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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 11, 2013

Ms. Michelle Johnston, Records and Licensing Supervisor
Board of Certified Real Estate Appraisers
P O Box 110806
Juneau, AK 99811-0806

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

Dear Ms. Johnston:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Alaska appraiser regulatory program (Program) on May 21-23, 2013. 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 adopt and/or implement all relevant AQB Criteria.¹
- States must issue temporary practice permits within five business days of receipt of a completed application;²
- States must ensure appraiser credential applications submitted for processing do not contain expired examinations (24-month examination validity period). Valid applications should be timely processed;³
- States must ensure that qualifying education documentation submitted with an application for appraiser credential upgrade is consistent with AQB Criteria;⁴
- States need to maintain adequate documentation to support validation method(s);⁵
- States must complete the continuing education affidavit audit within 60 business days from the date the renewal credential was issued;⁶ and
- States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.⁷

ASC staff will confirm corrective actions have taken place and are appropriate during the next Review. Alaska will be moved to a one-year Review Cycle to allow for close monitoring of the Program.

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,



Arthur Lindo
Chairman

Attachment

cc: Ms. Alysha Hernandez, Licensing Examiner
Ms. Donna Rulien, Board Chair
Ms. Sara Chambers, Operations Manager

¹ Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.

² Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.

³ Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 2.

⁴ Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.

⁵ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10G.

⁶ Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10F 5(c).

⁷ Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.

“ASC Finding” Defined for ASC Compliance Review Report

1. IN SUBSTANTIAL COMPLIANCE

Applies when no issues of non-compliance or violations of Title XI, ASC Policy Statements or AQB Criteria are identified.

2. NOT IN SUBSTANTIAL COMPLIANCE

Applies when there are one or more issues of non-compliance or violations of Title XI, ASC Policy Statements and/or AQB Criteria but the concerns do not rise to the level of “not in compliance.”

3. NOT IN COMPLIANCE

Applies when the number, seriousness, and/or repetitiveness of the Title XI, ASC Policy Statements and/or AQB Criteria violations warrant this finding.

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance
Final Report Issue Date: December 11, 2013

Alaska Appraiser Regulatory Program (Program)		Board of Certified Real Estate Appraisers (Board) / Decision Making		PM: N. Fenochietti		ASC Compliance Review Date: May 21-23, 2013		Review Period: June 2011 to May 2013	
Umbrella Agency: Department of Commerce, Community and Economic Development; Division of Corporations, Business and Professional Licensing (Division)				Number of State Credentialed Appraisers on National Registry: 243				Review Cycle: One 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					
Alaska Statutes, Regulations, Policies and Procedures:		X						
States must adopt and/or implement all relevant AQB Criteria. (Title XI § 1116, 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 Alaska statutes and regulations revealed the following inconsistencies with AQB Criteria regarding: (1) Qualifying Education (QE); (2) Distance Education (DE); (3) Continuing Education (CE); and (4) Uniform Standards of Professional Appraisal Practice (USPAP) instructor requirements.</p> <p>Effective January 1, 2008, the AQB Criteria no longer recognizes challenge examinations for meeting appraiser QE. 12 AAC 70.140(e) allows credit for courses completed by challenge examination.</p> <p>AQB Criteria requires DE course delivery mechanism approval. 12 AAC 70.210.(e)(2) and 12 AAC 70.215.(c)(4) do not require delivery mechanism approval for certain CE courses.</p> <p>AQB Criteria requires CE credit be granted for education offerings that are consistent with the purpose of CE and cover real property related appraisal topics. 12 AAC 70.215. includes "Business Courses Related to Real Estate Appraisal" as an acceptable CE topic. This topic was removed by the AQB and is no longer part of the AQB Criteria.</p> <p>Credit may only be awarded for USPAP education when the course is instructed by at least one AQB certified USPAP instructor who is also a State certified appraiser. 12 AAC 70.215.(e) does not require that at least one instructor be a certified appraiser.</p>	On August 2, 2013, the Board reported to ASC staff that at its June 25, 2013 Board meeting the Board resolved to repeal 12 ACC 70.140.(e), and 12 AAC 70.210.(e)(2), and to amend 12 AAC 70.215. to bring the regulations into compliance with AQB Criteria.	Alaska must continue the process to amend its regulations to bring them into compliance with AQB Criteria, and provide ASC staff with a copy of the final rules once adopted.	None	ASC Staff will continue to monitor during the next Compliance Review in May 2014.
Alaska Statutes, Regulations, Policies and Procedures continued:			X					
States must require that appraisals be performed in accordance with the latest version of the Uniform Standards of Professional Appraisal Practice (USPAP). (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 3; AQB Real Property Appraiser Qualification Criteria.)				The USPAP Record Keeping Rule requires appraisers to retain a workfile for at least 5 years after preparation or at least 2 years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last. Alaska Statute 08.87, § 08.87.300. requires certified real estate appraisers to retain workfiles for not less than 3 years.	On August 2, 2013, the Board reported to ASC staff that at its June 25, 2013 Board meeting the Board resolved to amend Alaska Statute 08.87, § 08.87.300 to replace the current language with the USPAP Record Keeping Rule language.		Alaska should continue the process to amend its statute to meet the USPAP Record Keeping Rule, and provide ASC staff with a copy of the final statute once adopted.	ASC Staff will continue to monitor during the next Compliance Review in May 2014.
Temporary Practice:		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.)				Alaska failed to process requests for temporary practice permits within 5 business days of receipt of a completed application. ASC staff reviewed 17 temporary practice (courtesy license) files, 12 of which took more than 5 days to issue.	On August 2, 2013, the Board reported to ASC staff that this would be resolved by ensuring that staff assigned to the Board is aware that courtesy licenses must be issued within 5 days.	Alaska must monitor Program staff to ensure temporary practice permits are issued within 5 days of receipt of the application.	None	ASC Staff will continue to monitor during the next Compliance Review in May 2014.

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National Registry:	X			No compliance issues noted.	N/A	None	None	None
Application Process:		X		The Board issued an appraiser credential to 1 applicant whose examination did not meet AQB Criteria.	On August 2, 2013, the Board reported to ASC staff that this deficiency was due to changes in staff and that current staff is aware of the requirements.	The Board must: 1. cease issuing appraiser credentials to applicants whose examinations are outdated; 2. within 30 days of the date of this report, identify all individuals who were credentialed after May 2011, based on an examination passed more than 24 months prior to a completed application received by the State; 3. within 90 days of the date of this report, adopt written policies and procedures that ensure, on an on-going basis, that applicants examination pass dates are within 24 months of receiving a completed application in compliance with AQB Criteria; 4. implement a plan to ensure individuals identified in item 2 above have the opportunity to take the appropriate AQB approved examination; and 5. within 180 days of the date of this report, downgrade to the appropriate classification all appraisers who fail to meet this requirement; update the National Registry entries for those appraisers; and submit a list of appraisers who have been downgraded to ASC staff.	None	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.
Application Process continued:		X		ASC staff identified 2 application files that did not contain documentation that the claimed 'in lieu of' college courses were in appropriate topics as required by the AQB Criteria.	On August 2, 2013, the Board reported to ASC staff that this deficiency was due to changes in staff and that current staff is aware of the requirements.	The Board must: 1. immediately cease issuing certified appraiser credentials to individuals failing to demonstrate successful completion of "in lieu of" college courses in topics required by AQB Criteria; 2. within 60 days, identify all individuals credentialed after May 2011, who did not provide sufficient documentation to show that the applicant completed the requisite courses and request documentation to show successful completion of the requisite courses; and 3. within 90 days recall or downgrade the credentials of the appraisers who cannot provide acceptable documentation; update the National Registry entries for those appraisers; and provide a report to ASC staff listing appraisers whose credentials were recalled or downgraded.	None	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.

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	YES	NO	AC						
Application Process continued:		X							
States need to maintain adequate documentation to support validation method(s). (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10G.)				The Program does not maintain adequate documentation to permit determinations as to whether experience claimed by initial applicants complied with AQB Criteria. Files for 5 of 8 applicants for initial credentialing by examination did not include documentation that work samples of claimed experience were selected by the State for USPAP compliance. This was an area of concern in the May 2011 Compliance Review Report.	On August 2, 2013, the Board reported to ASC staff that check sheet OL-127 has been amended to include that Board staff has selected the work samples.	Alaska must maintain information identifying each appraisal report requested and reviewed by the State, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisal submitted.	None	ASC Staff will continue to monitor during the next Compliance Review in May 2014.	
Application Process continued:		X							
States must complete the continuing education affidavit audit within 60 business days from the date the renewal credential was issued. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10F 5(c).)				The Board did not conduct a prompt post-approval audit of an adequate number of CE affidavits to identify appraisers who fail to comply with Federal and State law.	On August 2, 2013, the Board reported to ASC staff credential holders are now randomly selected as they renew so that the audit can be completed within 60 days.	The Board must complete each continuing education audit within 60 days of the date the credential was issued.	None	ASC Staff will continue to monitor during the next Compliance Review in May 2014.	
Reciprocity:	X			No compliance issues noted.		N/A	None	None	None
Education:		X							
States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.)				The Program does not maintain sufficient documentation. ASC staff requested 14 files for review. Of the 14 files, the Board was unable to provide 2.	On August 2, 2013, the Board reported to ASC staff that this deficiency was due to changes in staff and that current staff is aware of the documentation requirements.	The Board must ensure that all courses approved for appraiser education conform to AQB Criteria. Within 60 days of the date of this Report, the Board must: 1. review the identified courses to determine whether they meet AQB Criteria; 2. remove courses or hours that do not meet AQB Criteria from approved status; and 3. notify ASC staff in writing of the Board's findings.	None	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with AQB Criteria.	
Education continued:			X						
States must ensure that Distance Education meets AQB Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				The Board approved a webinar course for CE credit that did not have an approved course delivery mechanism in accordance with AQB Criteria.	While on site, Board staff reported to ASC staff that the individual who submitted the course for credit towards CE required for renewal did not renew. Therefore, no credential holders were given CE credit for the course and it was removed from the course list.	None	To strengthen the Program, Alaska should implement an effective process to ensure and document that appropriate delivery mechanism approval has been obtained on all approved distance education courses.	ASC Staff will continue to monitor during the next Compliance Review in May 2014.	

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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					
Education continued:			X					
States should ensure that course approval expiration dates assigned by the State coincide with course approval expiration dates assigned by AQB's CAP and/or IDECC. (Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				Course approval expiration dates assigned by the State did not coincide with Appraiser Qualifications Board Course Approval Program (CAP) and/or International Distance Education Certification Center (IDECC) expiration dates.	On August 2, 2013, the Board reported to ASC staff that language will be added to the CE approval letter and CE application that the Board assigned expiration date will match the AQB CAP and/or IDECC assigned expiration date.	None	To strengthen the Program, Alaska should establish expiration dates for appraiser courses to ensure the course content remains current and appropriate, and also to eliminate confusion, particularly for those who may rely on the approved list.	None
Enforcement:	X			No compliance issues noted.	N/A	None	None	None