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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

April 25, 2007

Larry D. Kokel, Chairman  
Texas Appraiser Licensing and Certification Board  
P.O. Box 12188  
Austin, TX 78711-2188

Dear Mr. Kokel:

Thank you for your February 16, 2007 letter (and attached amended regulatory changes) responding to the Appraisal Subcommittee's ("ASC") December 18, 2006 follow-up review letter. We reviewed your letter and appreciate your comments and cooperation.

Based on your response, it appears that Texas' appraiser regulatory program ("Program") still fails to comply with Title XI, as implemented by ASC Policy Statement 10 F. When we return for our field review in the fall of 2007, we expect to see significant progress toward addressing our concerns regarding the State's complaint investigation and resolution program. Should we not see significant progress at that time, ASC staff will recommend that the ASC consider initiating a non-recognition proceeding against the State under § 1118(b) of Title XI, 12 U.S.C. 3347(b).

### **Previous Findings, Current Status, and Recommended Action**

- **Texas' complaint investigation and resolution process continues not to comply with Title XI and ASC Policy Statement 10 because complaints are not investigated and resolved in a timely manner.**

***Current Status:*** In our December 18, 2006 follow-up review letter, we directed the Board to obtain promptly the necessary resources to investigate and resolve those complaints outstanding for more than one year, to reduce the backlog in other complaint cases, and to investigate and resolve all complaints in a timely manner.

In your February 16, 2007 response, you stated that the Board is pursuing, among other things, a loan from the Office of the Governor to allow you to hire a full-time investigator for the remainder of the fiscal year ending August 31, 2007. You further stated that the Board's request for additional resources, including three additional full-time investigators, a full-time legal assistant, and converting the part-time attorney position into a full-time position, is being considered by the Texas Legislature in its biennial regular session. Finally, you stated your concern that this long-term solution may not allow for substantial improvement by the time of fall 2007 ASC field review.

While we believe these proposed resources should help to improve the current investigation and resolution process, we remain concerned that the Texas Legislature may not approve, or the Governor may veto, the Board's request for additional resources. We first brought this concern to Texas' attention in our January 7, 2003 field review letter. Despite several additional on-site

reviews and letters by the ASC and the Board's efforts to address this concern, Texas' complaint investigation and resolution program continues to fall far short of Title XI's requirement that States adequately supervise their appraisers. While we appreciate the Board's efforts and hope that they prove fruitful, we cannot allow a State certification program to continue if that State cannot provide adequate resources to ensure compliance with Title XI.

***Necessary Action:*** We hope that the Board's request for additional resources will be approved by the Texas Legislature and signed by the Governor. Nevertheless, the Board needs to act as if this request will fail and to continue its efforts to find ways to investigate and resolve the backlog of cases and newly received complaints in a timely manner, as required by ASC Policy Statement 10 F. Because of the seriousness of this long term concern, and the possibility that the requested funding will not be granted, the Board needs to continue its efforts to find alternative methods for investigating and resolving complaints in a timely manner.

Please continue providing an electronic copy of the complaint log quarterly to Denise Graves at [Denise@asc.gov](mailto:Denise@asc.gov).

- **Texas' regulations allow for deferral of continuing education requirements for servicemen on active duty, which is inconsistent with AQB criteria.**

***Previous Findings:*** In the ASC's December 23, 2005 field review letter, the ASC informed the Board that Board regulations allowed for deferral of continuing education for appraisers on active military duty. However, the Board and staff confirmed that they had never granted such a deferral. During the November 18, 2005 Board meeting, the Board voted to draft language to amend its regulations to allow appraisers on active duty in the United States armed forces to be placed on Inactive status until completion of all continuing education requirements.

During its August 18, 2006 meeting, the Board voted to publish in the *Texas Register* amendments to § 153.17(c)(2) of its regulations. The proposed amendments, if adopted, would bring the State's regulations into compliance with AQB criteria. The Board expected to adopt the new regulations at its February 2007 meeting.

***Current Status:*** The Board, at that meeting, adopted the curative amendments.

***Necessary Action:*** None.

- ***New Development - A recently adopted Board policy provides preferential treatment to Appraisal Foundation sponsors when considering educational offerings.***

The Board, at its August 2006 meeting, adopted a policy under which the Board could grant blanket approval without individual review to educational courses offered by a national appraisal association that is a current Appraisal Foundation sponsor. In our December 18<sup>th</sup> follow-up review letter, we explained why such a policy was unacceptable and directed the Board to rescind the policy.

***Current Status:*** During its February 2007 meeting, the Board rescinded the policy and adopted a new policy requiring Board review of each course to determine AQB criteria compliance.

*Necessary Action:* None.

Thank you for your continuing efforts to address our concerns. Please contact us if you have any further questions.

Sincerely,

Ben Henson  
Executive Director

cc: Wayne Thorburn, Commissioner