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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 25, 2004

**Subject: Amendment to ASC Policy
Statement 1**

Dear State Appraiser Regulatory Official:

On August 11, 2004, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (“ASC”) adopted the attached amendment to ASC Policy Statement 1: *State Regulatory Structure and Independence of Functions* to provide guidance on State appraiser regulatory agency (“agency”) use of private entities (*i.e.*, third parties) to assist States in performing their appraiser regulatory functions. **The new provisions become effective January 1, 2005.**

Several States have contracted with private entities to perform various appraiser regulatory tasks. In certain instances, the private entities took actions that did not comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (“Title XI”). Therefore, the ASC is amending Policy Statement 1 to address these concerns and being proactive in providing guidance to States that are considering outsourcing appraiser regulatory tasks to a private entity.

On January 7, 2004, the ASC issued a letter to all States seeking comment on the proposed revisions. At the request of the Association of Appraiser Regulatory Officials, the ASC extended the comment period from March 9th to April 30th. The ASC received comments from five States. Two States stated that they had no comment; one State opposed the proposal; and two States supported the amendment, with one of them recommending that we add guidance regarding record security and confidentiality of personal information. The ASC agreed with that recommendation and added appropriate wording.

Under the policy, if a State agency uses a private entity, the State should establish appropriate internal controls, procedures, and safeguards to ensure that private entities perform their duties in an effective and consistent manner in compliance with the State’s responsibilities under Title XI. While State agencies may contract out the performance of its appraiser-related regulatory functions, State agencies are still responsible to ensure that the private entities comply with Title XI in performing those tasks. Further, the amended policy addresses a State’s responsibility to ensure that the State and the ASC have access to private entity records and operations pertaining to Title XI-related State agency appraiser regulatory activities.

Consistent with prudent business practice, a State should ensure that any contract, agreement, or arrangement between a State agency and a private entity complies with State procurement requirements, is in writing, and that the terms are enforceable. In addition, the contract, agreement, or arrangement should reflect the standards set forth in the revised policy statement.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director

Attachment