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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

May 2, 2008

Mr. John Howden, Chair  
New Mexico Real Estate Appraisers Board  
2550 Cerrillos Road  
Santa Fe, New Mexico 87504

Dear Mr. Howden:

Thank you for the New Mexico Real Estate Appraisers Board's ("Board") cooperation and assistance in the November 8-9, 2007 Appraisal Subcommittee ("ASC") review of the New Mexico real estate appraiser regulatory program ("Program"). Based on our review, New Mexico needs to address the following three deficiencies to bring the Program into substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI"). As a result of these problems, the State will remain on an annual field review cycle.

- **New Mexico's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E.**

New Mexico's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E for two reasons. First, many complaints were not investigated and resolved in a timely manner. Under Title XI and ASC Policy Statement 10 E, State agencies need to process complaints of appraiser misconduct and wrongdoing on a timely basis. Absent special documented circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date. For many complaints, New Mexico failed to meet these requirements.

From May 2006 to November 2007, program staff failed to track each complaint. No procedures for identifying, logging, and tracking complaints (and settlement agreements) seemed to exist. The complaint-tracking log submitted by the State to the ASC staff prior to the field review indicated that 32 new complaints had been received since the last ASC review and that more than 60 were outstanding. While on site, ASC staff reviewed at least 20 complaint files to determine their status. Based on that review and consideration of our notes from the previous ASC field review, the number of outstanding complaints appeared to be closer to 37, not 60, with 25 being more than one year old. Of the estimated 25 cases over one year old, two were received in 2000, four were received in 2003, 13 were received in 2005 and six were received in 2006. A copy of the ASC staff's documentation identifying its estimate of the outstanding complaints was sent to the New Mexico Board administrator on November 19, 2007 for confirmation. As of the date of this letter, Program staff is still in the process of reviewing each complaint file in order to accurately update the log. ASC staff will continue to assist the State in reconciling the outstanding complaints.

Second, the State's Program failed to comply with ASC Policy State 10 E's requirement that each State agency ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered, in a well-documented manner. "Well-documented"

means that relevant documentation pertaining to a matter exists and will be made available to ASC staff to assess a State's complaint process. Prior to our arrival, 12 complaint files were requested for our review. Upon review, five of the cases did not match the "Final Board Action" on New Mexico's complaint log and three files did not contain sufficient supporting documentation.

To address this concern, the Board needs to closely examine its process, procedures and internal controls regarding complaint dispositions and then:

1. Develop and implement an accurate and effective complaint tracking system and provide a copy of the log to ASC Policy Manager Kristi Klamet, via email ([kristi@asc.gov](mailto:kristi@asc.gov)), monthly;
  2. Develop and implement specific plans which facilitates the elimination of the backlog of outstanding complaints and processing of all complaints on a timely basis, and inform the ASC, in writing, of those plans no later than 60 days after receiving this letter; and
  3. Maintain copies of all documentation supporting all activities, including Board decisions and signed agreements, regarding all appraiser-related complaints in accordance with ASC Policy Statement 10E, State record retention requirements, and, at a minimum, until the next full ASC field review.
- **New Mexico regulation regarding reinstatement of the credentials for military personnel returning from active military duty did not conform to AQB criteria.**

In May 2006, the AQB adopted an Interpretation to its criteria that states that State appraiser regulatory agencies may allow credential holders returning from active military duty to be placed in active status for a period of up to 90 days pending completion of all continuing education requirements. New Mexico regulation permits credential holders returning from active military duty to return to active status for a period of up to 180 days pending completion of all continuing education requirements. This is more than the number of days allowed by AQB criteria.

While on site, ASC staff discussed this deficiency with the Board, Program staff and legal counsel. They were not aware that the regulation was not AQB compliant and agreed that it needs revision. Program staff represented that no requests had been received for a deferral of the required continuing education from credential holders returning from active military duty. In reviewing meeting minutes and application we did not identify any individuals inappropriately credentialed on this basis.

To remedy this concern, the Board needs to:

1. Cease allowing individuals to reinstate a certification without meeting the AQB criteria;
2. Initiate the process for amending the regulation as soon as possible to ensure that the State's regulations conform with the AQB Interpretation noted above;

3. Keep us advised about the status of the amendment as it goes through the rule-making process; and
4. Provide us, within seven days from the date of its adoption, a copy of the regulation as finally adopted.

- **New Mexico did not report all disciplinary actions pursuant to Policy Statement 9A.**

ASC Policy Statement 9 A requires State agencies to expeditiously report to the ASC any disciplinary actions taken against an appraiser. At the time of our review, the National Registry reported that New Mexico had taken disciplinary action against 30 appraisers (one suspension, 29 other). However, when ASC staff reviewed the Board's meeting minutes and complaint files, they discovered at least nine disciplined appraisers whose disciplinary actions were not listed on the National Registry. ASC staff discussed this concern with the Board and Program staff, and they did not realize that all disciplinary actions had not been reported to the National Registry. Further, the State did not have procedures for reporting disciplinary actions to the ASC.

To address this concern, New Mexico needs to develop and implement procedures to:

1. Ensure that all disciplinary actions are reported to the ASC pursuant to Policy Statement 9 A; and
2. Within 30 days of the date of this field review letter, ensure that all disciplinary actions relating to **all** New Mexico credentialed appraisers, past and present, are reflected on the National Registry.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days following the receipt of this letter. 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 made available on our Web site.

Please contact us if you have further questions.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Melissa Collins, Board Administrator