 8 and 10

The ASB began a review of Standards 4, 5, 6, 8 and 10. The ASB received a recommendation from its Mass Appraisal and Personal Property Appraisal and Business Valuation Task Forces regarding a proposed revision to Standard 3 to include the review of all types of appraisals and the expansion of Standards 6, 8 and 10 to include reporting options similar to those in Standard 2.

#### USPAP Issues Resource Panel

To obtain assistance from individuals with specialized knowledge or experience, the ASB formed a thirty-member USPAP Issues Resource Panel. This panel is comprised of individuals who are experienced in one or more areas of professional appraisal practice, appraisal education or appraisal service related fields. The ASB will consult the panel when it needs special expertise.

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## Financial Status of the ASC

In FY 1989, the ASC received a one-time appropriation of \$5 million to fund its start-up operations. The appropriation was an advance from Treasury, and disbursements made using these monies must be repaid. During FY 1996, the ASC authorized a \$1.5 million repayment to Treasury, reducing the obligation to \$1.5 million. Public L. 104-208, Stat. 3009 (1996), amends Title XI with the addition of Section 1108(c) which requires that the advance be fully repaid by the end of FY 1998.

Fiscal year 1990 was the first year in which the ASC incurred obligations. In January 1992, the States began remitting to the ASC an annual fee of \$25 for each licensed or certified appraiser added to the Registry. Until June 1994, the ASC operated on its appropriation. Since then, the

ASC has been funding its operations from Registry fees. Fees received during FY 1996 totaled \$2,185,000.

Attached as Appendix A are the ASC's FY 1996 audited financial statements. The audited financial statements show that the ASC's financial position improved since last year's audit. While revenue declined, asset amounts have increased, the fund balance is positive and liabilities have decreased. Operating expenses also decreased. In general, there has been a significant increase in the ASC's net position. The external auditors did not find any material weakness involving the ASC's internal control structure and its operation or any material instances of noncompliance with selected provisions of applicable laws and regulations tested.

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## Appendix A—Financial Statements

### **APPRAISAL SUBCOMMITTEE**

**Financial Statements for the Years  
Ended September 30, 1996 and 1995,  
and Independent Auditors' Report**



## INDEPENDENT AUDITORS' REPORT

To the Appraisal Subcommittee of the  
Federal Financial Institutions Examination Council:

### Summary

We have audited the accompanying statements of financial position of the Appraisal Subcommittee as of September 30, 1996 and 1995, and the related statements of operations and changes in net position and of cash flows for the years then ended.

In our opinion, the financial statements are presented fairly, in all material respects.

We found:

- No matters involving the internal control structure and its operation that we consider to be material weaknesses; and
- No material noncompliance with selected provisions of applicable laws and regulations tested.

These conclusions and the scope of our work are discussed in more detail below.

### Opinion on Financial Statements

In our opinion, the aforementioned financial statements present fairly, in all materials respects, the financial position of the Appraisal Subcommittee at September 30, 1996 and 1995, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

### Report on Internal Control Structure

The management of the Appraisal Subcommittee is responsible for establishing and maintaining the internal control structure of the Appraisal Subcommittee. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that:

- Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of the financial statements in accordance with generally accepted accounting principles;

- Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition; and
- Transactions, including those related to obligations and costs, are executed in compliance with:
  - Laws and regulations that could have a direct and material effect on the financial statements; and
  - Any other laws and regulations that the Appraisal Subcommittee management has identified as being significant for which compliance can be objectively measured and evaluated.

Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the financial statements of the Appraisal Subcommittee, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control structure. Accordingly, we do not express such an opinion.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

However, we noted certain matters involving the internal control structure and its operation that we have reported to the management of the Appraisal Subcommittee in a separate letter dated December 15, 1996.

### **Compliance with Laws and Regulations**

Compliance with laws, regulations, and contracts applicable to the Appraisal Subcommittee are the responsibility of the management of the Appraisal Subcommittee. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the Appraisal Subcommittee's compliance with certain provisions of applicable laws and regulations. However, the objective of our audit was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance that are required to be reported herein under generally accepted government auditing standards.

### **Management's Responsibilities**

Management has responsibility for:

- Preparing the financial statements in accordance with generally accepted accounting principles;
- Establishing and maintaining an effective internal control structure; and
- Complying with applicable laws and regulations.

Management is also responsible for obtaining audit coverage that is broad enough to help fulfill the reasonable needs of potential users of the audit report. With respect to audit coverage of internal controls and compliance with laws and regulations, management engaged us to perform those procedures required in a financial statement audit conducted in accordance with generally accepted government auditing standards. Those procedures were not sufficient to provide a basis for expressing an opinion on internal controls or compliance. Had we been engaged to apply additional agreed-upon procedures or perform an examination of controls or compliance with laws and regulations, we might have discovered and reported deficiencies in internal controls or instances of noncompliance.

### **Independent Auditors' Responsibilities**

Our responsibility is to express an opinion on the financial statements based on our audit. Accordingly, we planned and performed our audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and are presented fairly in accordance with generally accepted accounting principles. We are also responsible for testing compliance with selected provisions of applicable laws and regulations that may materially affect the financial statements.

To fulfill our responsibility, we:

- Examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessed the accounting principles used and significant estimates made by management;
- Tested compliance with selected provisions of the following laws and regulations that may materially affect the financial statements:
  - Budget Accounting and Procedures Act of 1950
  - Federal Managers' Financial Integrity Act of 1982
  - Federal Claims Collection Act, as amended by the Debt Collection Act of 1982
  - Prompt Payment Act
  - Civil Service Reform Act of 1978, as amended, and Fair Labor Standards Act
  - Civil Service Retirement Act of 1930
  - Federal Employees Health Benefits Act of 1959
  - Federal Employees Group Life Insurance Act of 1959
  - Federal Employees Group Life Insurance Act of 1980
  - Federal Employees' Compensation Act

- Evaluated the overall presentation of the financial statements and supplemental information; and
- Performed other procedures as we considered necessary in the circumstances.

Our audits were conducted in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States. We believe that our audits provide a reasonable basis for our opinion.

**Distribution**

This report is intended for the information of the management of the Appraisal Subcommittee. However, this report is a matter of public record and its distribution is not limited.

*Deloitte & Touche LLP*

December 15, 1996



## APPRAISAL SUBCOMMITTEE

### STATEMENTS OF FINANCIAL POSITION SEPTEMBER 30, 1996 AND 1995

<b>ASSETS</b>	<b>1996</b>	<b>1995</b>
FUND BALANCES WITH TREASURY	\$4,609,091	\$4,051,142
DUE FROM HUD (Note 7)	106,471	-
PROPERTY AND EQUIPMENT - Net (Note 3)	31,671	43,057
PREPAID RENT	<u>1,305</u>	<u>-</u>
<b>TOTAL ASSETS</b>	<b><u>\$4,748,538</u></b>	<b><u>\$4,094,199</u></b>
 <b>LIABILITIES AND NET POSITION</b>		
NON-FEDERAL LIABILITIES:		
Unearned revenue	\$ 516,215	\$ 575,250
Accrued accounts payable	140,965	165,524
Accrued annual leave (Note 2)	22,477	22,191
Accrued payroll and benefits	2,263	21,685
Accrued travel payable	<u>700</u>	<u>5,139</u>
Total nonfederal liabilities	682,620	789,789
FEDERAL LIABILITIES:		
Borrowings from Treasury (Note 4)	<u>3,000,000</u>	<u>3,000,000</u>
Total liabilities	3,682,620	3,789,789
<b>NET POSITION</b>	<b><u>1,065,918</u></b>	<b><u>304,410</u></b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b><u>\$4,748,538</u></b>	<b><u>\$4,094,199</u></b>

See notes to financial statements.

## APPRAISAL SUBCOMMITTEE

### STATEMENTS OF OPERATIONS AND CHANGES IN NET POSITION YEARS ENDED SEPTEMBER 30, 1996 AND 1995

	1996	1995
REVENUE:		
Revenue from services provided:		
Appraiser fees (Note 2)	\$2,185,145	\$2,813,512
Other	<u>802</u>	<u>1,353</u>
Total revenue	<u>2,185,947</u>	<u>2,814,865</u>
EXPENSES:		
Operating Expenses:		
Personnel compensation and benefits (Note 5)	561,828	675,840
Rent, communications, and utilities (Note 7)	165,896	170,102
Contracted services	86,254	97,566
Travel and transportation	13,527	17,103
Printing and reproduction	10,543	7,103
Depreciation and amortization	11,386	13,811
Supplies and materials	5,672	18,427
Other expenses	<u>9,628</u>	<u>53,005</u>
Total operating expenses	864,734	1,052,957
Appraisal Foundation grant (Note 6)	<u>559,705</u>	<u>516,586</u>
Total expenses	<u>1,424,439</u>	<u>1,569,543</u>
EXCESS OF REVENUE OVER EXPENSES	761,508	1,245,322
NET POSITION, BEGINNING BALANCE	<u>304,410</u>	<u>(940,912)</u>
NET POSITION, ENDING BALANCE	<u>\$1,065,918</u>	<u>\$ 304,410</u>

See notes to financial statements.



## APPRAISAL SUBCOMMITTEE

### STATEMENTS OF CASH FLOWS YEARS ENDED SEPTEMBER 30, 1996 AND 1995

	1996	1995
CASH FLOWS FROM OPERATING ACTIVITIES:		
Excess of revenue over expenses	\$ 761,508	\$ 1,245,322
Adjustments to reconcile excess of revenues over expenses to net cash used by operating activities:		
Increase in due from HUD	(106,471)	-
Increase in prepaid rent	(1,305)	-
Increase (decrease) in non-federal liabilities	(107,169)	44,828
Depreciation and amortization	<u>11,386</u>	<u>13,811</u>
Net cash from operating activities	557,949	1,303,961
CASH FLOWS FROM FINANCING ACTIVITIES -		
Repayment of borrowings from Treasury	<u>-</u>	<u>(1,250,000)</u>
NET CASH PROVIDED BY OPERATING, INVESTING, AND FINANCING ACTIVITIES	557,949	53,961
FUND BALANCES WITH TREASURY, BEGINNING	<u>4,051,142</u>	<u>3,997,181</u>
FUND BALANCES WITH TREASURY, ENDING	<u>\$4,609,091</u>	<u>\$4,051,142</u>

See notes to financial statements.

# APPRAISAL SUBCOMMITTEE

## NOTES TO FINANCIAL STATEMENTS YEARS ENDED SEPTEMBER 30, 1996 AND 1995

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### 1. ORGANIZATION

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the Appraisal Subcommittee) was created by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989. The mission of the Appraisal Subcommittee is to monitor the certification and licensing programs of the States to determine compliance with Title XI of FIRREA; monitor the activities of the Appraisal Foundation; and monitor the requirements established by the Resolution Trust Corporation and the federal financial institutions regulatory agencies regarding appraisal standards for federally related transactions and determinations of which federally related transactions will require the services of State-licensed or State-certified appraisers. The mission of the Subcommittee also includes the establishment of a national registry of certified and licensed appraisers.

The federal financial institutions regulatory agencies include the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration. The member agencies of the Appraisal Subcommittee include the federal financial institutions regulatory agencies and the Department of Housing and Urban Development.

Title XI of FIRREA provides that funds available to the federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under Title XI.

### 2. SIGNIFICANT ACCOUNTING POLICIES

*Basis of Accounting* - The accounting policies of the Appraisal Subcommittee conform to generally accepted accounting principles. Accordingly, the financial statements are presented on the accrual basis of accounting. Under the accrual basis, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to cash receipt or payment.

*Revenue* - The revenue of the Appraisal Subcommittee is derived principally from the assessment of an annual registry fee of \$25 for each State licensed and certified appraiser. Annual registry fees are considered earned when received. When multiple years of registry fees are received in advance, the amount pertaining to subsequent years is recorded as deferred revenue, and recognized as earned during the applicable fee year.

*Annual, Sick, and Other Leave* - Annual leave is accrued as it is earned and the accrual is reduced as leave is taken. The balance in the accrued annual leave account reflects current pay rates. Sick and other types of manifested leave are expensed as taken.

*Grants* - Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee shall be used to make grants to the Appraisal Foundation, to help defray those costs of the Appraisal Foundation relating to the activities of its Appraisal Standards and Appraiser Qualifications Boards. Because the grants are purpose-restricted, grant expense is recorded by the Appraisal

Subcommittee as activities eligible under the grant agreements are conducted by the Appraisal Foundation.

### 3. PROPERTY AND EQUIPMENT

Property and equipment are stated at cost. Depreciation and amortization is calculated on a straight-line basis over the estimated useful lives of the assets. Expenditures for individual assets costing less than \$5,000 and for maintenance and repairs are expensed as incurred.

The following table summarizes property and equipment balances as of September 30, 1996:

Classes of Fixed Assets	Service Life (Years)	Cost	Accumulated Depreciation	Net
Furniture	10	\$ 57,168	\$ (25,502)	\$31,666
ADP Equipment	3	<u>83,964</u>	<u>(83,959)</u>	<u>5</u>
		<u>\$141,132</u>	<u>\$(109,461)</u>	<u>\$31,671</u>

### 4. BORROWINGS

Under Title XI of FIRREA, the Appraisal Subcommittee received a one-time payment of \$5,000,000 from the Department of the Treasury to fund start-up expenses. Title XI of FIRREA provides that thereafter, expenses of the Appraisal Subcommittee must be funded through the collection of annual registry fees for State licensed and certified appraisers. Pursuant to a financing agreement with the Department of Treasury, the \$5,000,000 will be repaid to the Treasury general fund. The financing agreement, as amended, provides for interest-free financing and does not provide for a specified repayment term. During fiscal years 1996 and 1995, the Appraisal Subcommittee made repayments to Treasury in the amounts of \$-0- and \$1,250,000, respectively.

### 5. RETIREMENT AND BENEFIT PLANS

The Appraisal Subcommittee contributes to the Civil Service Retirement System and the Federal Employees' Retirement System administered by the Office of Personnel Management for the benefit of U.S. Government employees. The retirement plans are participatory. Under the Civil Service Retirement System, the employer and employee each contribute 7 percent of salary to the plan. Under the Federal Employees' Retirement System, 13 percent of salary is contributed by the Appraisal Subcommittee and .8 percent of salary is contributed by the employee.

The Appraisal Subcommittee contributes up to 5 percent of base pay for participants in the Thrift Savings Plan under the Federal Employees' Retirement System. Contributions by the Appraisal Subcommittee during fiscal years 1996 and 1995 for the Civil Service Retirement System and the Federal Employees' Retirement System aggregated \$45,962 and \$56,876, respectively.

Although the Appraisal Subcommittee contributes a portion of pension benefits for its employees participating in the retirement plans and withholds the necessary payroll deductions from them, it has no liability for future payments to employees under these programs and is not accountable for the assets of the Civil Service and Federal Employees' Retirement Systems, nor does the Appraisal Subcommittee have actuarial data concerning the accumulated plan benefits or the unfunded pension liability relating to its employees. These amounts are reported by the Office of Personnel Management for the retirement

systems and are not allocated to the individual employers. The Office of Personnel Management also accounts for all health and life insurance programs for retired federal employees.

**6. APPRAISAL FOUNDATION GRANT**

Title XI of FIRREA provides that amounts appropriated for or collected by the Appraisal Subcommittee shall be used to make grants to the Appraisal Foundation to help defray those costs of the Appraisal Foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards. Since inception of the Appraisal Subcommittee on August 9, 1989, it has made grants to the Appraisal Foundation under which \$3,097,305 was expended through September 30, 1996. As of September 30, 1996, the Appraisal Subcommittee has an outstanding grant commitment of \$92,464 to the Foundation for the grant period ending December 31, 1996.

**7. INTERAGENCY TRANSACTIONS**

The Appraisal Subcommittee entered into a Memorandum of Understanding with the Federal Financial Institutions Examination Council (FFIEC) in fiscal year 1992 to share the costs of office space and certain office systems such as computers, telephone systems, copiers, and other similar equipment. The terms of the agreement are binding until December 31, 1998, with payments due quarterly, as billed by the FFIEC. Future minimum rental payments for the remaining life of the agreement are \$503,200.

Base rent expense, exclusive of office equipment charges, totaled \$152,868 and \$145,230 for the years ended September 30, 1996 and 1995, respectively.

In conducting its administrative operations, the Appraisal Subcommittee uses the services of various other Federal agencies. The largest of the administrative service arrangements are with the U.S. General Services Administration (GSA) for certain accounting and reporting functions, and processing of payroll and related benefits. Operating expenses of the Appraisal Subcommittee for fiscal years 1996 and 1995 include approximately \$26,200 and \$32,000 for these services.

*Due from HUD* - During the first quarter of the year ended September 30, 1996, the Appraisal Subcommittee had an agreement with the U.S. Department of Housing and Urban Development (HUD) to perform the accounting and reporting functions mentioned above. In performing these functions, HUD charged the Appraisal Subcommittee \$106,471 in error, thereby reducing the Appraisal Subcommittee Fund Balance with Treasury. As HUD has agreed to reimburse the Appraisal Subcommittee for the full amount, \$106,471 is reflected as due from HUD as of September 30, 1996.

\* \* \* \* \*

## Appendix B—Relevant Statutes

The following is a compilation of Title XI of FIRREA, as amended, and related legislation applicable to the ASC.

### TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS [12 U.S.C. 3331-3351]

#### SEC. 1101. Purpose [12 U.S.C. 3331]

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

#### SEC. 1102. Establishment of Appraisal Subcommittee of the Federal Financial Institutions Examination Council [12 U.S.C. 3310]

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

##### SEC. 1011. Establishment of Appraisal Subcommittee

There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.

#### SEC. 1103. Functions of Appraisal Subcommittee [12 U.S.C. 3332]

(a) *In general.* The Appraisal Subcommittee shall —

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to —

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

(4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) *Monitoring and reviewing Foundation.* The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

#### SEC. 1104. Chairperson of Appraisal Subcommittee; term of Chairperson; meetings [12 U.S.C. 3333]

(a) *Chairperson.* The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) *Meetings; quorum; voting.* The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

#### SEC. 1105. Officers and staff [12 U.S.C. 3334]

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

#### SEC. 1106. Powers of the Appraisal Subcommittee [12 U.S.C. 3335]

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

**SEC. 1107. Procedures for establishing appraisal standards and requiring the use of certified and licensed appraisers** [12 U.S.C. 3336]

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

**SEC. 1108. Startup funding** [12 U.S.C. 3337]

(a) *In general.* For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of \$5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) *Additional funds.* Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

(c) *Repayment of Treasury loan.* Not later than September 30, 1998, the Appraisal Subcommittee shall repay to the Secretary of the Treasury the unpaid portion of the \$5,000,000 paid to the Appraisal Subcommittee pursuant to this section.

**SEC. 1109. Roster of State certified or licensed appraisers; authority to collect and transmit fees** [12 U.S.C. 3338]

(a) *In general.* Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than \$25, such fees to be transmitted by the State agencies to the Council on an annual basis. Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of \$50 per annum, as necessary to carry out its functions under this title.

(b) *Use of amounts appropriated or collected.* Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

**SEC. 1110. Functions of the Federal financial institutions regulatory agencies relating to appraisal standards** [12 U.S.C. 3339]

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum — (1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and (2) that such appraisals shall be written appraisals. Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

**SEC. 1111. Time for proposal and adoption of standards** [12 U.S.C. 3340]

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

**SEC. 1112. Functions of the Federal financial institutions regulatory agencies relating to appraiser qualifications** [12 U.S.C. 3341]

(a) *In general.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of

this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

(b) *Threshold level.* Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

(c) *GAO study of appraisals in connection with real estate related financial transactions below the threshold level.*—

(1) *Study required.* At the end of the 18-month period, and the end of the 36-month period, beginning on the date of the enactment of this subsection [October 29, 1992], the Comptroller General of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account —

(A) the cost to any financial institution involved in any such transaction;

(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

(C) the cost to any customer involved in any such transaction; and

(D) the effect on low-income housing.

(2) *Reports to Congress and the appropriate Federal financial institutions regulatory agencies.* Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

**SEC. 1113. Transactions requiring the services of a State certified appraiser** [12 U.S.C. 3342]

In determining whether an appraisal in connection with a

federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of \$1,000,000 or more; and

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

**SEC. 1114. Transactions requiring the services of a State licensed appraiser** [12 U.S.C. 3343]

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

**SEC. 1115. Time for proposal and adoption of rules** [12 U.S.C. 3344]

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

**SEC. 1116. Certification and licensing requirements** [12 U.S.C. 3345]

(a) *In general.* For purposes of this title, the term “State certified real estate appraiser” means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) *Restriction.* No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation.

(c) *Definition.* As used in this section, the term “State licensed appraiser” means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) *Additional qualification criteria.* Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional

qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

(e) *Authority of the Appraisal Subcommittee.* The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus [sic] standard. Recommendations of the Subcommittee shall be nonbinding on the States.

**SEC. 1117. Establishment of State appraiser certifying and licensing agencies** [12 U.S.C. 3346]

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

**SEC. 1118. Monitoring of State appraiser certifying and licensing agencies** [12 U.S.C. 3347]

(a) *In general.* The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) *Disapproval by Appraisal Subcommittee.*—The Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

- (1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;
- (2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or
- (3) decisions concerning appraisal standards, appraiser qualifications, and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) *Rejection of State certifications and licenses.*

(1) Opportunity to be heard or correct conditions. Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) Adoption of procedures. The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) Judicial review. A decision of the subcommittee under this section shall be subject to judicial review.

**SEC. 1119. Recognition of State certified and licensed appraisers for purposes of this title** [12 U.S.C. 3348]

(a) *Effective date for use of certified or licensed appraisers only.*—

(1) *In general.* Not later than December 31, 1992, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) *Extension of effective date.* Subject to the approval of the Council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) *Temporary waiver of appraiser certification or licensing requirements for State having scarcity of qualified appraisers.* Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State or in any geographical political subdivision of a State, leading to significant delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such significant delays have been eliminated.

(c) *Reports to State certifying and licensing agencies.* The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser



that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

**SEC. 1120. Violations in obtaining and performing appraisals in federally related transactions**

[12 U.S.C. 3349]

(a) *Violations.* Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) to which such association or corporation is a party.

(b) *Penalties.* A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) *Proceeding.* A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

**SEC. 1121. Definitions**

[12 U.S.C. 3350]

For purposes of this title:

(1) *State appraiser certifying and licensing agency.* The term “State appraiser certifying and licensing agency” means a State agency established in compliance with this title.

(2) *Appraisal Subcommittee; subcommittee.* The terms “Appraisal Subcommittee” and “subcommittee” mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) *Council.* The term “Council” means the Federal Financial Institutions Examinations Council.

(4) *Federally related transaction.* The term “federally related transaction” means any real estate-related financial transaction which —

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) *Real estate related financial transaction.* The term “real estate-related financial transaction” means any transaction involving —

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) *Federal financial institutions regulatory agencies.* The term “Federal financial institutions regulatory agencies” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) *Financial institution.* The term “financial institution” means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) *Chairperson.* The term “Chairperson” means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) *Foundation.*—The terms “Appraisal Foundation” and “Foundation” means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) *Written appraisal.*—The term “written appraisal” means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

**SEC. 1122. Miscellaneous provisions**

[12 U.S.C. 3351]

(a) *Temporary practice.*

(1) *In general.* A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(A) the property to be appraised is part of a federally related transaction,

(B) the appraiser's business is of a temporary nature, and

(C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

(c) *Supplemental funding.* Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(d) *Prohibition against discrimination.* Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(e) *Other requirements.* A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a

licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(f) *Studies.*

(1) *Study.* The Appraisal Subcommittee shall—

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) *Report.* The Appraisal Subcommittee shall—

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.

**SEC. 1123. Emergency exceptions for disaster areas**

[12 U.S.C. 3352]

(a) *In general.* Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area if the agency—

(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a major disaster exists in the area and

(2) determines that the exception —

(A) would facilitate recovery from the major disaster, and

(B) is consistent with safety and soundness.

(b) *3-year limit on exceptions.* Any exception made under

this section shall expire not later than 3 years after the date of the determination referred to in subsection (a) (1).

(c) *Publication required.* Any Federal financial institutions regulatory agency shall publish in the *Federal Register* a statement that —

(1) describes any exception made under this section; and

(2) explains how the exception—

(A) would facilitate recovery from the major disaster, and

(B) is consistent with safety and soundness.

(d) *Disaster area defined.* For the purposes of this section, the term “disaster area” means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM ACT OF 1989 SEC. 142. FHA OPERATIONS.**

(e) *Appraisal standards.* [12 U.S.C. 1708(e)]

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(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal is a written statement used in connection with a real estate transaction that is independently an[d] impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.