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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 3, 2005

Mr. John Carlos, Regulatory Programs Administrator  
Insurance, Securities, Banking and Real Estate Division  
Department of Revenue and Taxation  
Government of Guam  
P.O. Box 23607  
GMF, Guam 96921

Dear Mr. Carlos:

Thank you for your cooperation and assistance in the August 3-4, 2005 Appraisal Subcommittee (“ASC”) review of Guam’s real estate appraiser regulatory program (“Program”). We commend the Division for resolving concerns identified in previous field reviews through the passage of Public Law 27-115 on December 2, 2004. During this field review, we identified three areas that need your attention to bring the Program into full compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

- **Guam does not process temporary practice applications in accordance with Title XI and ASC Policy Statement 5.**

Since our previous field review, Guam processed three temporary practice applications. Guam failed in the following three ways to comply with the temporary practice provisions of Title XI and ASC Policy Statement 5.

First, Guam did not process the applications within five business days of receipt. ASC staff reviewed the three applications and found that only one was processed in a timely manner. The second request was processed fourteen business days from receipt. ASC staff could not make a determination regarding the last request because it did not contain a receipt date.

Second, Guam does not provide temporary practitioners with an effortless method to obtain an extension of the permit’s time period, as required by ASC Policy Statement 5. Guam’s temporary practice permits are valid for a maximum of six months. If an assignment takes longer than six months, Guam would require the appraiser to reapply for a new temporary practice permit.

Third, by requiring a temporary practitioner to apply for a new temporary practice permit if the appraiser’s work assignment takes longer than six months, Guam effectively would be charging the practitioner \$200 to complete a single assignment (*i.e.*, \$100 for each permit), which would exceed the \$150 maximum fee allowed by ASC Policy Statement 5.

In addition, Guam charged temporary practice applicants a \$25 National Registry fee and placed them on the National Registry. Appraisers obtaining a temporary practice permit are not required to pay a National Registry fee and should not be reported to the ASC for inclusion on the National Registry database.

To address these concerns, Guam needs to ensure, by statutory amendment, rule change, and/or written procedures, that it:

1. Processes complete temporary practice applications within five business days of receipt;
  2. Provides temporary practitioners with an effortless extension method that does not increase the total cost to more than \$150; and
  3. Ceases charging temporary practice applicants a \$25 National Registry fee and placing them on the National Registry. The Division also must remove these temporary practitioners from the National Registry and must return the \$25 fee to the appraisers.
- **Guam accepts experience affidavits when issuing initial appraiser certifications, but does not have a reliable means of validating the qualifying experience claims of applicants.**

During this review period, Guam issued three new certifications to appraiser applicants. These applicants provided affidavits attesting to the required hours of experience. No supporting documentation was provided. Each affidavit merely identified the number of hours of experience obtained and a sample listing of appraisals performed. Two applications also contained an affidavit from the applicant's supervisory appraiser attesting to the number of hours and type of appraiser experience obtained under his supervision. Guam did not employ any validation procedures to ensure the reliability of the affidavits.

The appraiser credentials were issued prior to the ASC's January 1, 2005 Policy Statement amendments. ASC Policy Statement 10, at the time the credentials were issued, provided that States, at a minimum, should have a reliable means of validating the experience credit claimed for certification or licensing. Guam failed to have any validation method in place to ensure the reliability of the affirmations.

To address this concern, the Division needs to audit the initial experience of at least one of the three certified appraisers, preferably all three appraisers, to determine whether the appraiser(s) met the AQB's minimum experience requirements at the time of certification issuance.

If that audit determines that the chosen appraiser did not have sufficient experience to support his or her certification at the time of initial issuance:

- The Division then will need to perform similar audits regarding the other two appraisers;
- If an appraiser failed to conform to the AQB's experience requirements at the time of initial certification, the Division must take appropriate disciplinary action; and
- If an appraiser, at the time of the audit, has not earned sufficient experience to support his or her certification, the Division must immediately begin the necessary steps to downgrade the appraisers to a non-certified classification. In the alternative, the Division may choose to recall the person's certification and any other evidence of the

appraiser's authority to appraise and place a conspicuous notice on replacement documents stating, "Not Eligible To Appraise Federally Related Transactions."

Finally, the Division must take steps to ensure that its credentialing process complies with ASC Policy Statement 10. F.'s audit requirements, which became effective on January 1, 2005, including its prohibition on accepting affidavits to support initial experience claims of applicants for certification.

- **Guam's statutes need to be amended to correct an inaccurate reference.**

On December 1, 2004, Public Law 27-115 was signed into law bringing Guam's statute into substantial compliance with Title XI by addressing our previous concerns regarding 1998 and 2003 Appraiser Qualifications Board ("AQB") criteria changes. A new section was added to the Guam Code that would automatically amend the Code based on newly adopted appraiser qualifications criteria. However, a technical error was made to this new section that could affect its usefulness. The section states, "Real Property Appraiser Qualification Criteria from the Uniform Standards of Professional Appraisal Practice (USPAP)", when it should state, "Real Property Appraiser Qualification Criteria from the Appraiser Qualifications Board (AQB) of the Appraisal Foundation." While the statute as a whole is generally consistent with the AQB's certification criteria, this technically incorrect section could hamper the seamless incorporation by reference of future criteria changes as intended by the legislature.

While on site, we met with the Director of Revenue and Taxation and explained why this amendment should be made promptly. He was receptive and stated that such an amendment will be submitted to the legislature.

Please take steps to ensure that such a corrective amendment is introduced promptly in the Guam legislature and keep us apprised about its status. Please provide us with a copy of the amendment as it is finally adopted by the legislature.

Please respond to our findings and recommendations in 60 days. Until the expiration of that period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be available on our Web site.

Please contact us if you have any questions.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Teresa Santos, Regulatory Examiner  
Artemio Ilagan, Director, Department of Revenue and Taxation