

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 2, 2005

Dan Bleuthardt, Director  
Division of Professional Regulation  
320 W. Washington  
Springfield, IL 62701

Dear Mr. Bleuthardt:

Thank you for your cooperation and your staff's assistance in our follow-up review of Illinois' real estate appraiser regulatory program ("Program") on August 15-17, 2005. Our follow-up review focused on concerns identified during the Appraisal Subcommittee's ("ASC") November 2004 field review. During this follow-up review, we determined that, although the Division made some progress, the Division failed to implement correctly or completely many curative actions required in our January 21, 2005 field review letter and our subsequent June 30<sup>th</sup> response letter. To better supervise Illinois' corrective action efforts, we will maintain a 12-month review cycle, with potential interim on-site visits, until the Program is brought into compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

On August 17, 2005, ASC General Counsel Marc Weinberg and ASC Appraisal Policy Manager Denise Graves met with Real Estate Director Ronald Hardgrove, Director of Real Estate Appraisal Administration Mike Brown, Deputy General Counsel Steve Ginsburg, and Director of Enforcement Mary Anne Benden to discuss the Program. Licensing and Education Manager Young Brockhouse and Licensing Coordinator Mary Bates participated in the meeting by teleconference. During this meeting, the Division agreed to take several specific steps within very short, specified time frames to address the concerns cited in our January 21<sup>st</sup> field review letter.

On August 16, 2005, the Program was transferred from the Division of Banks and Real Estate to the Division of Professional Regulation. For ease of reference, the term "Division" in this letter refers to both the Division of Banks and Real Estate or the Division of Professional Regulation, as appropriate.

Because the following discussion is complex, we organized it using the bulleted items from our January 21, 2005 field review letter. Under each of those bullets, we first briefly present our findings and conclusions from the January 2005 field review letter. Then, we discuss the status of those items at the time of our August 2005 follow-up review. Finally, we address the agreements reached at our August 17<sup>th</sup> meeting and any further developments.

As discussed in more detail below, the Division still needs to complete the following actions:

- Complete the experience audits regarding the issuance of certified appraiser credentials that failed to comply with AQB criteria, and continue the enforcement process, with a view towards completing the enforcement process in a most expeditious manner;
- Amend its regulations to reduce the temporary practice fee to \$150 or less;

- Amend its regulations to adopt the 2005 edition of Uniform Standards of Professional Appraisal Practice (“USPAP”); and
- Continue to monitor your continuing education course approval process to ensure compliance with AQB criteria.

Please note that ASC staff will return to Illinois around the end of 2005 to conduct a limited on-site review regarding the status of these items.

### **Previous Findings, Current Status, and Necessary Actions**

- **Illinois issued certified appraiser credentials to persons failing to document that their experience conformed to AQB certification criteria.**

*Previous Finding:* In 2001, the Illinois legislature amended its appraiser regulatory statute (“Statute”) to abolish the licensed appraiser classification. The amendment became effective July 1, 2002, but granted a 15-month grace period in which licensed appraisers could continue to practice while attempting to gain the necessary experience and/or education to upgrade to a certified credential. Effective September 30, 2003, licensed appraisers who failed to qualify for an upgrade to a certified classification were downgraded to the new Associate Appraiser classification.

Since approximately July 2002, the Division awarded certified credentials by accepting a combination of affidavits, appraisal logs, and letters to support the experience claims of appraisers upgrading to certified status. While the proper use of appraisal logs is an acceptable method of documenting experience (Illinois had used them correctly in the past), the procedures followed by the Division to process the high volume of Licensed appraisers seeking upgrades to certified credentials did not follow acceptable procedures.

The ASC had concerns over whether these individuals met the certification experience requirements given the State’s previous practice of allowing individuals to obtain a licensed credential by meeting only the education and examination portions of AQB criteria. Applicants were not required to have any experience to obtain a licensed credential, nor was their work as licensed appraisers tracked. Therefore, the State had no reasonable basis on which to conclude that an appraiser holding a licensed credential for more than two years actually had the appraisal experience to meet AQB criteria. Nevertheless, the State allowed these individuals to claim the necessary 24 months to qualify for certified residential status.

To address this issue, the Division was required to perform the following actions:

1. Immediately stop issuing certified credentials to persons who cannot support that they conform to AQB criteria;
2. Within 30 days of receiving our letter, identify all appraisers who obtained a certified credential since July 1, 2002, and provide a listing of those appraisers to the ASC;
3. Within 60 days of receiving our letter, contact the appraisers identified in step 2 and request an appraisal log or other documentation to support their experience claims (if the Division does not have such supporting documentation in its records);

4. Within 90 days of receiving our letter, review the appraisal logs or other documentation for all appraisers identified in step 2 to determine whether the appraisers conform to AQB criteria;
5. Within 120 days of receiving our letter, downgrade to the appropriate classification appraisers who cannot support their certified credential or who fail to submit supporting documentation; and
6. For those appraisers who did not have the necessary experience at the time the certified credential was issued, but who now have obtained the requisite appraisal experience, reissue the certified credentials with corrected effective dates.

***Current Status:*** In response to Step 2 above, the Division identified 1,205 appraisers who obtained a certified credential between July 1, 2002, and November 30, 2004. In telephone conversations prior to the follow-up review, and while on-site, we learned that Division staff attempted to complete the experience audit of these appraisers measuring compliance on an incorrect basis. Instead of measuring experience from the date of the appraiser's first appraisal, the Division counted experience using the date on which an appraiser was issued his or her credential. Experience, for AQB criteria purposes, begins to accrue on the date the applicant/appraiser completes the first assignment in which he or she obtains experience hours that can be counted toward AQB criteria. This date is not necessarily the date on which an applicant's trainee, licensed, or other credential is issued. Therefore, the Division's initial audit procedures were flawed.

The Division failed to demonstrate a reliable method of auditing the 1,205 certified credentials issued from July 1, 2002, through November 30, 2004. At the August 17, 2005 meeting, the Division agreed to take the following actions:

1. Cease using an appraiser's credential issuance date as the date on which the appraiser began acquiring experience;
2. Using the correct criteria applications, by September 2, 2005, complete a new audit of the 1,205 appraiser application files, identifying those appraisers who failed to adequately document their experience claims;
3. On the same day an appraiser is identified as failing to have sufficient experience, send a letter to the appraiser requiring the appraiser to provide sufficient documentation within three business days;
4. By September 6, 2005, provide the ASC a complete National Registry data submission including identification of certified appraisers who passed or failed the new experience audit;
5. By September 9, 2005, start disciplinary action against any appraiser who fails to respond or provide documentation to the Division's documentation request;
6. Provide the ASC frequent National Registry data submissions to reflect on an ongoing basis those appraisers who provide adequate experience documentation and those who ultimately fail to provide such documentation; and

7. Initiate expeditiously disciplinary actions against appraisers who fail to provide sufficient experience documentation.

We agreed that, if the Division failed to provide the necessary National Registry submission to us by September 6<sup>th</sup>, we would have no choice but to immediately change the AQB Compliant status of all 1,205 appraisers on the National Registry to "Unknown."

On September 6, 2005, the Division provided the ASC with the necessary National Registry data file. That file, however, was incorrect because of a technical coding problem. We discovered the error when we reviewed the file on September 7<sup>th</sup>. We notified the Division immediately and the Division corrected the file and resubmitted it on September 8<sup>th</sup>. The data reported the following regarding AQB compliance:

1. The AQB Compliant status of 57 certified appraisers was reported as "Unknown"; and
2. The AQB Compliant status of 20 certified appraisers was reported as "No." These appraisers were changed to Inactive status.

As of the date of this letter, the Division is in the final stages of its audit. The number of certified appraisers reported as AQB non-compliant has increased to 30, and the number of "unknowns" has dropped to 26. The remaining "unknowns" should be reconciled within the next few weeks.

***Necessary Actions:*** The Division needs to complete the following actions:

1. Continue with steps five and seven, as agreed at the August 17<sup>th</sup> meeting, by taking appropriate disciplinary action against appraisers who failed to respond or provide documentation to the Division's request, and continue to report the results of those disciplinary actions to the ASC;
2. Complete step six by November 30, 2005;
3. By November 30, 2005, prepare and submit to the ASC a spreadsheet detailing the following information regarding each of the audited 1,205 appraisers:
  - Appraiser name;
  - Credential number;
  - Number of experience hours documented in application file;
  - Number of experience months documented in application file;
  - Met AQB criteria at time of application (Yes or No);
  - Meets AQB criteria now (Yes or No);
  - Whether noncompliance was the result of fraud or good faith mistake;
  - Current status; and
  - Action taken.

If the spreadsheet in step three is not received by November 30, 2005, or if it is received timely but still contains appraisers listed as "Unknown," then those appraisers' AQB Compliant fields will be changed to "NO," and their status fields will be changed to "Inactive."

- **Illinois accepted affidavits supporting experience for certified credentials without having an acceptable validation process as provided in ASC Policy Statement 10.**

**Previous Finding:** The Division accepted various forms of affidavits to conclude that applicants met the AQB's minimum experience requirements for certification. The Illinois application for appraiser credentialing included a statement allowing appraisers to attest to their months of appraisal experience. The Division also accepted letters attesting to experience hours, rather than requiring an experience log.

ASC Policy Statement 10 provides that States, at a minimum, should have a reliable means of validating both the education and experience claimed for certification or licensing. Illinois did not employ a reliable means of validating experience credit claimed as required under ASC Policy Statement 10.

To address this concern, the Division was required to take steps immediately to conform to new paragraph F of ASC Policy Statement 10, which prohibits the use of affidavits to support the initial issuance of certified credentials. Also, the Division was directed to follow the corrective steps listed in the previous section of this report for certified credentials issued when the State did not have a reliable means of validating experience claims.

**Current Status:** It is important to note that the Division's experience audit efforts discussed in the previous section of this report relate directly to the Division's previous acceptance of experience affidavits; they are inherently intertwined. After our November 2004 field review, Division staff stopped accepting experience affidavits. While on-site, ASC staff reviewed a random sampling of applications submitted after the November 2004 field review. That review supported that the Division, in fact, stopped relying on experience affidavits at that time.

**Necessary Actions:** The Division needs to complete the curative steps (*i.e.*, audit and follow-up) outlined in the previous bullet section for appraisers who were issued certified credentials based on affidavits.

- **The State's temporary practice fee is excessive.**

**Previous Finding:** Title XI provides that a State appraiser certifying or licensing agency shall not impose excessive temporary practice fees, as defined by the ASC. ASC Policy Statement 5 establishes that temporary practice fees above \$150 are excessive. Since our previous field review, the Department increased its temporary practice fee from \$150 to \$200. The Division was directed to amend its regulations as soon as possible to reduce its temporary practice fee to \$150 or less and provide a copy of the amended regulations to ASC staff.

**Current Status:** During the August 17<sup>th</sup> meeting, the Division informed ASC staff that, on June 24, 2005, the Division filed a first notice to amend its rules to reduce the temporary practice fee from \$200 to \$150. The rule proposal, at that time, was being reviewed by the Illinois' legislature's Joint Committee on Administrative Rules ("JCAR"). After that review is completed, a second notice regarding the proposal would be published, after which the rule change would be adopted. The Division agreed to complete the following actions and provide written documentation to ASC staff:

1. Continue its efforts to amend the regulation to bring it into compliance with ASC Policy Statement 5 and keep ASC staff updated on the progress; and
2. The Division volunteered to refund all past temporary practice permit fees in excess of \$150 within 30-60 days and to issue such refunds to temporary practice permit holders until the regulation is amended.

The second notice regarding the rule proposal has been published, and the 45-day comment period announced in that notice has expired. On September 13, 2005, the rule proposal was cleared by JCAR. The final step in enacting the rule is its “official” publication by the State, which the Division expects shortly.

***Necessary Actions:*** Provide us a copy of the amended regulation once it is adopted.

- **Continuing education courses do not conform to AQB criteria.**

***Previous Finding:*** ASC staff identified six continuing education courses approved by the Board and Division that did not meet AQB criteria for distance education courses. To be acceptable for certified appraisers, if a distance education course is not offered by an accredited college or university, the course’s delivery method must be approved by the International Distance Education Certification Center (“IDECC”). These six courses lacked this approval.

The Board and Division needed to review as soon as possible all distance education courses to determine whether they have IDECC approval. The Board and Division was directed to rescind approval for any courses that fail to meet this requirement and ensure that all distance education courses used for continuing education purposes conform to AQB criteria in the future.

***Current Status:*** The Division failed to review all distance education courses as required in our January 21<sup>st</sup> field review letter. The Division reviewed only the six courses ASC staff identified as questionable.

In its May 27<sup>th</sup> response letter to the ASC, Illinois stated that AQB approval of the use of IDECC was not required until April 2004, and that five of those six courses did not have to be IDECC-approved because the Division approved them before April 2004. (Those courses were required to have approval by ACE/Credit.) The Division’s approval of two of those courses expired and the Division stated that it would not renew approval of the courses unless they met IDECC approval. The Division was informed by the education provider that the other four courses would no longer be offered.

During the August follow-up review, ASC staff verified that four of the six distance education courses no longer were State-approved. Two courses were still approved. Neither course had appropriate ACE/Credit or IDECC approval on file.

Prior to the follow-up review, ASC staff verified that 26 Division-approved distance education courses had been approved by ACE/Credit and/or IDECC. Four courses, including the two listed above, did not have ACE/Credit and/or IDECC approval. During the August 17<sup>th</sup> meeting, Division staff confirmed that an audit of all approved distance education had not been conducted, notwithstanding our instruction to do so in our January 21<sup>st</sup> field review letter. The Division agreed to take the following actions and to provide written documentation to ASC staff:

1. Within 30 days, audit all distance education courses for proper delivery mechanism approval; and
2. Immediately rescind approval for any courses that fail to have appropriate delivery mechanism approval.

As a result, Division staff sent letters to all course providers requiring them, by September 10, 2005, to provide proof of proper delivery mechanism approval for distance education courses. Division staff completed a new approved education list on that date. The two courses in question during the August follow-up review no longer are on the Illinois approved course list.

**Necessary Actions:** Provide us a copy of your policies and procedures that reflect a continuing education course review process that will ensure compliance with AQB criteria.

- **The Division had not adopted the 2004 version of USPAP.**

**Previous Finding:** Section 10-10 of Illinois' appraiser regulatory statute required all persons credentialed to comply with standards of professional appraisal practice adopted by the Division. Illinois Rule § 1455.230 incorporated by reference the 2002 USPAP version. ASC staff, however, could not find any indication that the Board or Division amended the regulation to incorporate the 2003 or 2004 version of USPAP. Notwithstanding, Division staff stated that in practice the Board and Division had enforced the 2004 version of USPAP. The Board or Division was directed to amend this regulation as soon as possible to adopt the most current USPAP to avoid conflicts between law and practice.

**Current Status:** At our August 17<sup>th</sup> meeting, the Division stated that it would continue its efforts to amend its regulations and keep ASC staff updated on the progress. The necessary curative amendment was included with the temporary practice proposal, and, as discussed above in the temporary practice section of this Report, should be enacted shortly. Note that the current version of USPAP is the 2005 version.

**Necessary Actions:** Provide us a copy of the amended regulation once it is adopted.

Please contact us if you have any questions.

Sincerely,

Ben Henson  
Executive Director

cc: Ronald Hardgrove, Director Real Estate  
Mike Brown, Director Real Estate Appraisal Administration  
Young Brockhouse, Licensing and Education Manager  
Steve Ginsburg, Deputy General Counsel