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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

June 14, 2010

Mr. Daniel Shapiro, First Deputy  
Secretary of State  
Division of Licensing Services  
New York Department of State  
P.O. Box 22001  
Albany, NY 12201-2001

Dear Mr. Shapiro:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of New York's appraiser regulatory program (Program) on September 14-18, 2009. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the staff's preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). The ASC identified the following concerns:

- New York must require all continuing education for re-instatement of an appraiser credential be consistent with the Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria);<sup>1</sup> and
- New York must use a reliable means of validating experience claims on all initial applications for appraiser credentials.<sup>2</sup>

The State's response indicated it has taken corrective actions, which are detailed in the attached Report. During the Follow-up Review in September 2010, ASC staff will confirm these corrective actions have taken place and are appropriate. Please also be advised this letter and the attached Report are public record and available on the ASC website in accordance with the Freedom of Information Act.

Please contact us if you have any questions.

Sincerely,



Deborah S. Merkle  
Chairman

Attachment

cc: Ms. Kathleen McCoy, Acting Director  
Mr. Dominick Pompeo, Chair, Board of Real Estate Appraisal  
Mr. Aquil Qureshi, Supervising License Investigator

<sup>1</sup> Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Criteria.

<sup>2</sup> Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Criteria; ASC Policy Statement 10G.

**ASC Compliance Review Report**

Finding: Not In Substantial Compliance

Report Issue Date: June 14, 2010

**New York Appraiser Regulatory Program (Program)**

New York Board of Real Estate Appraisal (Board)

ASC Compliance Review (Review) Date: September 14-18, 2009

Review Period: June 2007 and September 2009

Umbrella Agency: Department of State (Department)

PM: V. Ledbetter

Number of State credentialed appraisers on National Registry: 4592

Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Action	Recommended State Actions	General Comments
	YES	NO	AC					
<b>New York Statutes, Regulations, Policies and Procedures:</b>			X					
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>A review of the State's regulations revealed several inconsistencies with Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) <b>§1103.5</b> allows credential holders who are physically unable to attend courses in a classroom setting to meet their continuing education requirement through correspondence courses without requiring appropriate course delivery mechanism approval, and without requiring the appraiser be placed on inactive status until the requirements are met;</p> <p>(2) <b>§1107.08</b> allows a credential holder who is unable to complete continuing education due to extreme illness or a catastrophe to receive a six-month hardship extension without requiring the appraiser be placed on inactive status until the requirements are met; and</p> <p>(3) <b>§1103.12 and §1107.21</b> requires appraisers to only attend 90% of a qualifying education course and 80% of a continuing education course that is between 8 to 28 hours in length. AQB criteria defines a classroom hour as 60 minutes of which at least 50 minutes are instruction attended by the students.</p> <p>Despite the conflicting provisions in the State's regulations, we found no incidents where these regulations were applied to any aspect of the Program.</p>	In the response letter dated March 9, 2010, and received by ASC staff on April 2, 2010 (herein referred to as "response letter"), the Board reported to ASC staff that new regulations, which are currently undergoing the statutorily required review process with the Governor's Office of Regulatory Reform, will correct the inconsistencies.	No further action required.		<p>Please provide ASC staff with copies of the proposed regulations. Upon adoption, please also provide ASC staff with copies of the adopted regulatory changes.</p> <p>Concerning the Board's question in the response letter as to whether a student would be required to make up missed portions of a course, the ASC is of the position that implementation of attendance required in accordance with AQB Criteria is within the instructor's discretion to properly administer.</p>

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Finding: Not In Substantial Compliance

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<b>New York Appraiser Regulatory Program (Program)</b>		<b>ASC Compliance Review (Review) Date: September 14-18, 2009</b>		<b>Review Period: June 2007 and September 2009</b>	
<b>New York Board or Real Estate Appraisal (Board)</b>		<b>Umbrella Agency: Department of State (Department)</b>		<b>PM: V. Ledbetter</b>	
		<b>Number of State credentialed appraisers on National Registry: 4592</b>		<b>Issue: FINAL</b>	

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Action	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Temporary Practice:</b>	X							
States must issue temporary practice permits within five business days of receipt of a completed application. (Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.)				New York failed to process requests for temporary practice permits within five business days of receipt of a completed application. This concern was noted by ASC staff previously in the September 2007 Review.	In the response letter, the Board reported to ASC staff that to ensure all temporary practice permits are issued within five business days of application receipt, changes to the processing have been made, expediting the delivery of appraiser applications.	No further action required.	To strengthen the Program, New York should monitor the results of its revised process to ensure temporary practice permits are processed within five business days of application receipt.	ASC staff will verify the effectiveness of the new process during the Follow-up Review of the Program.
<b>Temporary Practice continued:</b>	X							
States should rely on the National Registry to verify license history on applicants for temporary practice. (Title XI § 1122, 12 U.S.C. 3351; ASC Policy Statement 5.)				Temporary practice permit files did not contain evidence of consistent use of the National Registry for verification of an applicant's license history in other States.	In the response letter, the Board reported to ASC staff that they have directed Board staff to use the National Registry to verify an appraiser's license history in place of requesting letters of good standing from the applicant.	No further action required.	To strengthen the Program, New York should also use the National Registry in the processing of reciprocal applications.	None
<b>National Registry:</b>	X							
States must submit all disciplinary actions to the ASC for inclusion on the National Registry. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 9A.)				New York reported appraiser suspensions and revocations to the ASC biweekly with its National Registry data submissions. However, corrective sanctions, such as fines or additional education, were not reported.	In an email received on May 12, 2010, Board staff reported the missing past disciplinary actions to the ASC for inclusion on the National Registry. The Board also informed ASC staff that all disciplinary actions will be reported bimonthly.	No further action required.	None	During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 9A.

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<b>Umbrella Agency: Department of State (Department)</b>	<b>PM: V. Ledbetter</b>	<b>Number of State credentialed appraisers on National Registry: 4592</b>	<b>Issue: FINAL</b>

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Action	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Application Process:</b>		x						
States must require all continuing education for re-instatement of an appraiser credential be consistent with AQB Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				Since mid 2007, New York's process to reinstate a previously held credential has been inconsistent with AQB Criteria. Appraisers returning to active status after having been revoked for failing the continuing education audit were allowed to "reapply" after sitting out for at least one year. The application process for these returning appraisers did not require them to demonstrate they had completed all required continuing education hours that would have been required if the credential holder had maintained an active status (the equivalent of 14 hours per year, plus the deficient hours prompting the revocation).	In the response letter, the Board reported to ASC staff that the application process to reinstate a previously held credential will require the applicants to demonstrate completion of all required continuing education hours, including any deficient hours and the hours that would have been required if the licensees had maintained an active status. If the applicants fail to do this, they will be required to re-qualify as a new applicant, including passing a new examination and meeting all AQB requisite education and experience requirements.	The Department and Board must: (1) cease reinstating certified appraiser credentials to individuals failing to demonstrate continuing education hours sufficient for the lapsed period; (2) identify all individuals who were reinstated after June 2007, and did not provide sufficient documentation to show that the appraiser met all the requisite continuing education; (3) contact the individuals identified above and request documentation to show the credential holder met the hours of continuing education at the time of reinstatement; (4) downgrade certified appraisers who cannot provide acceptable continuing education documentation to a non-certified credential; (5) reissue certified appraiser credentials with corrected effective dates to appraisers who did not have the necessary continuing education at the time the certified credential was reissued, and have subsequently obtained the requisite education; and (6) provide a report to ASC staff with the final results.	None	ASC staff will monitor this required action and confirm compliance with AQB Criteria during the Follow-up Review.

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Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Action	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Application Process continued:</b>		X						
States must use a reliable means of validating appraiser experience claims on all initial applications. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10G.)				New York granted credentials to applicants relying on mass appraisal experience without conforming to AQB Criteria. Board staff confirmed that work product samples are not requested from individuals with mass appraisal experiences, and therefore, work product samples are not reviewed for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).	In the response letter, the Board reported to ASC staff that appraisers identified as having previously been credentialed without validation by the Board of experience claimed will be sent a letter requiring them to submit work samples relating to the experience claimed. The work samples will be forwarded to Board members for review. Those who do not meet USPAP standards will be reported to the ASC.	The Department and Board must: (1) immediately cease awarding certified credentials to applicants whose appraisal experience has not been validated by a review of requested work product samples for USPAP compliance; (2) identify all individuals who were issued certified credentials relying upon improperly validated experience; (3) downgrade certified appraisers who cannot provide acceptable experience documentation to a non-certified credential; (4) reissue certified appraiser credentials with corrected effective dates to appraisers who did not have the necessary experience at the time the certified credential was issued, and now have subsequently obtained the requisite experience; and (5) provide a report to ASC staff with the final results.	None	ASC staff will monitor this required action and confirm compliance with AQB Criteria and ASC Policy Statement 10G during the Follow-up Review.

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Requirement/Guidance	Compliance (YES/NO)			ASC Staff Observations	State Response	Required State Action	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Application Process</b>	X							
States must use a reliable means of validating appraiser experience claims on all initial applications. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10G.)				The State revised its experience log forms to meet AQB Criteria. However, some applicants were being credentialed based on old experience logs that did not contain the necessary data.	In the response letter, the Board reported to ASC staff that experience log forms are currently being revised to include a space for the signature of the supervisor on each page. In addition, they will ensure that only the new forms that contain all necessary data are accepted to ensure compliance with AQB Criteria.	None	To strengthen the Program, the State should ensure it does not accept experience earned after January 1, 2008, on experience logs that do not contain, at a minimum: (1) the type of property; (2) date of report; (3) address of appraised property; (4) description and scope of work; (5) number of actual work hours; and (6) the signature of the supervising appraiser on each page.	During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.

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	YES	NO	AC					
<b>Application Process continued:</b>	X							
States must use a reliable means of validating appraiser experience claims on all initial applications. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10G.)				The Board failed to exercise due diligence in determining whether work product submitted was USPAP-compliant as required by AQB Criteria. Board staff ensures an applicant's work samples: (1) identify the trainee's contribution and is signed; (2) identify that an inspection of the property was indicated; (3) include a property description; and (4) use the three approaches to value. However, there is not an appropriate assessment by a knowledgeable individual of whether or not the applicant developed and communicated their analysis, opinions, and conclusions to the intended user in a manner that is meaningful, not misleading and USPAP-compliant.	In the response letter, the Board reported to ASC staff that an applicant's work product is now being forwarded to members of the Board and to their Regional Advisors for evaluation of USPAP compliance.	None	None	During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.
<b>Reciprocity:</b>	X							
				No compliance issues noted.	N/A	None	None	None

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	YES	NO	AC					
<b>Education:</b>	X							
States should ensure that course expiration dates assigned by the State coincide with AQB's CAP and/or IDECC endorsement periods. (Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				The Board relied upon the International Distance Education Certification Center (IDECC) approval for distance education courses. New York assigned course expiration dates that were past IDECC expiration dates.	In the response letter, the Board reported to ASC staff that the education unit staff will modify the course approval letter to indicate that approval based on IDECC's endorsement is in effect only as long as the IDECC endorsement for the course is current. In addition, the Board will closely monitor those schools if the endorsement has not expired. The course application form will also be modified to provide details regarding online requirements and will request necessary documentation to provide proof of compliance with AQB Criteria.	None	None	During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.



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	YES	NO	AC					
<b>Enforcement:</b>			<b>X</b>					
States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				New York had 65 outstanding complaints; of those 65, eight complaints were unresolved for more than one year. None of these cases involved special documented circumstances.	The Board provided to ASC staff in an email received on April 30th, 2010, a detailed report of the status of the eight complaint cases identified as being outstanding for more than one year at the time of Review. The Board reported that seven of the eight cases are now closed. The case that remains open is one of five complaints filed against the same respondent. This case is in the Counsel's office and was joined with two other pending files to provide evidence of a pattern of conduct to the Administrative Law Judge. The hearing on these cases was adjourned (continued) due to the hospitalization of the respondent.	None	None	During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.