

Appraisal Subcommittee
Federal Financial Institutions Examination Council

December 8, 2010

Mr. Jerry McDonald, Administrator
Real Estate Programs
P.O. Box 9020
Olympia, WA 98507-9020

RE: ASC Compliance Review of Washington's appraiser regulatory program

Dear Mr. McDonald:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Washington's appraiser regulatory program (Program) on May 12-13, 2010. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the 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. The ASC identified the following areas of non-compliance:

- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.¹
- States must use a reliable means of validating appraiser experience claims on all initial applications.²

In its response, the State indicated corrective actions were taken as detailed in the attached Report. During the next Review, 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: Mr. Ralph Birkedahl, Program Manager
Ms. Mary Howells, Chair

¹ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

² 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.

ASC Compliance Review Report						Finding: Not In Substantial Compliance		
						Report Issue Date: December 8, 2010		
Washington Appraiser Regulatory Program (Program)								
Washington Real Estate Appraiser Commission (Commission) / advisory			PM: V. Ledbetter		ASC Compliance Review (Review) Date: May 12-13, 2010		Review Period: May 2008 to May 2010	
Umbrella Agency: Real Estate Appraiser Section of the Business and Professions Division of the Department of Licensing (Department)				Number of State credentialed appraisers on National Registry: 3,197		Issue: FINAL		
Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Washington Statutes, Regulations, Policies and Procedures:	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 the following inconsistencies with Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) WAC 308.125.050 (2) regarding requirements for acceptable distance education courses is not consistent with AQB Criteria under its Generic Education Criteria section III (D) regarding Distance Education.</p> <p>(2) WAC 308.125.060 allows, as an alternative to required classroom hours, successful completion of challenge examinations for qualifying education courses if taken before July 1, 1990, which is no longer acceptable under AQB Criteria as of January 1, 2008.</p> <p>(3) WAC 308.125.065 allows qualifying education credit for teaching real estate appraisal courses, which has not been allowed under AQB Criteria since 1998.</p> <p>Despite the conflicting provisions in the regulations, ASC staff found no incidents where these regulations were applied to any aspect of the Program.</p>	On September 7, 2010, Department staff reported to ASC staff that they agree there are inconsistencies with the noted regulations, and in response, repealed WAC 308.125.065 , effective May 14, 2010, and began the process to amend WAC 308.125.050 (2) and WAC 308.125.060 . The amendment process should be completed within 120 days.	None	None	Upon adoption, please provide ASC staff with copies of the amended regulations.

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Washington Statutes, Regulations, Policies and Procedures continued:			X					
States must have sufficient legal and administrative resources to perform Title XI-related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)				<p>A Governor's directive applicable to all State employees and programs without regard to the funding source of their respective budgets require: a State-wide hiring freeze; prohibitions on equipment purchases, entering into contracts, and out-state travel; and mandatory staff furloughs. All Washington State staff must take 10 furlough days during fiscal year 2011, effective July 1, 2010. During the Review Period, two of the four administrative staff personnel (Licensing Manager and Office Assistant) retired and were not replaced.</p> <p>Based on a new law, the two remaining administrative staff personnel will also regulate Appraisal Management Companies (AMCs) beginning in July 2011. In addition, the ban on out-of-state travel prevented the staff and/or commission members from attending an out-of-state meeting regarding appraiser regulation.</p>	On September 2, 2010, Department staff reported to ASC staff that they are aware of the need to maintain sufficient resources to perform Title XI-related duties. The Department was required to implement mandated hiring freezes and budget cuts. The Department plans to pursue filling one of the vacant administrative staff positions.	None	To strengthen the Program, the Department should explore ways to achieve and maintain the necessary resources to perform its Title XI-related duties.	During the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI.
Temporary Practice:	X			No compliance issues noted.	N/A	None	None	None
National Registry:	X			No compliance issues noted.	N/A	None	None	None

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Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Application Process:		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.)				<p>The Department upgraded appraisers from the licensed level to the certified residential credential without: (1) properly validating the hours and months of appraiser experience; and (2) reviewing the work product of every applicant.</p> <p>During this Review Period, the Department began issuing upgraded credentials based on appraiser experience claims from applicants' previous licensed level applications. However, files did not contain evidence that work product was reviewed for these individuals when they first became licensed, or when they upgraded from licensed level credential to certified residential. Staff did not keep the work logs or notes with every licensed level application, but instead relied on a summary of the work log provided by applicants in their application.</p>	On September 7, 2010, Department staff reported to ASC staff that to ensure future compliance, the Program modified its checklist, added audits, and specifically required the application processor to note the experience hours requested and the number of hours accepted. The Department also modified its appraiser experience log to require applicants to submit actual hours of experience in addition to the standard hours allowed for various types of experience. The log will remain in the applicant's work file.	The Department must use a reliable means of validating the applicant's 2500 hours of claimed experience, and review the work product of every individual who upgraded from the licensed level to the certified residential credential during the Review Period (May 2008 and May 2010). The Department must: (1) identify individuals who were granted an upgrade from licensed level to certified residential; and (2) obtain work logs from those individuals to ensure they possess the 2500 hours of claimed experience over at least a 24-month period. In addition, for those credentialed after November 1, 2008, the Department must ensure work product is compliant with the Uniform Standards of Professional Appraisal Practice. The Department must downgrade those individuals who cannot demonstrate the requisite experience and that it complies with USPAP.	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10G and verify the Departments corrective actions.

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	YES	NO	AC					
Application Process Continued:	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.)				Washington issued four new credentials (not upgrades from the licensed level) without properly validating all experience claims. Specifically, ASC staff identified four certified appraiser files that did not contain proper experience documentation to verify that the State validated the experience claimed.	On September 7, 2010, Department staff reported to ASC staff that the Department completed experience audits on the appraisers whose files did not contain proper experience documentation. The Department confirmed it obtained all of the documentation of hours and months of appraisal experience needed to retain their certification.	None	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10G.
Reciprocity:	X							
				No compliance issues noted.	N/A	None	None	None
Education:	X							
				No compliance issues noted.	N/A	None	None	None

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Enforcement:		X						
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.)				<p>Washington had 187 outstanding complaints of which 41 were unresolved for more than one year. Of those 41 complaints, eight fall under the exception for special documented circumstances.</p> <p>Washington experienced a significant increase in the number of complaints received during this Review Period (488 as compared to the 375 received during the preceding Review Period). The number of unresolved cases also increased during the Review Period. However, the total number of complaints outstanding and awaiting disposition compared to the number in process for more than one year has decreased during the Review Period.</p>	<p>In an attempt to comply with the one year time frame for resolution of complaints filed, the Department has initiated the following actions:</p> <p>(1) Submitted a hiring freeze exemption request to fill a recently vacated position; (2) Examined new procedures to expedite cases through the legal process, particularly in the areas of case review and monitoring; and (3) Explored the possibility of using resources from other units within the Department to assist with the legal workload.</p>	<p>The Department must send quarterly complaint logs to ASC staff to allow monitoring of the Department's progress.</p> <p>The ASC Policy Manager assigned to Washington will work with the Department staff to determine the timing and content of the complaint log.</p>	<p>To strengthen the Program, the Department should continue to explore ways to process complaints of appraiser misconduct or wrongdoing on a timely basis to ensure compliance with Policy Statement 10E.</p>	<p>During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.</p>