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**MAY 20 2008**

May 16, 2008

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

Re: Proposed Amendments to ASC Policy Statement 10 G


Gentlemen:

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

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

The proposed amendments are supported.

Sincerely,

  
Deborah G. Pearson  
Executive Director



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May 29, 2008

JUN 03 2008

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

RE: Proposed Revision to Policy Statement 10G

Dear Ms. Gibbs

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

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

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

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

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Virginia Gibbs  
May 29, 2008

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

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

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

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

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

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

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

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

For the Board

Jeffrey T. Ledford  
Real Estate Commissioner

Steven L. Beshear  
Governor



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## Kentucky Real Estate Appraisers Board

April 18, 2008

Ms. Virginia Gibbs, Chair  
The Appraisal Subcommittee  
2000 K Street, NW, Suite 310

Subject: Proposed Amendments to ASC Policy Statement 10

Dear Ms. Gibbs:

On behalf of the Kentucky Real Estate Appraisers Board I appreciate The Appraisal Subcommittee affording appraiser regulatory agencies the opportunity to provide comments about the “Proposed Amendments to ASC Policy Statement 10 G: Validation of Experience Documentation for Appraiser Qualifications Board (AQB) Criteria Conformance and USPAP Compliance.”

Please accept the following as my personal thoughts as the Executive Director of the Kentucky Real Estate Appraisers Board. These thoughts should not be taken to represent the individual Board members beliefs, but the Board has concurred with the comments and requested I send the letter on behalf of the Board.

### Issue #1

The following language within the August 9, 2007 adoption language of ASC “Policy Statement 10 G” appears to have created a major source of consternation for appraiser regulatory officials: “If the experience log for the certified general application included both residential and non-residential assignments, the State must review a sampling of the residential reports, in addition to the applicant’s non-residential work.”

Personally, I do not share the concern or the resistance expressed by my contemporaries who responded that the August 9, 2007 interpretation should be amended or the language pertaining to the expectation of 1-4 unit reviews by the State agencies for the General Certified credential be omitted.

While performing my duties with the Kentucky Board I have cause to review many appraisal reports on an annual basis. The reports are presented for various reasons, e.g. to satisfy work experience credit or when the reports are submitted with complaints by irate clients and property owners who feel aggrieved for one reason or another. The predominant type of appraisal report reviewed is one of 1-4 unit residential properties. This is also reports that lead to the preponderance of appraiser complaints, and the reports in which the most deficiencies are observed.



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The KY Board has discovered that the vast majority of the proven deficiencies occurred as a direct result of poor training and equally poor supervision.

I fail to see the reasoning for the proposed language change. Especially, if the number one complaint throughout the United States and the territories is 1-4 unit residential assignments and if regulatory agencies document that the number one cause of deficiency in the cases are a result of poor supervision. Often times the poor supervision is found to have been provided by certified general appraisers who either don't take the job of supervision for 1-4 unit property use seriously or who lack the knowledge necessary to perform an acceptable appraisal assignment of a 1-4 unit residential property.

Given the above, it is not only reasonable, but also prudent to request assignments of both 1-4 unit residential properties and non-residential properties when verifying the experience for applicants of certified general real property appraiser credential.

Apparently, I am in the minority of those who feel this way. Based upon the following language, it is apparent that the ASC acquiesced with the requests for omitting the expectation, "The ASC is effectively requiring applicants for certified general credentials with a career performing only non-residential assignments to demonstrate competency in performing USPAP-compliant residential appraisals."

If the argument is valid that applicants for certified general credential may never plan to perform 1-4 unit assignments, instead of abandoning the idea of experience and requiring work samples, why not require an affidavit be signed that the applicant will not perform the work until he/she gains the competency to do so. More importantly the applicant should be required to sign an affidavit that she/he will not act as a supervisor of training appraisers for completing 1-4 unit residential assignments?

After the applicant is awarded a credential an argument could be made that the Certified General Real Property Appraiser classification permits the appraisal of all types of real property. Therefore, the State could not restrict the act of appraising any property type without cause.

There is a caveat that the credential holder is bound by the Competency rule of USPAP. But, after the fact the burden of proof for the State typically requires an unbelievable amount of work, time and expense. Because of the many problems proving a credential holder lacks competency to be a supervisor or to perform assignment types, many appraiser regulatory agencies simply fail to proceed with charges or allegations.

It is my opinion that this decision by the ASC, if approved, will create harm to the public trust in the appraisal profession. Also, I believe that failure to verify or check the work samples of 1-4 unit residential properties for the certified general credential is tantamount to irresponsibility. The reason for this belief begins at the core of the very foundation and reasoning for Title XI and the appraiser qualifications expectations.

- The purpose of Title XI is "to provide that Federal Financial and public interests in real estate related transactions will be protected."
- The State appraiser regulatory agencies assist in carrying out the mission of Title XI by ensuring that each applicant for certification conforms to the AQB minimum experience requirement for certification.
- The AQB criteria for Certified General Real Property Appraiser classification is said to "apply to the appraisal of all types of real property."



I realize that some individuals argue that bullet three above does not imply that applicants for the Certified General credential are expected to appraise properties of all types and should not be expected to demonstrate any experience greater than what is identified on the assignment log. However, I believe the State agency has a burden of due diligence to require and review a representative sample of various assignment types for all certified appraiser applicants, including 1-4 unit assignments for certified general.

There is one other issue I find problematic with the existing exposure language.

**Issue #2**

Apparently, it was not only believed too burdensome to require the certified general real property applicants to complete 1-4 unit residential property assignments. But, it must have also been considered too burdensome to expect more than one type of property appraisal experience.

Page 3, paragraph 2, sentence 1 of the exposure letter includes the following language, which, in my opinion, adds to the problem, "States need to review a representative sample of the applicant's work product."

Based upon my interpretation of the above, a State appraiser regulatory agency is expected to review a sample of only one type of work, if that is what an applicant lists on her/his experience log.

If my interpretation is accurate, and we suppose a State agency does review only one property appraisal type for a certified appraiser applicant, unfortunately the result might permit an extremely poor performing certified appraiser to begin working, and it could possibly be the primary reason for so much of the widespread accusations of appraiser incompetence that we so often hear.

For example, assume the possible consequences of the following and ask the question. Would it be assumed prudent to approve any applicant who might submit experience for the following?

- A log of assignments revealing nothing but review assignments of large vacant land tracts with timber or other types of agriculture crops.
- A log of assignments revealing nothing but vacant highway business lots.
- A log of assignments revealing only one of the three traditional methods of developing a value opinion, i.e. sales comparison only. The applicant verifies he or she never developed an income approach, a discounted cash flow, a capitalization of net income, or a cost approach.
- A log of assignments revealing nothing but industrial use properties.
- A log of assignments revealing nothing but 5 to 10 unit residential properties, and the only method of value opinion developed is the sales comparison approach.
- A log of assignments revealing nothing but appraisal review assignments of 1-4 unit properties. The individual has never completed a development or report of a value opinion.
- A log of assignments revealing nothing but 1-unit residential subdivision tract houses.
- A log of nothing but restricted use reports. How could a State agency determine USPAP compliance for any work beyond what is provided on the log?



- A log indicating the applicant has never performed one of the 3 approaches to value. It is often discovered applicants never signed a certification, only the supervising or senior appraiser signs the certification. The trainee is given recognition by name in the certification for having provided significant professional assistance, within the body of the report that assistance is described as developing market studies, highest and best use studies, and market studies and other duties that might be classified clerical.

The list could be continued with indefinite examples, but one can get the point of the possible harm and potential problems from what is provided.

Based upon the interpretation of the AQB and now the ASC expectation, it appears an individual could progress through his/her mandated total years and total hours of experience while performing only one of the above types of property assignment. If the State agency makes a determination that the one type of assignment or work satisfies credible real property appraisal experience, the applicant could be awarded a credential on the basis of "credible" experience.

If the above is permitted to occur, how would the State have any assurance that the applicant has demonstrated the competency, knowledge, and ability to perform a varied range of property assignments, including FRT's?

Is it reasonable to expect a State appraiser regulatory agency to award a certified general real property credential to a person who completes only one property type appraisal?

In my opinion, it does not appear reasonable that the act of awarding a certified general or a certified residential real property appraisal credential to a person in any of the above scenarios would enhance the public trust in appraisers.

It is quite possible that by awarding a credential on the basis of such experience, the action might cause great harm to federally regulated financial institutions.

Neither the State appraiser regulatory agency nor the financial institutions might realize the severity of harm until many assignments have been completed, and the loans for which those assignments were completed have closed and subsequently foreclosed.

Therefore, while the Competency Rule of USPAP might be enforced, the problems of incompetence might not be discovered in time to offset the harm.

It is my opinion the appraisal profession would be much better served if the current language on page 3, item 1, Validation of Qualifying Experience and Proper Use of Experience Logs, paragraph 2 would be amended to include, "When reviewing the experience log of applicants for the certified general classification the States must review a representative sample of the applicant's work product, including a variety of assignments for 1-4 unit residential property uses, for property uses other than residential, and a variety of other assignments that must include development and reporting of the methods and techniques of items listed in USPAP Standards Rule 1-4."





Ms. Virginia Gibbs  
April 18, 2008  
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The above represents my personal views and reasoning for asking the ASC to please reconsider omitting the expectation that applicants for a certified general credential must submit reports for 1-4 unit residential use.

I suppose the KREAB, and each of the state appraiser regulatory agencies, is free to choose from one of the following options for experience review:

1. Regardless of the ASC decision to omit the expectation, the Board has the option of continuing to require the 1-4 unit residential examples, and any work samples the Board believes necessary for verifying experience for the credential of certified general applicants;
2. The Board can amend its current expectation and require representative samples of work for only those properties listed on the experience log, which is the minimum expectation, and not to include 1-4 unit work samples for certified general; or
3. The Board can continue to require the applicant to include multiple property types on the experience log, including 1-4 unit residential properties for certified general, and the Board can request any number of samples considered necessary.

It is my belief and understanding of the process that the responsibility of verifying experience for the methods of appraisal practice and USPAP compliance rests totally with the state appraiser regulatory agencies. Therefore, how a State chooses to conduct the experience review is totally a State agency decision.

However, it should be known that the broad latitude and flexibility can often lead to problems with consistency, which compounds the problem with reciprocity agreements between States. That is simply a problem the States must deal with. But, the ASC can certainly assist by making an interpretation of the AQB expectations that is meaningful for the enforcement process, and that can be applied consistently from one State to another.

I thank you for the opportunity to provide written comment.

Sincerely,

Larry Disney  
Executive Director

Cc: File





JOHN ELIAS BALDACCI  
GOVERNOR

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ANNE L. HEAD  
DIRECTOR

May 9, 2008

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

Re: Proposed Amendments to ASC Policy Statement 10

Dear Chairman Gibbs:

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

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

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

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MAY 15 2008

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

Thank you.

Sincerely,

Carol J. Leighton  
Administrator



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April 29, 2008

VIA: FACSIMILE ONLY (202-293-6251)

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

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Re: Proposed Amendments to ASC Policy Statement 10

Dear Ms. Gibbs:

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

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

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

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

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

Thank you for the opportunity to comment.

Very truly yours,

Whitney A. Clark  
Associate Attorney

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## NORTH CAROLINA APPRAISAL BOARD

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May 6, 2008

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

Dear Appraisal Subcommittee,

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

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

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

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

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

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

Sincerely,

Philip W. Humphries  
Executive Director

cc: Vicki Ledbetter



**OKLAHOMA REAL ESTATE  
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HAROLD J. SNYDER III, MEMBER

May 5, 2008

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

Dear Ms. Gibbs:

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

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

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

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

Very truly yours,

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

MAY 12 2008