

Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 14, 2012

Mr. Daniel E. Shapiro
First Deputy Secretary of State
NY Department of State
One Commerce Plaza
99 Washington Ave
Albany, NY 12231-0001

RE: ASC Compliance Review of New York's appraiser regulatory program

Dear Mr. Shapiro:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of New York's appraiser regulatory program (Program) on September 20-23, 2011. 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 must use a reliable means of validating appraiser experience claims on all initial applications for appraiser credentialing;¹ and
- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.²

In its response, the State indicated corrective actions were taken. New York will remain on a two-year Review Cycle. During a priority contact visit in 2012, 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,



Peter Gillispie
Acting Chairman

Attachment

cc: Ms. Kathleen M. McCoy, Director, Division of Licensing Services

¹ 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.

² Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance

Final Report Issue Date: March 14, 2012

New York Appraiser Regulatory Program (Program)

Board of Real Estate Appraisal (Board) / Decision Making	PM: J. Tidwell	ASC Compliance Review Date: September 20-23, 2011	Review Period: September 2009 to September 2011
Umbrella Agency: Department of State, Division of Licensing Services		Number of State Credentialed Appraisers on National Registry: 4357	Review Cycle: Two Year

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					
New York Statutes, Regulations, Policies and Procedures:			X					
States must have sufficient funding and staffing consistent with the purpose of Title XI. (Title XI § 1118 (a), 12 U.S.C 3347.)				The Program did not have the necessary funding and/or staffing to take appropriate action on their continuing education (CE) audits and investigate and resolve complaints timely.	In a letter dated November 10, 2011, Board staff reported to ASC staff ways that they have staffed the Program to process applications, take appropriate action on the CE audits, and to timely investigate and resolve complaints.	None	To strengthen the Program, the Board should monitor their funding and staffing to ensure that their Program is compliant with Title XI.	ASC staff will be conducting a Priority Contact in 2012 and a Compliance Review in 2013. 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
Application Process:			X					
States must use a reliable means of validating continuing education claims on appraiser renewal applications. (Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.)				Board staff did not take appropriate action regarding appraisers that did not comply with the initial CE audit letter. During this Review, ASC staff noted that the 2010 and 2011 CE audits were not completed. CE audit letters were mailed to selected appraisers requiring proof of CE in compliance with Appraiser Qualifications Board Real Property Appraiser Qualification Criteria (AQB Criteria). However, Board staff did not take subsequent action regarding appraisers that did not comply with the initial audit letter.	In a letter dated November 10, 2011, Board staff reported to ASC staff that since the time of the Review, they made a permanent shift in staff assignments to address the backlog of CE audit files. All CE audits are now current.	None	To strengthen the Program, the Board should monitor their staffing and new assignments to ensure that CE audits are completed in compliance with ASC Policy Statement 10F.	Through off-site monitoring and during our Priority Contact visit in 2012, and the next Review in 2013, ASC staff will pay particular attention to this area to ensure compliance with Title XI and ASC Policy Statement 10F.

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance

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New York Appraiser Regulatory Program (Program)

Board of Real Estate Appraisal (Board) /
Decision Making

PM: J. Tidwell

ASC Compliance Review Date: September 20-23, 2011

Review Period: September 2009 to September 2011

Umbrella Agency: Department of State, Division of Licensing Services

Number of State Credentialed Appraisers on National Registry: 4357

Review Cycle: Two Year

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 continued:		X						
States must use a reliable means of validating appraiser experience claims on all initial applications for appraiser credentialing. (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.)				Appraiser applicants' experience did not always meet AQB Criteria. Currently, the log used by the State requires the applicant to record their actual number of work hours, but then the State uses an assigned number to calculate the total hours. Therefore, in some cases, an appraiser may be given credit for more hours than actually worked.	In a letter dated November 10, 2011, Board staff reported to ASC staff that their experience logs are being revised to ensure that applicants only record their actual number of hours worked on each assignment. They are confident that this will ensure only actual hours spent on the appraisal will be credited towards qualifying experience.	The Board staff must submit a copy of their revised experience log to ASC staff within 60 days of the issuance of this Report. Board staff must also ensure that they calculate hours of experience using the actual number of hours worked on each assignment.	None	During our Priority Contact visit in 2012, and during the next Review in 2013, ASC staff will pay particular attention to this area for compliance with Title XI and 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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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					
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>New York had 96 outstanding complaints of which 40 (42%) were unresolved for more than one year. Of those 40, none fall under the exception for special documented circumstances. All 40 complaints were in various stages of processing, though investigation had been completed on all complaints. All of the aged cases were received after September 1, 2009.</p> <p>Both the number of outstanding complaints and unresolved complaints for more than one year increased since the 2009 Review, when 8 of the 65 (12%) outstanding complaints were unresolved for more than one year.</p>	<p>In a letter dated November 10, 2011, Board staff reported to ASC staff that staff changes have been instituted to address the timeliness of enforcement. The process of reviewing complaints in the complaint unit was omitted, which will potentially shorten the process by 30 days; an additional Senior Investigator was designated to assist with assigning and tracking complaints; and regional advisors are being asked to decline any review they cannot complete within one month. It is expected that these changes will result in the more expeditious resolution of appraisal cases.</p>	<p>New York 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.</p> <p>The ASC Policy Manager assigned to New York will work with Board staff to determine the timing and content of the complaint log.</p>	None	<p>Through off-site monitoring and during our Priority Contact visit in 2012, and the next Review in 2013, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.</p>