

Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 13, 2011

Mr. Bob Clark, Director
Office of Real Estate Appraisers
1102 Q Street, Suite 4100
Sacramento, CA 95814

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

Dear Mr. Clark:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of California's appraiser regulatory program (Program) on October 19-21, 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 area of non-compliance:

- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.¹

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

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

ASC Compliance Review Report

Finding: Not In Substantial Compliance

Report Issue Date: April 13, 2011

California Appraiser Regulatory Program (Program)

California Office of Real Estate Appraisers (Department)	PM: N. Fenochietti	ASC Compliance Review (Review) Date: October 19-21, 2010	Review Period: June 2009 through October 2010
Umbrella Agency: Independent		Number of State Credentialed Appraisers on National Registry: 13,316	Issue: FINAL

Requirement/Guidance	ASC Finding Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
California Statutes, Regulations, Policies and Procedures:			X					
States must have sufficient legal and administrative resources to perform Title XI-related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)				While on site, ASC staff discovered that two staff members had left the Department, two investigator positions approved in 2009 remain unfilled, and two staff members are retiring from the Department before the end of 2011. With the current hiring freeze, the positions may not be filled. There is a mandatory furlough program in place that requires each Department employee to be out of the office three days per month. In addition, the Department added the licensing and enforcement of Appraisal Management Companies to the Program's responsibilities with no additional staff.	On January 22, 2011, the Department reported to ASC staff that there are three mission-critical enforcement positions vacant. Subsequently, the Department reported to ASC staff in an email received on January 25, 2011, that California's Governor is continuing with a hiring freeze; however, he is considering exemption requests. The Department reported it will submit an exemption request.	None	To strengthen the Program, California should explore ways to achieve and maintain the necessary resources and staff to perform its Title XI-related duties.	While California is currently in compliance with Title XI in this area, the lack of sufficient resources could negatively impact compliance for the Program. Through off-site monitoring and during the next 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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	YES	NO	AC					
Application Process:	X							
States must ensure they are maintaining an effective regulatory program, and proactively minimize risk of clerical error that may result in inaccurate entries to the National Registry. (Title XI § 1118 (a), 12 U.S.C 3347.)				While on site ASC staff found that the Department mistakenly issued a Certified Residential Appraiser credential. The applicant was seeking a Trainee credential. ASC staff determined that the credential was issued due to data entry error.	While on site, the identified credential was immediately downgraded to Trainee on the State's database; the ASC was notified, and the individual was sent a certified letter requesting the return of the Certified Residential credential. On January 24, 2011, the Department reported to ASC staff in an email, that on October 28, 2010, a Department meeting was held with staff to addressing proper processing procedures.	None	None	The Department's resolution addresses the concern. During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI.
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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Requirement/Guidance	ASC Finding			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	Compliance (YES/NO)	Areas of Concern (AC)						
	YES	NO	AC					
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.)				California had 259 outstanding complaints; of those 259 complaints, 184 (71%) were unresolved for more than one year. Of those 184, none fell under the exception for special documented circumstances.	On January 22, 2011, the Department informed ASC staff that progress is being made on reducing the number of aged enforcement cases. Department Counsel is actively pursuing settlements on 35-40 of the aged complaints which, if settled, eliminates the need for referral of these cases to the Office of the Attorney General (OAG). Also, 41 of the aged complaints are with the OAG awaiting final adjudication. The Department has increased the frequency of communication with the OAG attorneys handling this caseload.	California must submit quarterly complaint logs to ASC staff. Staff will analyze each log. If progress is not made, the ASC may place additional requirements upon the State. The ASC Policy Manager assigned to California will work with the Department staff to determine the timing and content of the complaint log.	To strengthen the Program, California should employ ways to process complaints of appraiser misconduct or wrongdoing in a timely manner to ensure compliance with Policy Statement 10E.	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.

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Requirement/Guidance	ASC Finding			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	Compliance (YES/NO)	Areas of Concern (AC)						
	YES	NO	AC					
Enforcement (continued):	X							
States must ensure that the system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				Prior to the Review, the Department reported to ASC staff that one of their former Program employees had extended timeframes for compliance with ordered or agreed upon disciplinary sanctions, such as the completion of education or payment of fines and/or enforcement costs. The former Program employee took this action without Department approval, and without following proper procedure or process.	In an email on January 28, 2011, the Department reported to ASC staff that at the conclusion of an investigation into this matter, legal counsel determined the Department did not renew any disciplined licensees that were delinquent in their payment or other disciplinary obligation at the time of their license renewal. The investigation found that there are 25 licensees delinquent in a payment obligation, and 8 licensees delinquent in their obligation to complete additional education. The Department has notified these licensees that should they attempt to renew, the license renewal will be denied until the obligations are completed.	None	None	The Department's resolution addresses the concern. During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement number 10E.