UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

2008-2009 EDITION

2008-2009 USPAP

PLUS

Guidance from the Appraisal Standards Board
+ USPAP ADVISORY OPINIONS
+ USPAP FREQUENTLY ASKED QUESTIONS (FAQ)

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Effective January 1, 2008
through December 31, 2009

APPRAISAL STANDARDS BOARD

THE APPRAISAL FOUNDATION

Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications

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EFFECTIVE:

January 1, 2008 through December 31, 2009

APPRAISAL STANDARDS BOARD
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FOREWORD

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. **The 2008-2009 Edition of USPAP (2008-2009 USPAP) is effective January 1, 2008 through December 31, 2009.**

USPAP has five sections: DEFINITIONS, PREAMBLE, Rules, Standards and Standards Rules, and Statements on Appraisal Standards. For convenience of reference, USPAP is published with this Foreword and a Table of Contents. These reference materials are forms of "Other Communications" provided by the ASB for guidance only and are not part of USPAP.

It is important that individuals understand and adhere to changes in each edition of USPAP. State and federal regulatory authorities enforce the content of the current or applicable edition of USPAP.

History of USPAP

These Standards are based on the original *Uniform Standards of Professional Appraisal Practice* developed in 1986–87 by the Ad Hoc Committee on Uniform Standards and copyrighted in 1987 by The Appraisal Foundation. The effective date of the original Uniform Standards was April 27, 1987. Prior to the establishment of the ASB in 1989, USPAP had been adopted by major appraisal organizations in North America. USPAP represents the generally accepted and recognized standards of appraisal practice in the United States.

At its organizational meeting on January 30, 1989, the Appraisal Standards Board unanimously approved and adopted the original USPAP as the initial appraisal standards promulgated by the ASB. USPAP may be amended, interpreted, supplemented, or retired by the ASB after exposure to the appraisal profession, users of appraisal services, and the public in accordance with established rules of procedure.

Guidance

The ASB issues guidance in the form of Advisory Opinions, *USPAP Frequently Asked Questions* (FAQ) and monthly questions and responses "USPAP Q&A." These communications do not establish new Standards or interpret existing Standards and are not part of USPAP. They illustrate the applicability of Standards in specific situations and offer advice from the ASB for the resolution of appraisal issues and problems.

The USPAP Q&A is published monthly and available on The Appraisal Foundation website. These questions and responses are compiled and published in the *USPAP Frequently Asked Questions*.

Changes to USPAP

Over the years, USPAP has evolved in response to changes in appraisal practice. The ASB has developed a process for developing both Standards and guidance based, in part, on written comments submitted in response to exposure drafts and oral testimony presented at public meetings.

Contacting the Appraisal Standards Board

The ASB invites questions about USPAP, commentary on USPAP and proposed changes to USPAP from all interested parties, including appraisers, state enforcement agencies, users of appraisal services, and the public.

If you have any comments, questions, or suggestions regarding USPAP, please contact the ASB.

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(The 2008-2009 USPAP was adopted by the 2007 Appraisal Standards Board on June 8, 2007.)

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REVISIONS TO USPAP AND USPAP ADVISORY OPINIONS

The 2008-2009 edition of USPAP is the result of two exposure drafts, issued on December 15, 2006 and March 5, 2007. Based on written responses, public testimony at Appraisal Standards Board (ASB) public meetings, and extensive deliberation by the Board, the ASB adopted the 2008-2009 USPAP on June 8, 2007. The adopted changes are incorporated in the 2008-2009 USPAP and associated guidance effective January 1, 2008 through December 31, 2009.

KEY CHANGES IN USPAP AND ADVISORY OPINIONS

DEFINITIONS: The definition of Supplemental Standards was deleted.

- The majority of appraisers, users of appraisal services, and enforcement officials recognize that Supplemental Standards include laws and regulations. Appraisers must comply with laws and regulations because of the nature of law itself, not because of USPAP. Thus, continued use of Supplemental Standards as a defined term was unnecessary.
- Descriptions of "laws" and "regulations" are provided in the SCOPE OF WORK RULE based on their respective Black's Law Dictionary definitions.
- The deletion of the definition removes specific recognition of Government Sponsored Enterprises (GSE) as a source of assignment conditions because they provide guidelines, which are not laws or regulations. However, the edits do not change 1) the necessity for an appraiser acting in compliance with USPAP to follow GSE guidelines where applicable; and, 2) the enforcement of USPAP, including those items necessary for competent performance and meaningful reporting.

DEFINITIONS: The definition of Advocacy was deleted.

- Edits to the Conduct Section of the ETHICS RULE rendered the definition unnecessary because the term is used with its common English meaning.

ETHICS RULE: Edits were made to the Conduct section of the ETHICS RULE related to advocacy.

- The edits make clear that advocating the cause or interest of any party or issue contradicts the requirement for independence. The changes do not diminish the prohibition against advocacy in appraisal practice; advocacy remains unacceptable.

SUPPLEMENTAL STANDARDS RULE: The SUPPLEMENTAL STANDARDS RULE was deleted because the other requirements of USPAP eliminate the need for the Rule.

- The duty for the appraiser to comply with applicable assignment conditions is embedded in the obligations to provide ethical and competent services. The SCOPE OF WORK RULE requires appraisers to identify the problem to be solved, which includes identification of assignment conditions. In communicating assignment results, the requirement that reports be meaningful and not misleading creates an obligation to comply with applicable laws, regulations, and guidelines.

Associated Changes to the SCOPE OF WORK RULE, the Conduct section of the ETHICS RULE and the COMPETENCY RULE:

- The SCOPE OF WORK RULE has been edited to replace the term "Supplemental Standards" with "laws and regulations." This change highlights and focuses the SCOPE OF WORK RULE on assignment conditions that have legal force.
- The SCOPE OF WORK RULE states that it is the appraiser's responsibility to identify the problem to be solved. Therefore, the Conduct section of the ETHICS RULE was modified to remove text that identifies the need for an agreement between the client and appraiser when accepting an assignment when supplemental standards apply.
- Text was added to the COMPETENCY RULE to acknowledge that appraisers must recognize and comply with laws and regulations that apply in an assignment. Laws and regulations may apply to the actions of the appraiser, or may apply to how an appraisal must be completed.

With these changes, USPAP continues to require adherence to those assignment conditions that are necessary for proper development and reporting.

Standards Rule 2-3, Standards Rule 3-3, Standards Rule 5-3, Standards Rule 6-9, Standards Rule 8-3, and Standards Rule 10-3: Edits were made to remove the requirement that the signing appraiser have a reasonable basis to believe that work done by others was credible. Language was added clarifying that the signing appraiser(s) must not rely on the work of others if that appraiser has a reason to doubt that the work is credible.

Standards Rules 7-3(a), 8-2(a)(ix), 6-3(b), and 6-8(n): Edits were made to the personal property appraisal requirements to identify and report the highest and best use:

- The edits do not change the substance of the requirements, but better align the language with terminology more commonly used in personal property appraisal.

Standards Rule 1-6(b), Standards Rule 6-7(a), Standards Rule 7-6(b), and Standards Rule 9-5(b): Edits were made to the requirements for reconciliation of the approaches used to arrive at the value in each Standards Rule. The Comment to Standards Rule 1-6 and the Comment to Standards Rule 7-6 were deleted.

- The edits were made for clarity and consistency.

Standards Rules 2-2(a)(vi), 2-2(b)(vi), & 2-2(c)(vi), Standards Rule 6-8(g), and Standards Rules 8-2(a)(vi), 8-2(b)(vi), & 8-2(c)(vi): The phrase "property use conditions" was shortened to "property." The portion of the Comment to each Standards Rule requiring reiteration of the report date and effective date of the appraisal was deleted.

- The edits were made for clarity and consistency.

STATEMENT 10 (Retired): The Statement titled *Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction* was retired. Some of the issues addressed in STATEMENT 10 have been incorporated into the new Advisory Opinion 30, *Appraisals for Use by a Federally Regulated Financial Institution*.

- The Statement did not distinguish between laws (such as FIRREA), regulations and guidelines (such as the Interagency Appraisal and Evaluation Guidelines) resulting in confusion for both appraisers and users of appraisal services.
- The format and complexity of STATEMENT 10 were obstacles to its understanding and effective enforcement.
- Substantial editing of STATEMENT 10 would not have resulted in increased understanding.

ADVISORY OPINION 30 (New): *Appraisals for Use by a Federally Regulated Financial Institution* replaces the advice from retired STATEMENT 10 and addresses adherence to the applicable laws, regulations, and guidelines of the federal financial institution regulatory agencies required for proper appraisal development and reporting.

ADVISORY OPINION 5 (Retired): *Assistance in the Preparation of an Appraisal* was retired because of the need to update and expand its guidance. The new Advisory Opinion 31, *Assignments Involving More than One Appraiser* meets these needs.

ADVISORY OPINION 31 (New): *Assignments Involving More than One Appraiser* offers advice on record keeping, signature and certification requirements in assignments that involve more than one appraiser.

ADVISORY OPINION 32 (New): *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments* illustrates the application of USPAP in assignments performed by appraisers for ad valorem taxation.

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Note: Administrative edits also were made to USPAP and all guidance material, including the *USPAP Advisory Opinions* and *USPAP Frequently Asked Questions*, for conformity and consistency.

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Statements on Appraisal Standards (SMT) are authorized by the by-laws of The Appraisal Foundation and are specifically for the purposes of clarification, interpretation, explanation, or elaboration of the *Uniform Standards of Professional Appraisal Practice* (USPAP). Statements have the full weight of a Standards Rule and can be adopted by the Appraisal Standards Board only after exposure and comment.

Each Statement is labeled as to its applicability to the various appraisal disciplines. The abbreviations are:

- Real Property – RP
- Personal Property – PP
- Intangible Property – IP (includes business interests)
- All disciplines – ALL

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UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

as promulgated by the
Appraisal Standards Board of
The Appraisal Foundation

DEFINITIONS

For the purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP), the following definitions apply:

APPRAISAL: (noun) the act or process of developing an opinion of value; an opinion of value.
(adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

> Comment: An appraisal must be numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).

APPRAISAL CONSULTING: the act or process of developing an analysis, recommendation, or opinion to solve a problem, where an opinion of value is a component of the analysis leading to the assignment results.

> Comment: An appraisal consulting assignment involves an opinion of value but does not have an appraisal or an appraisal review as its primary purpose.

APPRAISAL PRACTICE: valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting.

> Comment: *Appraisal practice* is provided only by appraisers, while *valuation services* are provided by a variety of professionals and others. The terms *appraisal*, *appraisal review*, and *appraisal consulting* are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review and is required as a component of the analysis in an appraisal consulting assignment. The use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the *Uniform Standards of Professional Appraisal Practice*.

APPRAISAL REVIEW: the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

> Comment: The subject of an appraisal review assignment may be all or part of a report, workfile, or a combination of these.

APPRAISER: one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

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Comment: Such expectation occurs when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, or agreement with the client or intended users, represent that they comply.[1]

APPRAISER'S PEERS: other appraisers who have expertise and competency in a similar type of assignment.

ASSIGNMENT: a valuation service provided as a consequence of an agreement between an appraiser and a client.

ASSIGNMENT RESULTS: an appraiser's opinions and conclusions developed specific to an assignment.

Comment: Assignment results include an appraiser's:

- opinions or conclusions developed in an appraisal assignment, such as value;
- opinions of adequacy, relevancy, or reasonableness developed in an appraisal review assignment; or
- opinions, conclusions, or recommendations developed in an appraisal consulting assignment.

ASSUMPTION: that which is taken to be true.

BIAS: a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment**.**

BUSINESS ENTERPRISE: an entity pursuing an economic activity.

BUSINESS EQUITY: the interests, benefits, and rights inherent in the ownership of a business enterprise or a part thereof in any form (including, but not necessarily limited to, capital stock, partnership interests, cooperatives, sole proprietorships, options, and warrants).

CLIENT: the party or parties who engage an appraiser (by employment or contract) in a specific assignment.

Comment: The client identified by the appraiser in an appraisal, appraisal review, or appraisal consulting assignment (or in the assignment workfile) is the party or parties with whom the appraiser has an appraiser-client relationship in the related assignment, and may be an individual, group, or entity.

CONFIDENTIAL INFORMATION: information that is either:

- identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or
- classified as confidential or private by applicable law or regulation*.

*NOTICE: For example, pursuant to the passage of the Gramm-Leach-Bliley Act in November 1999, some public agencies have adopted privacy regulations that affect appraisers. As a result, the Federal Trade Commission issued a rule focused on the protection of "non-public personal information" provided by consumers to those involved in financial activities "found to be closely related to banking or usual in connection with the transaction of banking." These activities have been deemed to include "appraising real or personal property." (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313.)

COST: the amount required to create, produce, or obtain a property.

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[1] See PREAMBLE and Advisory Opinion 21, *USPAP Compliance*.

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Comment: *Cost* is either a fact or an estimate of fact.

CREDIBLE: worthy of belief.

Comment: Credible assignment results require support, by relevant evidence and logic, to the degree necessary for the intended use.

EXTRAORDINARY ASSUMPTION: an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

FEASIBILITY ANALYSIS: a study of the cost-benefit relationship of an economic endeavor.

HYPOTHETICAL CONDITION: that which is contrary to what exists but is supposed for the purpose of analysis.

Comment: Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

INTANGIBLE PROPERTY (INTANGIBLE ASSETS): nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.

INTENDED USE: the use or uses of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.

INTENDED USER: the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.

JURISDICTIONAL EXCEPTION: an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.

MARKET VALUE: a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.

Comment: Forming an opinion of market value is the purpose of many real property appraisal assignments, particularly when the client's intended use includes more than one intended user. The conditions included in market value definitions establish market perspectives for development of the opinion. These conditions may vary from definition to definition but generally fall into three categories:

1. the relationship, knowledge, and motivation of the parties (i.e., seller and buyer);
2. the terms of sale (e.g., cash, cash equivalent, or other terms); and
3. the conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale).

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Appraisers are cautioned to identify the exact definition of market value, and its authority, applicable in each appraisal completed for the purpose of market value.

MASS APPRAISAL: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

MASS APPRAISAL MODEL: a mathematical expression of how supply and demand factors interact in a market.

PERSONAL PROPERTY: identifiable tangible objects that are considered by the general public as being "personal" - for example, furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.

PRICE: the amount asked, offered, or paid for a property.

Comment: Once stated, *price* is a fact, whether it is publicly disclosed or retained in private. Because of the financial capabilities, motivations, or special interests of a given buyer or seller, the price paid for a property may or may not have any relation to the *value* that might be ascribed to that property by others.

REAL ESTATE: an identified parcel or tract of land, including improvements, if any.

REAL PROPERTY: the interests, benefits, and rights inherent in the ownership of real estate.

Comment: In some jurisdictions, the terms *real estate* and *real property* have the same legal meaning. The separate definitions recognize the traditional distinction between the two concepts in appraisal theory.

REPORT: any communication, written or oral, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment

Comment: Most reports are written and most clients mandate written reports. Oral report requirements (see the Record Keeping section of the ETHICS RULE) are included to cover court testimony and other oral communications of an appraisal, appraisal review, or appraisal consulting service.

SCOPE OF WORK: the type and extent of research and analyses in an assignment.

SIGNATURE: personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.

Comment: A signature can be represented by a handwritten mark, a digitized image controlled by a personal identification number, or other media, where the appraiser has sole personal control of affixing the signature.

VALUATION SERVICES: services pertaining to aspects of property value.

Comment: Valuation services pertain to all aspects of property value and include services performed both by appraisers and by others.

VALUE: the monetary relationship between properties and those who buy, sell, or use those properties.

Comment: *Value* expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of

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value. In appraisal practice, value must always be qualified - for example, market value, liquidation value, or investment value.

WORKFILE: documentation necessary to support an appraiser's analyses, opinions, and conclusions.

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PREAMBLE

The purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

The Appraisal Standards Board promulgates USPAP for both appraisers and users of appraisal services. The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity. USPAP reflects the current standards of the appraisal profession.

USPAP does not establish who or which assignments must comply. Neither The Appraisal Foundation nor its Appraisal Standards Board is a government entity with the power to make, judge, or enforce law. Compliance with USPAP is required when either the service or the appraiser is obligated to comply by law or regulation, or by agreement with the client or intended users. When not obligated, individuals may still choose to comply.

USPAP addresses the ethical and performance obligations of appraisers through DEFINITIONS, Rules, Standards, Standards Rules, and Statements.

- The DEFINITIONS establish the application of certain terminology in USPAP.
- The ETHICS RULE sets forth the requirements for integrity, impartiality, objectivity, independent judgment, and ethical conduct.
- The COMPETENCY RULE presents pre-assignment and assignment conditions for knowledge and experience.
- The SCOPE OF WORK RULE presents obligations related to problem identification, research and analyses.
- The JURISDICTIONAL EXCEPTION RULE preserves the balance of USPAP if a portion is contrary to law or public policy of a jurisdiction.
- The ten Standards establish the requirements for appraisal, appraisal review, and appraisal consulting service and the manner in which each is communicated.
  - STANDARDS 1 and 2 establish requirements for the development and communication of a real property appraisal.
  - STANDARD 3 establishes requirements for the development and communication of an appraisal review.
  - STANDARDS 4 and 5 establish requirements for the development and communication of a real property appraisal consulting assignment.
  - STANDARD 6 establishes requirements for the development and communication of a mass appraisal.
  - STANDARDS 7 and 8 establish requirements for the development and communication of a personal property appraisal.
  - STANDARDS 9 and 10 establish requirements for the development and communication of a business or intangible asset appraisal.
- Statements on Appraisal Standards clarify, interpret, explain, or elaborate on a Rule or Standards Rule.
- Comments are an integral part of USPAP and have the same weight as the component they address. These extensions of the DEFINITIONS, Rules, and Standards Rules provide interpretation and establish the context and conditions for application.

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ETHICS RULE

To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics. This ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping. The first three sections apply to all appraisal practice, and all four sections apply to appraisal practice performed under STANDARDS 1 through 10.

> Comment: This Rule specifies the personal obligations and responsibilities of the individual appraiser. However, it should also be noted that groups and organizations engaged in appraisal practice share the same ethical obligations.

Compliance with USPAP is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.[2]

> Comment: Honesty, impartiality, and professional competency are required of all appraisers under these *Uniform Standards of Professional Appraisal Practice* (USPAP). To document recognition and acceptance of his or her USPAP-related responsibilities in communicating an appraisal, appraisal review, or appraisal consulting assignment completed under USPAP, an appraiser is required to certify compliance with USPAP. (See Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3, and 10-3.)

Conduct:

An appraiser must perform assignments ethically and competently, in accordance with USPAP.

An appraiser must not engage in criminal conduct.

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

An appraiser must not advocate the cause or interest of any party or issue.

An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.

An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.

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[2] See Advisory Opinion 21, *USPAP Compliance*.

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Comment: An individual appraiser employed by a group or organization that conducts itself in a manner that does not conform to these Standards should take steps that are appropriate under the circumstances to ensure compliance with the Standards.

Management:

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.

Comment: Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development are not considered unethical. Competency, rather than financial incentives, should be the primary basis for awarding an assignment.

It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:

1. **the reporting of a predetermined result (e.g., opinion of value);**
2. **a direction in assignment results that favors the cause of the client;**
3. **the amount of a value opinion;**
4. **the attainment of a stipulated result; or**
5. **the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.**

Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is unethical.

Comment: In groups or organizations engaged in appraisal practice, decisions concerning finder or referral fees, contingent compensation, and advertising may not be the responsibility of an individual appraiser, but for a particular assignment, it is the responsibility of the individual appraiser to ascertain that there has been no breach of ethics, that the assignment is prepared in accordance with these Standards, and that the report can be properly certified when required by Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3, or 10-3.

Confidentiality:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*

An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee.

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Comment: When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

*NOTICE: Pursuant to the passage of the Gramm-Leach-Bliley Act in 1999, numerous agencies have adopted new privacy regulations. Such regulations are focused on the protection of information provided by consumers to those involved in financial activities "found to be closely related to banking or usual in connection with the transaction of banking." These activities have been deemed to include "appraising real or personal property." (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313.)

Record Keeping:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:

- **the name of the client and the identity, by name or type, of any other intended users;**
- **true copies of any written reports, documented on any type of media;**
- **summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and**
- **all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.**

An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.

Comment: A workfile preserves evidence of the appraiser's consideration of all applicable data and statements required by USPAP and other information as may be required to support the appraiser's opinions, conclusions, and recommendations.

A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy. As an example, a photocopy or electronic copy of the Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report actually issued by an appraiser for a real property appraisal assignment satisfies the true copy requirement for that assignment.

Care should be exercised in the selection of the form, style, and type of medium for written records, which may be handwritten and informal, to ensure that they are retrievable by the appraiser throughout the prescribed record retention period.

A workfile must be in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

A workfile must be made available by the appraiser when required by state enforcement agencies or due process of law. In addition, a workfile in support of a Restricted Use

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Appraisal Report must be sufficient for the appraiser to produce a Summary Appraisal Report (for assignments under STANDARDS 2 and 8) or an Appraisal Report (for assignments under STANDARD 10), and must be available for inspection by the client in accordance with the Comment to Standards Rules 2-2(c)(viii), 8-2(c)(viii), and 10-2(b)(ix).

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COMPETENCY RULE

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must:

1. **disclose the lack of knowledge and/or experience to the client before accepting the assignment;**
2. **take all steps necessary or appropriate to complete the assignment competently; and**
3. **describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.**

Comment: Competency applies to factors such as, but not limited to, an appraiser's familiarity with a specific type of property, a market, a geographic area, or an analytical method. If such a factor is necessary for an appraiser to develop credible assignment results, the appraiser is responsible for having the competency to address that factor or for following the steps outlined above to satisfy this COMPETENCY RULE.

The background and experience of appraisers varies widely, and a lack of knowledge or experience can lead to inaccurate or inappropriate appraisal practice. The COMPETENCY RULE requires an appraiser to have both the knowledge and the experience required to perform a specific appraisal service competently.

The COMPETENCY RULE requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.

If an appraiser is offered the opportunity to perform an appraisal service but lacks the necessary knowledge or experience to complete it competently, the appraiser must disclose his or her lack of knowledge or experience to the client before accepting the assignment and then take the necessary or appropriate steps to complete the appraisal service competently. This may be accomplished in various ways, including, but not limited to, personal study by the appraiser, association with an appraiser reasonably believed to have the necessary knowledge or experience, or retention of others who possess the required knowledge or experience.

In an assignment where geographic competency is necessary, an appraiser preparing an appraisal in an unfamiliar location must spend sufficient time to understand the nuances of the local market and the supply and demand factors relating to the specific property type and the location involved. Such understanding will not be imparted solely from a consideration of specific data such as demographics, costs, sales, and rentals. The necessary understanding of local market conditions provides the bridge between a sale and a comparable sale or a rental and a comparable rental. If an appraiser is not in a position to spend the necessary amount of time in a market area to obtain this understanding, affiliation with a qualified local appraiser may be the appropriate response to ensure development of credible assignment results.

Although this Rule requires an appraiser to identify the problem and disclose any deficiency in competence prior to accepting an assignment, facts or conditions uncovered during the course of an assignment could cause an appraiser to discover that he or she lacks the required knowledge or experience to complete the assignment competently. At the point of such discovery, the appraiser is obligated to notify the client and comply with items 2 and 3 of this Rule.

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SCOPE OF WORK RULE[3]

For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:

1. **identify the problem to be solved;**
2. **determine and perform the scope of work necessary to develop credible assignment results; and**
3. **disclose the scope of work in the report.**

An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.

Comment: Scope of work includes, but is not limited to:

- the extent to which the property is identified;
- the extent to which tangible property is inspected;
- the type and extent of data researched; and
- the type and extent of analyses applied to arrive at opinions or conclusions.

Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal, appraisal review, and appraisal consulting assignment.

Credible assignment results require support by relevant evidence and logic. The credibility of assignment results is always measured in the context of the intended use.

Problem Identification

An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review or appraisal consulting problem to be solved.

Comment: The assignment elements necessary for problem identification are addressed in the applicable Standards Rules (i.e., SR 1-2, SR 3-1, SR 4-2, SR 6-2, SR 7-2 and SR 9-2). In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the following assignment elements:

- client and any other intended users;
- intended use of the appraiser's opinions and conclusions;
- type and definition of value;
- effective date of the appraiser's opinions and conclusions;
- subject of the assignment and its relevant characteristics; and
- assignment conditions.

This information provides the appraiser with the basis for determining the type and extent of research and analyses to include in the development of an appraisal. Similar information is necessary for problem identification in appraisal review and appraisal consulting assignments.

Communication with the client is required to establish most of the information necessary for problem identification. However, the identification of relevant characteristics is a judgment made by the appraiser that requires competency in that type of assignment.

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[3] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work.*

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Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

Scope of Work Acceptability[4]

The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Comment: The scope of work is acceptable when it meets or exceeds:

- the expectations of parties who are regularly intended users for similar assignments; and
- what an appraiser's peers' actions would be in performing the same or a similar assignment.

Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.

An appraiser must be prepared to support the decision to exclude any investigation, information, method, or technique that would appear relevant to the client, another intended user, or the appraiser's peers.

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

Comment: If relevant information is not available because of assignment conditions that limit research opportunities (such as conditions that place limitations on inspection or information gathering), an appraiser must withdraw from the assignment unless the appraiser can:

- modify the assignment conditions to expand the scope of work to include gathering the information; or
- use an extraordinary assumption about such information, if credible assignment results can still be developed.

An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

Disclosure Obligations

The report must contain sufficient information to allow intended users to understand the scope of work performed.

Comment: Proper disclosure is required because clients and other intended users rely on the assignment results. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

[4] See Advisory Opinion 29, *An Acceptable Scope of Work*.

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JURISDICTIONAL EXCEPTION RULE

If any part of USPAP is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.

Comment: The purpose of the JURISDICTIONAL EXCEPTION RULE is strictly limited to providing a saving or severability clause intended to preserve the balance of USPAP if one or more of its parts are determined to be contrary to law or public policy of a jurisdiction. By logical extension, there can be no violation of USPAP by an appraiser disregarding, with proper disclosure, only the part or parts of USPAP that are void and of no force and effect in a particular assignment by operation of legal authority. It is misleading for an appraiser to disregard a part or parts of USPAP as void and of no force and effect in a particular assignment without identifying in the appraiser's report the part or parts disregarded and the legal authority justifying this action.

As used in the JURISDICTIONAL EXCEPTION RULE, law means a body of rules with binding legal force established by controlling governmental authority. This broad meaning includes, without limitation, the federal and state constitutions; legislative and court-made law; and administrative rules, regulations, and ordinances. Public policy refers to more or less well-defined moral and ethical standards of conduct, currently and generally accepted by the community as a whole, and recognized by the courts with the aid of statutes, judicial precedents, and other similar available evidence. Jurisdiction refers to the legal authority to legislate, apply, or interpret law in any form at the federal, state, and local levels of government.

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STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 1 is directed toward the substantive aspects of developing a credible appraisal of real property. The requirements set forth in STANDARD 1 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

Comment: This Standards Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in real property appraisal.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

Standards Rule 1-2

In developing a real property appraisal, an appraiser must:

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(a) identify the client and other intended users;[5]

(b) identify the intended use of the appraiser's opinions and conclusions;[6]

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.[7]

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:

(i) in terms of cash; or

(ii) in terms of financial arrangements equivalent to cash; or

(iii) in other precisely defined terms; and

(iv) if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;

Comment: When developing an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.[8]

(d) identify the effective date of the appraiser's opinions and conclusions;[9]

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal,[10] **including:**

(i) its location and physical, legal, and economic attributes;

(ii) the real property interest to be valued;

(iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;

(iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and

(v) whether the subject property is a fractional interest, physical segment, or partial holding;

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[5] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[6] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[7] See Advisory Opinion 19, *Unacceptable Assignment Conditions in Real Property Appraisal Assignments.*

[8] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions.* See also Advisory Opinion 7, *Marketing Time Opinions,* and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

[9] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions.*

[10] See Advisory Opinion 2, *Inspection of Subject Property,* and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*.

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Comment on (i)–(v): The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

An appraiser may use any combination of a property inspection and documents, such as a physical legal description, address, map reference, copy of a survey or map, property sketch, or photographs, to identify the relevant characteristics of the subject property.

When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements.[11]

Identification of the real property interest appraised can be based on a review of copies or summaries of title descriptions or other documents that set forth any known encumbrances.

An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

(f) identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.[12]

Standards Rule 1-3

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(a) identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

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[11] See Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*.

[12] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

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Comment: An appraiser must avoid making an unsupported assumption or premise about market area trends, effective age, and remaining life.

(b) develop an opinion of the highest and best use of the real estate.

Comment: An appraiser must analyze the relevant legal, physical, and economic factors to the extent necessary to support the appraiser's highest and best use conclusion(s).

Standards Rule 1-4

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and

(iii) analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

(c) When an income approach is necessary for credible assignment results, an appraiser must:

(i) analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;

(ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;

(iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and

(iv) base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.[13]

Comment: In developing income and expense statements and cash flow projections, an appraiser must weigh historical information and trends, current supply and demand factors affecting such trends, and anticipated events such as competition from developments under construction.

(d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

[13] See Statement on Appraisal Standards No. 2, *Discounted Cash Flow Analysis*.

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(e) When analyzing the assemblage of the various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.

Comment: Although the value of the whole may be equal to the sum of the separate estates or parts, it also may be greater than or less than the sum of such estates or parts. Therefore, the value of the whole must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

A similar procedure must be followed when the value of the whole has been established and the appraiser seeks to value a part. The value of any such part must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

(f) When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.

(g) When personal property, trade fixtures, or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-real property items.

Comment: When the scope of work includes an appraisal of personal property, trade fixtures or intangible items, competency in personal property appraisal (see STANDARD 7) or business appraisal (see STANDARD 9) is required.

Standards Rule 1-5

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:[14]

(a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and

(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.[15]

Comment: See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) for corresponding reporting requirements relating to the availability and relevance of information.

Standards Rule 1-6

In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches used; and

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[14] See Advisory Opinion 24, *Normal Course of Business*.

[15] See Advisory Opinion 1, *Sales History*.

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(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

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STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 2 addresses the content and level of information required in a report that communicates the results of a real property appraisal.

STANDARD 2 does not dictate the form, format, or style of real property appraisal reports. The form, format, and style of a report are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 2-1

Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.[16]

Comment: When the intended users include parties other than the client, either a Self-Contained Appraisal Report or a Summary Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Use Appraisal Report may be provided.

The essential difference among these three options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and the intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule.

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[16] See Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*, and Advisory Opinion 12, *Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2*.

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A party receiving a copy of a Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

(a) The content of a Self-Contained Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client and any intended users, by name or type;[17]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(ii) state the intended use of the appraisal;[18]

(iii) describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;[19]

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs or the like. The information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

(iv) state the real property interest appraised;

Comment: The statement of the real property rights being appraised must be substantiated, as needed, by copies or summaries of title descriptions or other documents that set forth any known encumbrances.

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.[20]

When reporting an opinion of market value, state whether the opinion of value is:

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[17] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[18] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[19] See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment.*

[20] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

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- in terms of cash or of financing terms equivalent to cash, or
- based on non-market financing or financing with unusual conditions or incentives.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report;[21]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

(vii) describe the scope of work used to develop the appraisal;[22]

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.[23]

(viii) describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: A Self-Contained Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required.[24] If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

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[21] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[22] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

[23] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

[24] See Advisory Opinion 1, *Sales History*.

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(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, describe the support and rationale for that opinion;

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 2-3.

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

Comment: The essential difference between the Self-Contained Appraisal Report and the Summary Appraisal Report is the level of detail of presentation.

(i) state the identity of the client and any intended users, by name or type;[25]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(ii) state the intended use of the appraisal;[26]

(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;[27]

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

(iv) state the real property interest appraised;

Comment: The statement of the real property rights being appraised must be substantiated, as needed, by copies or summaries of title descriptions or other documents that set forth any known encumbrances.

(v) state the type and definition of value and cite the source of the definition;

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[25] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[26] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[27] See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment.*

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Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.[28]

When reporting an opinion of market value, state whether the opinion of value is:

- in terms of cash or of financing terms equivalent to cash, or
- based on non-market financing or financing with unusual conditions or incentives.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report;[29]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

(vii) summarize the scope of work used to develop the appraisal;[30]

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.[31]

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: A Summary Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

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[28] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

[29] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[30] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

[31] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required.[32] If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 2-3.

(c) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, by name or type;[33] and state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

The Restricted Use Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Use Appraisal Report.

(ii) state the intended use of the appraisal;[34]

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Use Appraisal Report option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the real estate involved in the appraisal;[35]

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[32] See Advisory Opinion 1, *Sales History*

[33] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[34] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[35] See Advisory Opinion 2, *Inspection of Subject Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.

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Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like.

(iv) state the real property interest appraised;

(v) state the type of value, and cite the source of its definition;[36]

(vi) state the effective date of the appraisal and the date of the report;[37]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

(vii) state the scope of work used to develop the appraisal;[38]

Comment: Because the client's reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must state the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.[39]

(viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Use Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 and for the appraiser to produce a Summary Appraisal Report. The file must be available for inspection by the client (or the client's representatives, such as those engaged to complete an appraisal review), state enforcement agencies, such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

When reporting an opinion of market value, information analyzed in compliance with Standards Rule 1-5 is significant information that must be disclosed in a

[36] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

[37] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[38] See Advisory Opinions 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

[39] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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Restricted Use Appraisal Report.[40] If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, state that opinion;

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 2-3.

<u>Standards Rule 2-3</u>

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- **the statements of fact contained in this report are true and correct.**
- **the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.**
- **I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.**
- **I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.**
- **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
- **my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.**
- **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice.***
- **I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)[41]**
- **no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)**

[40] See Advisory Opinion 1, *Sales History*

[41] See Advisory Opinion 2, *Inspection of Subject Property*.

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Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 2-2(a), (b), or (c)(vii), as applicable.[42]

Standards Rule 2-4

To the extent that it is both possible and appropriate, an oral real property appraisal report must address the substantive matters set forth in Standards Rule 2-2(b).

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

[42] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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STANDARD 3: APPRAISAL REVIEW, DEVELOPMENT AND REPORTING

In performing an appraisal review assignment, an appraiser acting as a reviewer must develop and report a credible opinion as to the quality of another appraiser's work and must clearly disclose the scope of work performed.

Comment: Appraisal review is the act or process of developing and communicating an opinion about the quality of all or part of the work of another appraiser that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment. The reviewer's opinion about quality must encompass the completeness, adequacy, relevance, appropriateness, and reasonableness of the work under review, developed in the context of the requirements applicable to that work.

The COMPETENCY RULE applies to the reviewer, who must correctly employ those recognized methods and techniques necessary to develop credible appraisal review opinions and also avoid material errors of commission or omission. A misleading or fraudulent appraisal review report violates the ETHICS RULE.

Appraisal review requires the reviewer to prepare a separate report setting forth the scope of work performed and the results of the appraisal review.

Appraisal review is distinctly different from the cosigning activity addressed in Standards Rules 2-3, 5-3, 6-9, 8-3, and 10-3. To avoid confusion between these activities, a reviewer performing an appraisal review must not sign the work under review unless he or she intends to accept the responsibility of a cosigner of that work.

Standards Rule 3-1

In developing an appraisal review, the reviewer must:

(a) identify the reviewer's client and intended users, the intended use of the reviewer's opinions and conclusions, and the purpose of the assignment;[43]

Comment: The intended use is in the context of the client's use of the reviewer's opinions and conclusions; examples include, without limitation, quality control, audit, qualification, or confirmation. The purpose of the assignment relates to the reviewer's objective; examples include, without limitation, to evaluate compliance with relevant USPAP requirements, with a client's requirements, or with applicable regulations.

A reviewer must ascertain whether the assignment includes the development of his or her own opinion of value about the subject property of the work under review.

If the assignment includes the reviewer developing his or her own opinion of value about the subject property of the work under review, that opinion is an appraisal whether it:

- concurs with the opinion of value in the work under review, as of the date of value in that work or a different date of value; or
- differs from the opinion of value in the work under review, as of the date of value in that work or a different date of value.

[43] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*. See also Advisory Opinion 20, *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*.

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(b) identify the:

(i) subject of the appraisal review assignment,

(ii) effective date of the review,

(iii) property and ownership interest appraised (if any) in the work under review,

(iv) date of the work under review and the effective date of the opinion or conclusion in the work under review, and

(v) appraiser(s) who completed the work under review, unless the identity was withheld;

Comment: The subject of an appraisal review assignment may be all or part of a report, a workfile, or a combination of these, and may be related to an appraisal, appraisal review, or appraisal consulting assignment.

(c) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE;[44]

Comment: In making the scope of work decision, the reviewer must identify any extraordinary assumptions necessary in the assignment. An extraordinary assumption may be used in an appraisal review assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the reviewer has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the reviewer complies with the disclosure requirements set forth in Standards Rule 3-2(d) for extraordinary assumptions.

The appraisal review must be conducted in the context of market conditions as of the effective date of the opinion in the work being reviewed. Information available to the reviewer that could not have been available to the appraiser as of or subsequent to the date of the work being reviewed must not be used by a reviewer in the development of an opinion as to the quality of the work under review.

When the reviewer's scope of work includes developing his or her own opinion of value, the following apply:

- The reviewer's scope of work in developing his or her own opinion of value may be different from that of the work under review.

- The effective date of the reviewer's opinion of value may be the same or different from the date of the work under review.

- The reviewer is not required to replicate the steps completed by the original appraiser. Those items in the work under review that the reviewer concludes are credible and in compliance with the applicable development Standard (STANDARD 1, 3, 4, 6, 7, or 9) can be extended to the reviewer's value opinion development process on the basis of an extraordinary assumption by the reviewer. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer, developed in conformance with STANDARD 1, 3, 4, 6, 7, or 9, as applicable, to produce a credible value opinion.

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[44] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure,* and Advisory Opinion 29, *An Acceptable Scope of Work.*

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- The reviewer may use additional information available to him or her that was not available to the original appraiser in the development of his or her value opinion; however, the reviewer must not use such information as the basis to discredit the original appraiser's opinion of value.

(d) develop an opinion as to the completeness of the material under review, given the reviewer's scope of work;

Comment: The reviewer is required to develop an opinion as to the completeness of the work under review within the context of the requirements applicable to that work.

(e) develop an opinion as to the apparent adequacy and relevance of the data and the propriety of any adjustments to the data, given the reviewer's scope of work;

Comment: When reviewing a mass appraisal report and considering the propriety of any adjustment to value for isolated differences in data, the reviewer must develop an opinion as to the use of the coefficients from decomposition of a statistical model.

(f) develop an opinion as to the appropriateness of the appraisal methods and techniques used, given the reviewer's scope of work, and develop the reasons for any disagreement; and

(g) develop an opinion as to whether the analyses, opinions, and conclusions are appropriate and reasonable, given the reviewer's scope of work, and develop the reasons for any disagreement.

Comment: When reviewing a mass appraisal report, the reviewer must develop an opinion as to the standards of accuracy and adequacy of the mass appraisal testing performed and develop the reasons for any disagreement.

Standards Rule 3-2

In reporting the results of an appraisal review, the reviewer must:

(a) state the identity of the client, by name or type, and intended users; the intended use of the assignment results; and the purpose of the assignment;[45]

(b) state the information that must be identified in accordance with Standards Rule 3-1(b);

Comment: If the identity of the appraiser(s) in the work under review was withheld, state that fact in the review report.

(c) state the scope of work used to develop the appraisal review;[46]

Comment: Because intended users' reliance on an appraisal review may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

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[45] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*. See also Advisory Opinion 20, *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*.

[46] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

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When any portion of the work involves significant appraisal, appraisal review, or appraisal consulting assistance, the reviewer must state the extent of that assistance. The signing reviewer must also state the name(s) of those providing the significant assistance in the certification, in accordance with Standards Rule 3-3.[47]

(d) state the opinions, reasons, and conclusions required in Standards Rule 3-1(d–g), given the reviewer's scope of work;

Comment: When the reviewer's scope of work includes expressing his or her own opinion of value, the reviewer must:

1. state which information, analyses, opinions, and conclusions in the material under review that the reviewer accepted as credible and used in developing the reviewer's opinion of value;

2. summarize any additional information relied on and the reasoning and basis for the reviewer's opinion of value;

3. state all assumptions and limiting conditions; and

4. clearly and conspicuously:

   - state all extraordinary assumptions and hypothetical conditions connected with the reviewer's opinion of value; and
   - state that their use might have affected the assignment results.

The reviewer may include his or her own value opinion within the appraisal review report itself without preparing a separate appraisal report. However, data and analyses provided by the reviewer to support a different value conclusion must match, at a minimum, the reporting requirements for a Summary Appraisal Report for a real property appraisal (Standards Rule 2-2(b)) and a personal property appraisal (Standards Rule 8-2(b)), an appraisal consulting report for real property appraisal consulting (Standards Rule 5-2), a mass appraisal report for mass appraisal (Standards Rule 6-8), and an Appraisal Report for business appraisal (Standards Rule 10-2(a)).

(e) include all known pertinent information; and

Comment: The reviewer must provide sufficient information to enable the client and intended users to understand the rationale for the reviewer's opinions and conclusions.

(f) include a signed certification in accordance with Standards Rule 3-3.

[47] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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Standards Rule 3-3

Each written appraisal review report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- **the facts and data reported by the reviewer and used in the review process are true and correct.**
- **the analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.**
- **I have no (or the specified) present or prospective interest in the property that is the subject of the work under review and no (or the specified) personal interest with respect to the parties involved.**
- **I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.**
- **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
- **my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use.**
- **my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the *Uniform Standards of Professional Appraisal Practice*.**
- **I have (or have not) made a personal inspection of the subject property of the work under review. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the subject property of the work under review.)**
- **no one provided significant appraisal, appraisal review, or appraisal consulting assistance to the person signing this certification. (If there are exceptions, the name of each individual(s) providing appraisal, appraisal review, or appraisal consulting assistance must be stated.)**

Comment: A signed certification is an integral part of the appraisal review report. A reviewer who signs any part of the appraisal review report, including a letter of transmittal, must also sign this certification.

Any reviewer(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal review report.

When a signing reviewer(s) has relied on work done by appraisers and others who do not sign the certification, the signing reviewer is responsible for the decision to rely on their work. The signing reviewer(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant appraisal, appraisal review, or appraisal consulting assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 3-2(c).[48]

[48] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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For reviews of business or intangible asset appraisal reports, the inspection portion of the above certification is not applicable.

Standards Rule 3-4

To the extent that it is both possible and appropriate, an oral appraisal review report must address the substantive matters set forth in Standards Rule 3-2.

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

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STANDARD 4: REAL PROPERTY APPRAISAL CONSULTING, DEVELOPMENT

In developing a real property appraisal consulting assignment, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete the research and analyses necessary to produce credible results.

Comment: Real property appraisal consulting assignments encompass a wide variety of problems to be solved. However, the purpose of an assignment under this Standard is always to develop, without advocacy, an analysis, recommendation, or opinion where at least one opinion of value is a component of the analysis leading to the assignment results.

In some assignments, the opinion of value may originate from a source other than the consulting appraiser. In other assignments, the consulting appraiser may have to develop the opinion of value as a step in the analyses leading to the assignment results.

An opinion of value or an opinion as to the quality of another appraiser's work cannot be the purpose of an appraisal consulting assignment. Developing an assignment for those purposes is an appraisal or an appraisal review assignment, respectively. Misrepresenting the purpose of an assignment performed under this Standard is a violation of the ETHICS RULE.

The ETHICS and COMPETENCY RULES apply to the appraiser performing an appraisal consulting assignment. Appraisers practicing under this Standard must perform the assignment with impartiality, objectivity, independence, and without accommodation of personal interests.

Except when required by law, regulation, agreement, or choice, this appraisal consulting STANDARD does not apply to services provided by an appraiser acting under the standards of other professions or business activities. For example, when an appraiser who is also an investment consultant provides a service that does not require an opinion of value, that appraiser, acting as an investment consultant, is not performing an assignment addressed by this Standard.

Standards Rule 4-1

In performing a real property appraisal consulting assignment, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce credible results;

(b) not commit a substantial error of omission or commission that significantly affects the results of an appraisal consulting assignment; and

(c) not render appraisal consulting services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affect the credibility of those results.

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Standards Rule 4-2

In developing real property appraisal consulting assignment results, an appraiser must:

(a) identify the client and other intended users;[49]

(b) identify the intended use of the appraisal consulting assignment results;[50]

(c) identify:

(i) the analysis, recommendation or opinion to be developed; and

(ii) the type and definition of value developed in the appraisal(s) that is a necessary component of an analysis supporting the appraisal consulting assignment results;

Comment: If the applicable type and definition of value is market value, ascertain whether that value is to be the most probable price:

- in terms of cash; or
- in terms of financial arrangements equivalent to cash; or
- in other precisely defined terms; and
- if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data.

(d) identify the effective date of the appraisal consulting assignment results;[51]

(e) identify the physical, legal, and economic characteristics of the property, properties, property type(s), or market area that are relevant[52] **to:**

(i) the analysis, recommendation or opinion to be developed in the appraisal consulting assignment; and

(ii) an opinion of value that is a necessary component of an analysis supporting the appraisal consulting assignment results;

(f) identify any extraordinary assumptions necessary in the appraisal consulting assignment and in developing the opinion(s) of value necessary to support the appraisal consulting assignment results;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and

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[49] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[50] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[51] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions* and Statement on Appraisal Standards No. 4, *Prospective Value Opinions.*

[52] See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment.*

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- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the appraisal consulting assignment and in developing the opinion(s) of value necessary to support the appraisal consulting assignment results; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE[53], including:

(i) the appraisal consulting methods and techniques to be employed, and

(ii) the research and analysis required to:

- **ascertain the relevance and credibility of an opinion of value obtained from a source other than the appraiser performing the appraisal consulting assignment, or**
- **develop an opinion of value that is a necessary component of an analysis supporting the appraisal consulting assignment results;**

Comment: An appraiser must ensure that any opinion of value used in an appraisal consulting assignment was developed in compliance with STANDARD 1.

If an opinion of value used in a real property appraisal consulting assignment is from a source other than the consulting appraiser, the assignment may include a review, prepared in compliance with STANDARD 3, of that appraisal. Alternatively, the appraiser may accept an appraisal from another source using an extraordinary assumption in the appraisal consulting assignment, provided that all conditions necessary to use such an extraordinary assumption are fulfilled.

If the opinion of value is from an appraisal developed by the appraiser performing the real property appraisal consulting assignment, the appraiser must complete the steps set forth in STANDARD 1.

[53] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

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STANDARD 5: REAL PROPERTY APPRAISAL CONSULTING, REPORTING

In reporting the results of a real property appraisal consulting assignment, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 5 addresses the content and level of information required in a report that communicates the results of a real property appraisal consulting assignment.

An appraiser must explain logically and convincingly the reasoning that leads to his or her conclusions. The flow of information must be orderly and progressive. The level of information necessary in the report is dependent on the intended use and intended users. The level of information detail in the report must be sufficient to enable the client and intended users of the report to understand the appraisal consulting assignment results and not be misled.

STANDARD 5 does not dictate the form, format, or style of real property appraisal consulting reports. The form, format, and style of a report are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 5-1

Each written or oral real property appraisal consulting report must:

(a) clearly and accurately set forth the appraisal consulting assignment results in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal consulting assignment results to understand the report properly; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

Comment: The content of a real property appraisal consulting report must be sufficiently comprehensive so that an intended user can understand the problem addressed and the analyses, and follow the reasoning through each step of the analytical process. It is essential that throughout the report the data, analyses, assumptions and conclusions are logical and adequately supported.

Standards Rule 5-2

The content of each written real property appraisal consulting report must be consistent with the intended use of the appraisal consulting assignment results and, at a minimum:

(a) state the identity of the client and any intended users, by name or type;[54]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances where the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile, but may omit the client's identity in the report.

[54] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

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Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(b) state the analysis, recommendation or opinion developed;

(c) state the intended use of the appraisal consulting assignment;[55]

(d) state information sufficient to identify the real property pertinent to the appraisal consulting assignment, and state the physical, legal, and economic characteristics of the property, properties, property types, or market area pertinent to the assignment;[56]

(e) state the effective date of the appraisal consulting assignment results, the date of appraisal pertinent to each opinion of value used in an analysis in support of the appraisal consulting results, and the date of the appraisal consulting report;[57]

(f) state the scope of work used to develop the assignment results;[58]

Comment: Because intended users' reliance on assignment results may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal or appraisal consulting assistance, the appraisal consultant must describe the extent of that assistance. The signing consulting appraiser must also state the name(s) of those providing significant real property appraisal or appraisal consulting assistance in the certification, in accordance with Standards Rule 5-3.[59]

(g) summarize the information used in the appraisal consulting analyses, the appraisal consulting methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions;

Comment: If the value opinion used in the appraisal consulting assignment was not performed by the consulting appraiser, the appraisal consulting report must include:

- the information required in Standards Rule 3-2, or
- a statement of the appraisal review results, and a reference to the appraisal review documentation retained in the appraisal consultant's appraisal consulting assignment workfile, or
- a statement supporting the use of that appraisal as an extraordinary assumption in the appraisal consulting assignment.

If an opinion of value was developed by the consulting appraiser, the appraisal consulting report must include the information required to comply with Standards Rule 2-2(a) or (b)(ii) through (x). Standards Rule 2-2(c)(ii) through (x) is also permitted if the client is the only intended user of the assignment results.

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[55] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[56] See Advisory Opinion 2, *Inspection of Subject Property*.

[57] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[58] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and 29, *An Acceptable Scope of Work*.

[59] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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(h) state the appraiser's appraisal consulting recommendations (if any), and conclusions or opinions;

(i) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(j) include a signed certification in accordance with Standards Rule 5-3.

Standards Rule 5-3

Each written real property appraisal consulting report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

— **the statements of fact contained in this report are true and correct.**
— **the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.**
— **I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.**
— **I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.**
— **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
— **my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal consulting assignment.**
— **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.**
— **I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the property).[60]**
— **no one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal or appraisal consulting assistance must be stated.)**

Comment: A signed certification is an integral part of the appraisal consulting report. An appraiser who signs any part of the appraisal consulting report, including a letter of transmittal, must also sign the certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal consulting report. In an assignment that includes personal property, business or intangible

[60] See Advisory Opinion 2, *Inspection of Subject Property*.

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asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal consulting report.

If the signing consulting appraiser(s) has relied on work done by appraisers and others who do not sign the certification, then the signing consulting appraiser(s) is responsible for the decision to rely on such work. The signing consulting appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant real property appraisal or appraisal consulting assistance who do not sign the certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 5-2(f).[61]

Standards Rule 5-4

To the extent that it is both possible and appropriate, an oral real property appraisal consulting report must address the substantive matters set forth in Standards Rule 5-2.

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

[61] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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STANDARD 6: MASS APPRAISAL, DEVELOPMENT AND REPORTING

In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.

Comment: STANDARD 6 applies to all mass appraisals of real or personal property regardless of the purpose or use of such appraisals.[62] STANDARD 6 is directed toward the substantive aspects of developing and communicating credible analyses, opinions, and conclusions in the mass appraisal of properties. Mass appraisals can be prepared with or without computer assistance. The reporting and jurisdictional exceptions applicable to public mass appraisals prepared for ad valorem taxation do not apply to mass appraisals prepared for other purposes.

A mass appraisal includes:

1) identifying properties to be appraised;
2) defining market area of consistent behavior that applies to properties;
3) identifying characteristics (supply and demand) that affect the creation of value in that market area;
4) developing a model structure that reflects the relationship among the characteristics affecting value in the market area;
5) calibrating the model structure to determine the contribution of the individual characteristics affecting value;
6) applying the conclusions reflected in the model to the characteristics of the property(ies) being appraised; and
7) reviewing the mass appraisal results.

The JURISDICTIONAL EXCEPTION RULE may apply to several sections of STANDARD 6 because ad valorem tax administration is subject to various state, county, and municipal laws.

Standards Rule 6-1

In developing a mass appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible mass appraisal;

Comment: Mass appraisal provides for a systematic approach and uniform application of appraisal methods and techniques to obtain estimates of value that allow for statistical review and analysis of results.

This requirement recognizes that the principle of change continues to affect the manner in which appraisers perform mass appraisals. Changes and developments in the real property and personal property fields have a substantial impact on the appraisal profession.

To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers.

[62] See Advisory Opinion 31, *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments*.

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Each appraiser must continuously improve his or her skills to remain proficient in mass appraisal.

(b) not commit a substantial error of omission or commission that significantly affects a mass appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render a mass appraisal in a careless or negligent manner.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

Standards Rule 6-2

In developing a mass appraisal, an appraiser must:

(a) identify the client and other intended users;[63]

(b) identify the intended use of the appraisal;[64]

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:

(i) in terms of cash; or

(ii) in terms of financial arrangements equivalent to cash; or

(iii) in such other terms as may be precisely defined; and

(iv) if the opinion of value is based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;

Comment: For certain types of appraisal assignments in which a legal definition of market value has been established and takes precedence, the JURISDICTIONAL EXCEPTION RULE may apply.

(d) identify the effective date of the appraisal;[65]

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[63] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[64] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[65] See Statement on Appraisal Standards No. 3, *Prospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Retrospective Value Opinions*.

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(e) identify the characteristics of the properties that are relevant to the type and definition of value and intended use[66], including:

(i) the group with which a property is identified according to similar market influence;

(ii) the appropriate market area and time frame relative to the property being valued; and

(iii) their location and physical, legal, and economic characteristics;

Comment: The properties must be identified in general terms, and each individual property in the universe must be identified, with the information on its identity stored or referenced in its property record.

When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements.[67]

Ordinarily, proposed improvements are not appraised for ad valorem tax. Appraisers, however, are sometimes asked to provide opinions of value of proposed improvements so that developers can estimate future property tax burdens. Sometimes units in condominiums and planned unit developments are sold with an interest in unbuilt community property, the pro rata value of which, if any, must be considered in the analysis of sales data.

(f) identify the characteristics of the market that are relevant to the purpose and intended use of the mass appraisal including:

(i) location of the market area;

(ii) physical, legal, and economic attributes;

(iii) time frame of market activity; and

(iv) property interests reflected in the market;

(g) in appraising real property or personal property:

(i) identify the appropriate market area and time frame relative to the property being valued;

(ii) when the subject is real property, identify and consider any personal property, trade fixtures, or intangibles that are not real property but are included in the appraisal;

(iii) when the subject is personal property, identify and consider any real property or intangibles that are not personal property but are included in the appraisal;

(iv) identify known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of similar nature; and

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[66] See Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*, if applicable.

[67] See Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*, if applicable.

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(v) identify and analyze whether an appraised fractional interest, physical segment or partial holding contributes pro rata to the value of the whole;

Comment: The above requirements do not obligate the appraiser to value the whole when the subject of the appraisal is a fractional interest, physical segment, or a partial holding. However, if the value of the whole is not identified, the appraisal must clearly reflect that the value of the property being appraised cannot be used to develop the value opinion of the whole by mathematical extension.

(h) analyze the relevant economic conditions at the time of the valuation, including market acceptability of the property and supply, demand, scarcity, or rarity;

(i) identify any extraordinary assumptions and any hypothetical conditions necessary in the assignment; and

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(j) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.[68]

Standards Rule 6-3

When necessary for credible assignment results, an appraiser must:

(a) in appraising real property, identify and analyze the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such regulations, economic supply and demand, the physical adaptability of the real estate, neighborhood trends, and highest and best use of the real estate; and

Comment: This requirement sets forth a list of factors that affect use and value. In considering neighborhood trends, an appraiser must avoid stereotyped or biased assumptions relating to race, age, color, gender, or national origin or an assumption that race, ethnic, or religious homogeneity is necessary to maximize value in a neighborhood. Further, an appraiser must avoid making an unsupported assumption or premise about neighborhood decline, effective age, and remaining life. In considering highest and best use, an appraiser must develop the concept to the extent required for a proper solution to the appraisal problem.

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[68] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work.*

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(b) in appraising personal property: identify and analyze the effects on use and value of industry trends, value-in-use, and trade level of personal property. Where applicable, analyze the current use and alternative uses to encompass what is profitable, legal, and physically possible, as relevant to the type and definition of value and intended use of the appraisal. Personal property has several measurable marketplaces; therefore, the appraiser must define and analyze the appropriate market consistent with the type and definition of value.

Comment: The appraiser must recognize that there are distinct levels of trade and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.

Standards Rule 6-4

In developing a mass appraisal, an appraiser must:

(a) identify the appropriate procedures and market information required to perform the appraisal, including all physical, functional, and external market factors as they may affect the appraisal;

Comment: Such efforts customarily include the development of standardized data collection forms, procedures, and training materials that are used uniformly on the universe of properties under consideration.

(b) employ recognized techniques for specifying property valuation models; and

Comment: The formal development of a model in a statement or equation is called model specification. Mass appraisers must develop mathematical models that, with reasonable accuracy, represent the relationship between property value and supply and demand factors, as represented by quantitative and qualitative property characteristics. The models may be specified using the cost, sales comparison, or income approaches to value. The specification format may be tabular, mathematical, linear, nonlinear, or any other structure suitable for representing the observable property characteristics. Appropriate approaches must be used in appraising a class of properties. The concept of recognized techniques applies to both real and personal property valuation models.

(c) employ recognized techniques for calibrating mass appraisal models.

Comment: Calibration refers to the process of analyzing sets of property and market data to determine the specific parameters of a model. The table entries in a cost manual are examples of calibrated parameters, as well as the coefficients in a linear or nonlinear model. Models must be calibrated using recognized techniques, including, but not limited to, multiple linear regression, nonlinear regression, and adaptive estimation.

Standards Rule 6-5

In developing a mass appraisal, when necessary for credible assignment results, an appraiser must:

(a) collect, verify, and analyze such data as are necessary and appropriate to develop:

(i) the cost new of the improvements;

(ii) accrued depreciation;

(iii) value of the land by sales of comparable properties;

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(iv) value of the property by sales of comparable properties;

(v) value by capitalization of income or potential earnings—i.e., rentals, expenses, interest rates, capitalization rates, and vacancy data;

Comment: This Standards Rule requires appraisers engaged in mass appraisal to take reasonable steps to ensure that the quantity and quality of the factual data that are collected are sufficient to produce credible appraisals. For example, in real property, where applicable and feasible, systems for routinely collecting and maintaining ownership, geographic, sales, income and expense, cost, and property characteristics data must be established. Geographic data must be contained in as complete a set of cadastral maps as possible, compiled according to current standards of detail and accuracy. Sales data must be collected, confirmed, screened, adjusted, and filed according to current standards of practice. The sales file must contain, for each sale, property characteristics data that are contemporaneous with the date of sale. Property characteristics data must be appropriate and relevant to the mass appraisal models being used. The property characteristics data file must contain data contemporaneous with the date of appraisal including historical data on sales, where appropriate and available. The data collection program must incorporate a quality control program, including checks and audits of the data to ensure current and consistent records.

(b) base estimates of capitalization rates and projections of future rental rates and/or potential earnings capacity, expenses, interest rates, and vacancy rates on reasonable and appropriate evidence; [69]

Comment: This requirement calls for an appraiser, in developing income and expense statements and cash flow projections, to weigh historical information and trends, current market factors affecting such trends, and reasonably anticipated events, such as competition from developments either planned or under construction.

(c) identify and, as applicable, analyze terms and conditions of any available leases; and

(d) identify the need for and extent of any physical inspection.[70]

Standards Rule 6-6

When necessary for credible assignment results in applying a calibrated mass appraisal model an appraiser must:

(a) value improved parcels by recognized methods or techniques based on the cost approach, the sales comparison approach, and income approach;

(b) value sites by recognized methods or techniques; such techniques include but are not limited to the sales comparison approach, allocation method, abstraction method, capitalization of ground rent, and land residual technique;

(c) when developing the value of a leased fee estate or a leasehold estate, analyze the effect on value, if any, of the terms and conditions of the lease;

Comment: In ad valorem taxation the appraiser may be required by rules or law to appraise the property as if in fee simple, as though unencumbered by existing leases. In such cases,

[69] See Statement on Appraisal Standards No. 2, *Discounted Cash Flow Analysis.*

[70] See Advisory Opinion 2, *Inspection of Subject Property*.

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market rent would be used in the appraisal, ignoring the effect of the individual, actual contract rents.

(d) analyze the effect on value, if any, of the assemblage of the various parcels, divided interests, or component parts of a property; the value of the whole must not be developed by adding together the individual values of the various parcels, divided interests, or component parts; and

Comment: When the value of the whole has been established and the appraiser seeks to value a part, the value of any such part must be tested by reference to appropriate market data and supported by an appropriate analysis of such data.

(e) when analyzing anticipated public or private improvements, located on or off the site, analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.

Standards Rule 6-7

In reconciling a mass appraisal an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches used and the applicability and relevance of the approaches, methods and techniques used; and

(b) employ recognized mass appraisal testing procedures and techniques to ensure that standards of accuracy are maintained.

Comment: It is implicit in mass appraisal that, even when properly specified and calibrated mass appraisal models are used, some individual value conclusions will not meet standards of reasonableness, consistency, and accuracy. However, appraisers engaged in mass appraisal have a professional responsibility to ensure that, on an overall basis, models produce value conclusions that meet attainable standards of accuracy. This responsibility requires appraisers to evaluate the performance of models, using techniques that may include but are not limited to, goodness-of-fit statistics, and model performance statistics such as appraisal-to-sale ratio studies, evaluation of hold-out samples, or analysis of residuals.

Standards Rule 6-8

A written report of a mass appraisal must clearly communicate the elements, results, opinions, and value conclusions of the appraisal.

Each written report of a mass appraisal must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly;

Comment: Documentation for a mass appraisal for ad valorem taxation may be in the form of (1) property records, (2) sales ratios and other statistical studies, (3) appraisal manuals and documentation, (4) market studies, (5) model building documentation, (6) regulations, (7) statutes, and (8) other acceptable forms.

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment;

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Comment: The report must clearly and conspicuously:

- state all extraordinary assumptions and hypothetical conditions; and
- state that their use might have affected the assignment results.

(d) state the identity of the client and any intended users, by name or type;[71]

(e) state the intended use of the appraisal;[72]

(f) disclose any assumptions or limiting conditions that result in deviation from recognized methods and techniques or that affect analyses, opinions, and conclusions;

(g) set forth the effective date of the appraisal and the date of the report;

Comment: In ad valorem taxation the effective date of the appraisal may be prescribed by law. If no effective date is prescribed by law, the effective date of the appraisal, if not stated, is presumed to be contemporaneous with the data and appraisal conclusions.

The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.[73]

(h) state the type and definition of value and cite the source of the definition;

Comment: Stating the type and definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.[74]

When reporting an opinion of market value, state whether the opinion of value is:

- In terms of cash or of financing terms equivalent to cash; or
- Based on non-market financing with unusual conditions or incentives.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(i) identify the properties appraised including the property rights;

Comment: The report documents the sources for location, describing and listing the property. When applicable, include references to legal descriptions, addresses, parcel identifiers, photos, and building sketches. In mass appraisal this information is often included in property records. When the property rights to be appraised are specified in a statute or court ruling, the law must be referenced.

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[71] See Statement on Appraisal Standards No. 9, *Identification of the Intended Use and Intended Users.*

[72] See Statement on Appraisal Standards No. 9, *Identification of the Intended Use and Intended Users.*

[73] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[74] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*.

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(j) describe the scope of work used to develop the appraisal;[75] exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant mass appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant mass appraisal assistance in the certification, in accordance with Standards Rule 6-9.[76]

(k) describe and justify the model specification(s) considered, data requirements, and the model(s) chosen;

Comment: The appraiser must provide sufficient information to enable the client and intended users to have confidence that the process and procedures used conform to accepted methods and result in credible value conclusions. In the case of mass appraisal for ad valorem taxation, stability and accuracy are important to the credibility of value opinions. The report must include a discussion of the rationale for each model, the calibration techniques to be used, and the performance measures to be used.

(l) describe the procedure for collecting, validating, and reporting data;

Comment: The report must describe the sources of data and the data collection and validation processes. Reference to detailed data collection manuals must be made, as appropriate, including where they may be found for inspection.

(m) describe calibration methods considered and chosen, including the mathematical form of the final model(s); describe how value conclusions were reviewed; and, if necessary, describe the availability of individual value conclusions;

(n) when an opinion of highest and best use, or the appropriate market or market level was developed, discuss how that opinion was determined;

Comment: The mass appraisal report must reference case law, statute, or public policy that describes highest and best use requirements. When actual use is the requirement, the report must discuss how use-value opinions were developed. The appraiser's reasoning in support of the highest and best use opinion must be provided in the depth and detail required by its significance to the appraisal.

(o) identify the appraisal performance tests used and set forth the performance measures attained;

(p) describe the reconciliation performed, in accordance with Standards Rule 6-7; and

(q) include a signed certification in accordance with Standards Rule 6-9.

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[75] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work.*

[76] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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Standards Rule 6-9

Each written mass appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- **the statements of fact contained in this report are true and correct.**
- **the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.**
- **I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.**
- **I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.**
- **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
- **my compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.**
- **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice.***
- **I have (or have not) made a personal inspection of the properties that are the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)**[77]
- **no one provided significant mass appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant mass appraisal assistance must be stated.)**

Comment: The above certification is not intended to disturb an elected or appointed assessor's work plans or oaths of office. A signed certification is an integral part of the appraisal report. An appraiser, who signs any part of the mass appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

In an assignment that includes only assignment results developed by the personal property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes real property assignment results not developed by the personal property appraiser(s), any personal property appraiser(s) who signs a certification accepts full responsibility for the personal property elements of the certification, for the

[77] See Advisory Opinion 2, *Inspection of Subject Property*.

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personal property assignment results, and for the personal property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant mass appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 6-8(j).[78]

[78] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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STANDARD 7: PERSONAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a personal property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 7 is directed toward the substantive aspects of developing a credible appraisal of personal property. The requirements set forth in STANDARD 7 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

Standards Rule 7-1

In developing a personal property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

Comment: This Standards Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in personal property practice have a substantial impact on the appraisal profession. Important changes in the cost and manner of acquiring, producing, and marketing personal property and changes in the legal framework in which property rights and interests are created, marketed, conveyed, and financed have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession reviews and revises appraisal methods and techniques and develops methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in personal property appraisal.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

Standards Rule 7-2

In developing a personal property appraisal, an appraiser must:

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(a) identify the client and other intended users;[79]

(b) identify the intended use of the appraiser's opinions and conclusions;[80]

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:

(i) in terms of cash; or

(ii) in terms of financial arrangements equivalent to cash; or

(iii) in other precisely defined terms; and

(iv) if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;

Comment: When developing an opinion of value in a specified market or at a specified market level based on the potential sale of the property, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.

(d) identify the effective date of the appraiser's opinions and conclusions;[81]

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal,[82] **including:**

(i) sufficient characteristics to establish the identity of the item including the method of identification;

(ii) sufficient characteristics to establish the relative quality of the item (and its component parts, where applicable) within its type;

(iii) all other physical and economic attributes with a material effect on value;

Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence. The type of property, the type and definition of value, and intended use of the appraisal determine which characteristics have a material effect on value.

(iv) the ownership interest to be valued;

(v) any known restrictions, encumbrances, leases, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and

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[79] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[80] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users.*

[81] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[82] See Advisory Opinion 2, *Inspection of Subject Property*.

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(vi) any real property or intangible items that are not personal property but which are included in the appraisal;

Comment on (i)–(vi): The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

An appraiser may use any combination of a property inspection and documents or other resources to identify the relevant characteristics of the subject property.

When appraising proposed modifications, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed modifications.

An appraiser may not be required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

(f) identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.[83]

Standards Rule 7-3

In developing a personal property appraisal, when necessary for credible assignment results, an appraiser must:

(a) analyze the current use and alternative uses to encompass what is profitable, legal, and physically possible, as relevant to the type and definition of value and intended use of the appraisal;

Comment: In the context of personal property, highest and best use may equate to the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the appraisal.

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[83] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

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(b) define and analyze the appropriate market consistent with the type and definition of value; and

Comment: The appraiser must recognize that there are distinct levels of trade (measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.

(c) analyze the relevant economic conditions at the time of the valuation, including market acceptability of the property and supply, demand, scarcity, or rarity.

Standards Rule 7-4

In developing a personal property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) analyze such comparable cost data as are available to estimate the cost new of the property; and

(ii) analyze such comparable data as are available to estimate the difference between cost new and the present worth of the property (accrued depreciation).

(c) When an income approach is necessary for credible assignment results, an appraiser must:

(i) analyze such comparable data as are available to estimate the market income of the property;

(ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;

(iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and

(iv) base projections of future income and expenses on reasonably clear and appropriate evidence.

Comment: An appraiser must, in developing income and expense statements and cash flow projections, weigh historical information and trends, current supply and demand factors affecting such trends, and competition.

(d) When developing an opinion of the value of a lease or leased property, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

(e) When analyzing the assemblage of the various component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various component parts.

Comment: Although the value of the whole may be equal to the sum of the separate parts, it also may be greater than or less than the sum of such parts. Therefore, the value of the whole

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must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

A similar procedure must be followed when the value of the whole has been established and the appraiser seeks to value a part. The value of any such part must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

(f) When analyzing anticipated modifications to the subject property, an appraiser must analyze the effect on value, if any, of such modifications to the extent they are reflected in market actions.

(g) When real property or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-personal property items.

Comment: When the scope of work includes an appraisal of real property or intangible items, competency in real property appraisal (see STANDARD 1) or business appraisal (see STANDARD 9) is required. In addition, competency in other types of personal property outside of the appraiser's specialty area may be necessary (see STANDARD 7 and the COMPETENCY RULE).

Standards Rule 7-5

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:[84]

(a) analyze all agreements of sale, validated offers or third-party offers to sell, options, and listings of the subject property current as of the effective date of the appraisal; and

(b) analyze all prior sales of the subject property that occurred within a reasonable and applicable time period, given the intended use and the type of property involved.

Comment: The data needed for the required analyses in Standards Rule 7-5(a) and 7-5(b) may not be available or relevant in all assignments. See the Comments to Standards Rules 8-2(a)(viii), 8-2(b)(viii), and 8-2(c)(viii) for corresponding reporting requirements.

Standards Rule 7-6

In developing a personal property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches used; and

(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

[84] See Advisory Opinion 24, *Normal Course of Business*.

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STANDARD 8: PERSONAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a personal property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 8 addresses the content and level of information required in a report that communicates the results of a personal property appraisal.

STANDARD 8 does not dictate the form, format, or style of personal property appraisal reports, which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 8-1

Each written or oral personal property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

Standards Rule 8-2

Each written personal property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.[85]

Comment: When the intended users include parties other than the client, either a Self-Contained Appraisal Report or a Summary Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Use Appraisal Report may be provided.

The essential difference among these three options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule.

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[85] See Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*, and Advisory Opinion 12, *Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2*.

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A party receiving a copy of a Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

(a) The content of a Self-Contained Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client and any intended users, by name or type;[86]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances where the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

(ii) state the intended use of the appraisal;[87]

(iii) describe information sufficient to identify the property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;

(iv) state the property interest appraised;

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.[88]

When reporting an opinion of market value, state whether the opinion of value is:

- in terms of cash or of financing terms equivalent to cash, or
- based on non-market financing or financing with unusual conditions or incentives.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report;[89]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

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[86] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[87] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[88] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*.

[89] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*

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(vii) describe the scope of work used to develop the appraisal;[90]

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant personal property appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant personal property appraisal assistance in the certification, in accordance with Standards Rule 8-3.[91]

(viii) describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;[92]

Comment: A Self-Contained Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 7-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, offers, options, and listings in accordance with Standards Rule 7-5 is required. If such information was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state, as appropriate to the class of personal property involved, the use of the property existing as of the date of value and the use of the property reflected in the appraisal; and, when an opinion of the appropriate market or market level was developed by the appraiser, describe the support and rationale for that opinion;

Comment: In the context of personal property, highest and best use may equate to the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 8-3.

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[90] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

[91] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

[92] See Advisory Opinion 2, *Inspection of Subject Property*.

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(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

Comment: The essential difference between the Self-Contained Appraisal Report and the Summary Appraisal Report is the level of detail of presentation.

(i) state the identity of the client and any intended users, by name or type;[93]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances where the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

(ii) state the intended use of the appraisal;[94]

(iii) summarize information sufficient to identify the property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;

(iv) state the property interest appraised;

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.[95]

When reporting an opinion of market value, state whether the opinion of value is:

- in terms of cash or of financing terms equivalent to cash, or
- based on non-market financing or financing with unusual conditions or incentives.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report; [96]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

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[93] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[94] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[95] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions.* See also Advisory Opinion 7, *Marketing Time Opinions*.

[96] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions.*

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(vii) summarize the scope of work used to develop the appraisal; [97]

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant personal property appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant personal property appraisal assistance in the certification, in accordance with Standards Rule 8-3.[98]

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;[99]

Comment: A Summary Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinion and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 7-6.

When reporting an opinion of market value, a summary of the results of the analysis of the subject sales, offers, options, and listings in accordance with Standards Rule 7-5 is necessary. If such information was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state, as appropriate to the class of personal property involved, the use of the property existing as of the date of value and the use of the property reflected in the appraisal; and, when an opinion of the appropriate market or market level was developed by the appraiser, summarize the support and rationale for that opinion;

Comment: In the context of personal property, highest and best use may equate to the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 8-3.

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[97] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

[98] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

[99] See Advisory Opinion 2, *Inspection of Subject Property*.

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(c) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, by name or type;[100] and state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

The Restricted Use Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Use Appraisal Report.

(ii) state the intended use of the appraisal;[101]

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Use Appraisal Report option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the property involved in the appraisal;

(iv) state the property interest appraised;

(v) state the type of value, and cite the source of its definition;[102]

(vi) state the effective date of the appraisal and the date of the report;[103]

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.

(vii) state the scope of work used to develop the appraisal;[104]

Comment: Because the client's reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

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[100] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[101] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[102] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions.* See also Advisory Opinion 7, *Marketing Time Opinions.*

[103] See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

[104] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

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When any portion of the work involves significant personal property appraisal assistance, the appraiser must state the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant personal property appraisal assistance in the certification, in accordance with Standards Rule 8-3.[105]

(viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained; [106]

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Use Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 and for the appraiser to produce a Summary Appraisal Report. The file must be available for inspection by the client (or the client's representatives, such as those engaged to complete an appraisal review), state enforcement agencies, such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

When reporting an opinion of market value, information analyzed in compliance with Standards Rule 7-5 is significant information that must be disclosed in a Restricted Use Appraisal Report. If such information was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state, as appropriate to the class of personal property involved, the use of the property existing as of the date of value and the use of the property reflected in the appraisal; and, when an opinion of the appropriate market or market level was developed by the appraiser, state that opinion;

Comment: In the context of personal property, highest and best use may equate to the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 8-3.

Standards Rule 8-3

Each written personal property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

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[105] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

[106] See Advisory Opinion 2, *Inspection of Subject Property*.

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- **the statements of fact contained in this report are true and correct.**
- **the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.**
- **I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.**
- **I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.**
- **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
- **my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.**
- **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.**
- **I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)**[107]
- **no one provided significant personal property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant personal property appraisal assistance must be stated.)**

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the personal property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes real property, business or intangible asset assignment results not developed by the personal property appraiser(s), any personal property appraiser(s) who signs a certification accepts full responsibility for the personal property elements of the certification, for the personal property assignment results, and for the personal property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.[108]

The names of individuals providing significant personal property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description

[107] See Advisory Opinion 2, *Inspection of Subject Property*.

[108] See Advisory Opinion 5, *Assistance in the Preparation of an Appraisal*.

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of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 8-2(a), (b), or (c)(vii), as applicable.[109]

Standards Rule 8-4

To the extent that it is both possible and appropriate, an oral personal property appraisal report must address the substantive matters set forth in Standards Rule 8-2(b).

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

[109] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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STANDARD 9: BUSINESS APPRAISAL, DEVELOPMENT

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete the research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 9 is directed toward the substantive aspects of developing a credible appraisal of an interest in a business enterprise or intangible asset.

Standards Rule 9-1

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized approaches, methods and procedures that are necessary to produce a credible appraisal;

Comment: Changes and developments in the economy and in investment theory have a substantial impact on the business and intangible asset appraisal profession. Important changes in the financial arena, securities regulation, financial reporting requirements, and law may result in corresponding changes in appraisal theory and practice.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

Standards Rule 9-2

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

(a) identify the client and other intended users;[110]

(b) identify the intended use of the appraiser's opinions and conclusions;[111]

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the standard (type) and definition of value and the premise of value;

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[110] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[111] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

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(d) identify the effective date of the appraisal;

(e) identify the characteristics of the subject property that are relevant to the standard (type) and definition of value and intended use of the appraisal, including:

(i) the subject business enterprise or intangible asset, if applicable;

(ii) the interest in the business enterprise, equity, asset, or liability to be valued;

Comment: The interest to be valued may represent all ownership rights or a subset of those rights, such as a specific right to use the asset.

(iii) all buy-sell and option agreements, investment letter stock restrictions, restrictive corporate charter or partnership agreement clauses, and similar features or factors that may have an influence on value;

(iv) the extent to which the interest contains elements of ownership control; and

Comment: The elements of control in a given situation may be affected by law, distribution of ownership interests, contractual relationships, and many other factors.

(v) the extent to which the interest is marketable and/or liquid;

Comment on (i)-(v): An appraiser must identify the attributes of the interest being appraised, including the rights and benefits of ownership.

The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

(f) identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

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(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.[112]

Standards Rule 9-3

In developing an appraisal of an equity interest in a business enterprise with the ability to cause liquidation, an appraiser must investigate the possibility that the business enterprise may have a higher value by liquidation of all or part of the enterprise than by continued operation as is. If liquidation of all or part of the enterprise is the indicated premise of value, an appraisal of any real property or personal property to be liquidated may be appropriate.

Comment: This Standards Rule requires the appraiser to recognize that continued operation of a business is not always the best premise of value because liquidation of all or part of the enterprise may result in a higher value. However, this typically applies only when the business equity being appraised is in a position to cause liquidation. If liquidation of all or part of the enterprise is the appropriate premise of value, the scope of work may include an appraisal of real property or tangible personal property. If so, competency in real property appraisal (STANDARD 1) or tangible personal property appraisal (STANDARD 7) is required.

Standards Rule 9-4

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must collect and analyze all information necessary for credible assignment results.

(a) An appraiser must develop value opinion(s) and conclusion(s) by use of one or more approaches that are necessary for credible assignment results.

(b) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of:

(i) the nature and history of the business enterprise or intangible asset;

(ii) financial and economic conditions affecting the business enterprise or intangible asset, its industry, and the general economy;

(iii) past results, current operations, and future prospects of the business enterprise;

(iv) past sales of capital stock or other ownership interests in the business enterprise or intangible asset being appraised;

(v) sales of capital stock or other ownership interests in similar business enterprises;

(vi) prices, terms, and conditions affecting past sales of similar ownership interests in the asset being appraised or a similar asset; and

(vii) economic benefit of tangible and intangible assets.

Comment on (i)-(vii): This Standards Rule directs the appraiser to study the prospective and retrospective aspects of the business enterprise and to study it in terms of the economic and industry environment within which it operates.

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[112] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure,* and Advisory Opinion 29, *An Acceptable Scope of Work.*

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(c) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of buy-sell and option agreements, investment letter stock restrictions, restrictive corporate charter or partnership agreement clauses, and similar features or factors that may influence value.

(d) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of the extent to which the interest appraised contains elements of ownership control and is marketable and/or liquid.

Comment: An appraiser must analyze factors such as holding period, interim benefits, and the difficulty and cost of marketing the subject interest.

Equity interests in a business enterprise are not necessarily worth the pro rata share of the business enterprise interest value as a whole. Also, the value of the business enterprise is not necessarily a direct mathematical extension of the value of the fractional interests. The degree of control, marketability and/or liquidity or lack thereof depends on a broad variety of facts and circumstances that must be analyzed when applicable.

Standards Rule 9-5

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches, methods, and procedures used; and

(b) reconcile the applicability and relevance of the approaches, methods and procedures used to arrive at the value conclusion(s).

Comment: The value conclusion is the result of the appraiser's judgment and not necessarily the result of a mathematical process.

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STANDARD 10: BUSINESS APPRAISAL, REPORTING

In reporting the results of an appraisal of an interest in a business enterprise or intangible asset, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 10 addresses the content and level of information required in a report that communicates the results of an appraisal of an interest in a business enterprise or intangible asset developed under STANDARD 9.

STANDARD 10 does not dictate the form, format, or style of business or intangible asset appraisal reports, which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 10-1

Each written or oral appraisal report for an interest in a business enterprise or intangible asset must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended user(s) to understand the report; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

Standards Rule 10-2

Each written appraisal report for an interest in a business enterprise or intangible asset must be prepared in accordance with one of the following options and prominently state which option is used: Appraisal Report or Restricted Use Appraisal Report.

Comment: When the intended users include parties other than the client, an Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Use Appraisal Report may be provided.

The essential difference between these options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

The report content and level of information requirements set forth in this Standard are minimums for both types of report.

A party receiving a copy of an Appraisal Report or Restricted Use Appraisal Report does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

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(i) state the identity of the client and any other intended users, by name or type;[113]

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

(ii) state the intended use of the appraisal;[114]

(iii) summarize information sufficient to identify the business or intangible asset and the interest appraised;

Comment: The identification information must include property characteristics relevant to the type and definition of value and intended use of the appraisal.

(iv) state the extent to which the interest appraised contains elements of ownership control, including the basis for that determination;

(v) state the extent to which the interest appraised lacks elements of marketability and/or liquidity, including the basis for that determination;

(vi) state the standard (type) and definition of value and the premise of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.

(vii) state the effective date of the appraisal and the date of the report;

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property as of the effective date of the appraisal was prospective, current, or retrospective.

(viii) summarize the scope of work used to develop the appraisal;[115]

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant business and/or intangible asset appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant

[113] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[114] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[115] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

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business and/or intangible asset appraisal assistance in the certification, in accordance with Standards Rule 10-3.[116]

(ix) summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the market approach, asset-based (cost) approach, or income approach must be explained;

Comment: An Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 9. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation in accordance with Standards Rule 9-5.

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

(xi) include a signed certification in accordance with Standards Rule 10-3.

(b) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, by name or type;[117] and state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the client's identity in the report.

The Restricted Use Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Use Appraisal Report.

(ii) state the intended use of the appraisal;[118]

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Use Appraisal Report option in this Standards Rule (i.e. client use only).

(iii) state information sufficient to identify the business or intangible asset and the interest appraised;

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[116] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

[117] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

[118] See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

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Comment: The identification information must include property characteristics relevant to the type and definition of value and intended use of the appraisal.

(iv) state the extent to which the interest appraised contains elements of ownership control, including the basis for that determination;

(v) state the extent to which the interest appraised lacks elements of marketability and/or liquidity, including the basis for that determination;

(vi) state the standard (type) of value and the premise of value, and cite the source of its definition;

(vii) state the effective date of the appraisal and the date of the report;

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property as of the effective date of the appraisal was prospective, current, or retrospective.

(viii) state the scope of work used to develop the appraisal;[119]

Comment: Because the client's reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant business and/or intangible asset appraisal assistance, the appraiser must state the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant business and/or intangible asset appraisal assistance in the certification, in accordance with Standards Rule 10-3.[120]

(ix) state the appraisal procedures followed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the market approach, asset-based (cost) approach, or income approach must be explained;

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Use Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 9 and for the appraiser to produce an Appraisal Report. The file must be available for inspection by the client (or the client's representatives, such as those engaged to complete an appraisal review), such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

(x) clearly and conspicuously:

- **state all extraordinary assumptions and hypothetical conditions; and**
- **state that their use might have affected the assignment results; and**

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[119] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

[120] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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(xi) include a signed certification in accordance with Standards Rule 10-3.

<u>Standards Rule 10-3</u>

Each written appraisal report for an interest in a business enterprise or intangible asset must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- **the statements of fact contained in this report are true and correct.**
- **the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.**
- **I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.**
- **I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.**
- **my engagement in this assignment was not contingent upon developing or reporting predetermined results.**
- **my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.**
- **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.**
- **no one provided significant business and/or intangible asset appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant business and/or intangible asset appraisal assistance must be stated.)**

<u>Comment</u>: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the business and/or intangible asset appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes real property or personal property assignment results not developed by the business and/or intangible asset appraiser(s), any business and/or intangible asset appraiser(s) who signs a certification accepts full responsibility for the business and/or intangible asset elements of the certification, for the business and/or intangible asset assignment results, and for the business and/or intangible asset contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those

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individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible. [121]

The names of individuals providing significant business and/or intangible asset appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification but disclosure of their assistance is required in accordance with Standards Rule 10-2(a) or (b)(vii), as applicable.[122]

Standards Rule 10-4

To the extent that it is both possible and appropriate, an oral appraisal report for an interest in a business enterprise or intangible asset must address the substantive matters set forth in Standards Rule 10-2(a).

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

[121] See Advisory Opinion 5, *Assistance in the Preparation of an Appraisal*.

[122] See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

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STATEMENT ON APPRAISAL STANDARDS NO. 1 (SMT-1)

SUBJECT: Appraisal Review—Clarification of Comment on Standards Rule 3-1(g)

This Statement has been retired by action of the Appraisal Standards Board.

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STATEMENT ON APPRAISAL STANDARDS NO. 2 (SMT-2)

SUBJECT: Discounted Cash Flow Analysis

APPLICATION: Real Property

THE ISSUE:

Discounted cash flow (DCF) analysis is an accepted analytical tool and method of valuation within the income capitalization approach to value. DCF is not a new method, but it did not enjoy widespread use until modern computer technology enabled appraisers to automate the process. Because DCF analysis is profit oriented and dependent on the analysis of uncertain future events, it is vulnerable to misuse. What steps can the appraiser take to avoid misuse of DCF analysis?

THE STATEMENT:

The acceptance of DCF analysis as a method of valuation began in the institutional real estate market and has spread to investment real estate in the general real estate market. DCF techniques may be applied in the valuation or analysis of proposed construction, land development, condominium development or conversion, rehabilitation development, and income-producing real estate of various types. DCF analysis is becoming a requirement of advisors, asset managers, fiduciaries, portfolio managers, syndicators, underwriters, and others dealing in investment-grade real estate. These users of appraisal services favor the inclusion of DCF analysis as a management tool in projecting cash flow and return expectations, capital requirements, refinancing opportunities, and timing of future property dispositions. DCF analysis is regarded as one of the best methods of replicating steps taken to reach investor buy/sell/hold decisions and is often a part of the exercise of due diligence in the evaluation of an investment.

DCF methodology is based on the principle of anticipation—i.e., value is created by the anticipation of future benefits. DCF analysis reflects investment criteria and requires the appraiser to make empirical and subjective assumptions. DCF analysis can be used for investment value and market value appraisals, as well as for other purposes such as sensitivity tests.

DCF analysis is an additional tool available to the appraiser and is best applied in developing value opinions in the context of one or more other approaches. This statement focuses on the criteria for proper DCF analysis and does not imply that DCF analysis is or should be the only method employed.

To avoid misuse or misunderstanding when DCF analysis is used in an appraisal assignment to develop an opinion of market value, it is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes. Market value DCF analyses should be supported by market derived data, and the assumptions should be both market and property specific. Market value DCF analyses, along with available factual data, are intended to reflect the expectations and perceptions of market participants. They should be judged on the support for the forecasts that existed when made, not on whether specific items in the forecasts are realized at a later date. An appraisal report that includes the results of DCF analysis must clearly state the assumptions on which the analysis is based and must set forth the relevant data used in the analysis.

Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal. Standards Rule 1-1(c) states that the appraiser must not render appraisal services in a careless or negligent manner, such as making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate would affect the credibility of those results. These two Standards Rules are significant for DCF analysis because of the potential for the compounding effect of errors in the input, unrealistic assumptions, and programming errors.

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Computer printouts showing the results of DCF analysis may be generated by commercial software or by software prepared by the appraiser. Either way, the appraiser is responsible for the entire analysis including the controlling input, the calculations, and the resulting output. If using commercial software the appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software. Standards Rule 1-4(c)(iv) requires that projections of anticipated future rent and/or income potential and expenses be based on reasonably clear and appropriate evidence. The Comment to this Standards Rule makes specific reference to cash flow projections, the essence of DCF analysis.

DCF accounts for and reflects those items and forces that affect the revenue, expenses, and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market. For example, in the appraisal of a multi-tenant property, a lease-by-lease analysis addresses contract and market rents, specific escalations, operating expenses, pass-through provisions, market-derived or specific concessions, capital expenditures, and any other measurable specific provisions applicable. Revenue growth rate or decline rate assumptions are premised on analysis of supply/demand factors and other economic conditions and trends within the market area of the subject. Operating expense change rates should reflect both overall expense trends and the specific trend of significant expense items.

Discount rates applied to cash flows and estimates of reversion should be derived from data and information in the real estate and capital markets. Surveys of investor opinion and yield indices are also useful in the rate selection process, but only when the type of and market for the real estate being appraised is consistent with the type of and market for the real estate typically acquired by the investors interviewed in the survey. Considerations used in the selection of rates are risk, inflation, and real rates of return.

When reversion capitalization rates are used, they should reflect investor expectations considering the real estate type, age and condition, cash flow characteristics, and related factors. The projection period is a variable and should be set on the basis of the facts and circumstances of each analysis.

The results of DCF analysis should be tested and checked for errors and reasonableness. Because of the compounding effects in the projection of income and expenses, even slight input errors can be magnified and can produce unreasonable results. For example, it is good practice to test whether cash flows are changing at reasonable rates and to compare the reversion capitalization rate with the inferred entrance capitalization rate to see if the relationship between these rates is reasonable and explainable.

STANDARD 2 requires the appraiser to communicate each analysis, opinion, and conclusion in a manner that is not misleading. Appraisals using the DCF method in the income capitalization approach may contain computerized projections of itemized future cash flow supported by exhaustive printouts that can be misleading. The seeming precision of computer-generated projections may give the appearance of certainty to projections that are actually variable within a wide range. In DCF analysis, all of the assumptions (growth rates, decline rates, rental rates, discount rates, financing terms, expense trends, capitalization rates, etc.) directly affect the conclusion and must be clearly and accurately disclosed in the appraisal report.

CONCLUSIONS:

- DCF analysis is an additional tool available to the appraiser and is best applied in developing value opinions in the context of one or more other approaches.
- It is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.
- Market value DCF analyses should be supported by market-derived data, and the assumptions should be both market- and property-specific.
- If using commercial software the appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.

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- DCF accounts for and reflects those items and forces that affect the revenue, expenses, and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market.
- The results of DCF analysis should be tested and checked for errors and reasonableness.
- Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal.

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STATEMENT ON APPRAISAL STANDARDS NO. 3 (SMT-3)

SUBJECT: Retrospective Value Opinions

APPLICATION: Real Property, Personal Property

THE ISSUE:

Two dates are essential to an appraisal report. Standards Rules 2-2(a)(vi), (b)(vi), and (c)(vi), and 8-2(a)(vi), (b)(vi), and (c)(vi) require that each appraisal report specify the effective date of the appraisal and the date of the report. The date of the report indicates the perspective from which the appraiser is examining the market. The effective date of the appraisal establishes the context for the value opinion. Three categories of effective dates - retrospective, current, or prospective - may be used, according to the intended use of the appraisal assignment.

When a retrospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?

THE STATEMENT:

Retrospective appraisals (effective date of the appraisal prior to the date of the report) may be required for property tax matters, estate or inheritance tax matters, condemnation proceedings, suits to recover damages, and similar situations.

Current appraisals occur when the effective date of the appraisal is contemporaneous with the date of the report. Since most appraisals require current value opinions, the importance of specifying both the date of the report and the effective date of the analysis is sometimes lost.

Prospective appraisals (effective date of the appraisal subsequent to the date of the report) may be required for valuations of property interests related to proposed developments, as the basis for value at the end of a cash flow projection, and for other reasons. (See SMT-4 on *Prospective Value Opinions*.)

The use of clear and concise language and appropriate terminology in appraisal reports helps to eliminate misleading reports. To avoid confusion, the appraiser must clearly establish the date to which the value opinion applies. In retrospective value opinions, use of a modifier for the term “market value” and past verb tenses increases clarity (e.g., “. . . the retrospective market value was . . .” instead of “. . . the market value is . . .”).

A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the effective date of the appraisal. Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date. The appraiser should determine a logical cut-off because at some point distant from the effective date, the subsequent data will not reflect the relevant market. This is a difficult determination to make. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where he or she should make this cut-off. In the absence of evidence in the market that data subsequent to the effective date were consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date for data considered by the appraiser.

Use of direct excerpts from then-current appraisal reports prepared at the time of the retrospective effective date helps the appraiser and the reader understand market conditions as of the retrospective effective date.

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CONCLUSIONS:

- A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the effective date of the appraisal.
- Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends.
- The appraiser should determine a logical cut-off.
- Use of direct excerpts from then-current appraisal reports prepared at the time of the retrospective effective date helps the appraiser and the reader understand market conditions as of the retrospective effective date.
- In the absence of evidence in the market that data subsequent to the effective date were consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date.

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STATEMENT ON APPRAISAL STANDARDS NO. 4 (SMT-4)

SUBJECT: Prospective Value Opinions

APPLICATION: Real Property, Personal Property

THE ISSUE:

Two dates are essential to an appraisal report. Standards Rules 2-2(a)(vi), (b)(vi), and (c)(vi), and 8-2(a)(vi), (b)(vi), and (c)(vi) require that each appraisal report specify the effective date of the appraisal and the date of the report. The date of the report indicates the perspective from which the appraiser is examining the market. The effective date of the appraisal establishes the context for the value opinion. Three categories of effective dates - retrospective, current, or prospective - may be used, according to the intended use of the appraisal assignment.

When a prospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?

THE STATEMENT:

Retrospective appraisals (effective date of the appraisal prior to the date of the report) may be required for property tax matters, estate or inheritance tax matters, condemnation proceedings, suits to recover damages, and similar situations. (See SMT-3 on *Retrospective Value Opinions*.)

Current appraisals occur when the effective date of the appraisal is contemporaneous with the date of the report. Since most appraisals require current value opinions, the importance of specifying both the date of the report and the effective date of the analysis is sometimes lost.

Prospective appraisals (effective date of the appraisal subsequent to the date of the report) may be required for valuations of property interests related to proposed developments, as the basis for value at the end of a cash flow projection, and for other reasons.

The use of clear and concise language and appropriate terminology in appraisal reports helps to eliminate misleading reports. To avoid confusion, the appraiser must clearly establish the date to which the value opinion applies. In prospective value opinions, use of the term “market value” without a modifier such as “forecasted” or “prospective” and without future verb tenses is improper (i.e., “…the prospective market value is expected to be…” and not “…the market value is…”).

Prospective value opinions, along with available factual data, are intended to reflect the current expectations and perceptions of market participants. They should be judged on the support for the forecasts that existed when made, not on whether specific items in the forecasts are realized at a later date.

When prospective value opinions are required with regard to proposed improvements to real property, the Comment to Standards Rule 1-2(e) regarding identification of the extent and character of the proposed improvements and Standards Rule 1-4(c)(iv) regarding the basis for anticipated future rent and expenses are relevant. Evidence that proposed improvements can be completed by the effective date of the appraisal is important. Support for projected income and expenses at the time of completion of proposed improvements and during the rent-up or sell-out period requires the incorporation of sufficient market research in the appraisal and the consideration of existing and future competition. It is appropriate to study comparable projects for evidence of construction periods, development costs, income and expense levels, and absorption. Items such as rental concessions, commissions, tenant finish allowances, add-on factors, and expense pass-throughs must be studied to develop realistic income expectancy. The same issues are relevant when appraising personal property with proposed modifications, as set forth in Standards Rules 7-2(e) and 7-4(c)(iv).

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With regard to proposed developments of real property, two prospective value opinions may be required: one as of the time the development is to be completed and one as of the time the development is projected to achieve stabilized occupancy. These prospective values form a basis for investment decisions and loan underwriting.

In a prospective appraisal, the appraiser analyzes market trends to provide support for forecasted income and expense or sell-out opinions, absorption periods, capitalization rates, and discount rates as of the effective date of the appraisal. Economic trends such as growth in population, employment, and future competition are also analyzed. The overall economic climate and variations in the business cycle should be considered and weighed in the performance of the appraisal process. All value conclusions should include reference to the time frame when the analysis was prepared to clearly delineate the market conditions and the point of reference from which the appraiser developed the prospective value opinion. It is essential to include a limiting condition citing the market conditions from which the prospective value opinion was made and indicating that the appraiser cannot be held responsible for unforeseeable events that alter market conditions prior to the effective date of the appraisal.

CONCLUSIONS:

- Prospective value opinions, along with available factual data, are intended to reflect the current expectations and perceptions of market participants. They should be judged on the market support for the forecasts when made, not on whether specific items in the forecasts are realized.
- It is appropriate to study comparable projects for evidence of construction periods, development costs, income and expense levels, and absorption.
- Items such as rental concessions, commissions, tenant finish allowances, add-on factors, and expense pass-throughs must be studied to develop realistic income expectancy.
- All value conclusions should include reference to the time frame when the analysis was prepared to clearly delineate the market conditions and the point of reference from which the appraiser developed the prospective value opinion.
- It is essential to include a limiting condition citing the market conditions from which the prospective value opinion was made and indicating that the appraiser cannot be held responsible for unforeseeable events that alter market conditions prior to the effective date of the appraisal.

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STATEMENT ON APPRAISAL STANDARDS NO. 5 (SMT-5)

SUBJECT: Confidentiality Section of the ETHICS RULE

This Statement has been retired by action of the Appraisal Standards Board.

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STATEMENT ON APPRAISAL STANDARDS NO. 6 (SMT-6)

SUBJECT: Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions

APPLICATION: Real Property, Personal Property

THE ISSUE:

In USPAP, the Comment to Standards Rules 1-2(c) states (Standards Rule 7-2(c) also includes a similar Comment):

> *When developing an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.*

The Comment to Standards Rules 2-2(a)(v), 2-2(b)(v), 8-2(a)(v), and 8-2(b)(v) states:

> *Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.*

How is the opinion of reasonable exposure time developed? Is it presumed to occur prior to or starting from the effective date of the appraisal?

THE STATEMENT:

Reasonable exposure time is one of a series of conditions in most market value definitions. Exposure time is always presumed to precede the effective date of the appraisal.

Exposure time may be defined as: the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive and open market.

Exposure time is different for various types of property and under various market conditions. It is noted that the overall concept of reasonable exposure encompasses not only adequate, sufficient, and reasonable time but also adequate, sufficient, and reasonable effort. This statement focuses on the time component.

The fact that exposure time is always presumed to occur prior to the effective date of the appraisal is substantiated by related facts in the appraisal process: supply/demand conditions as of the effective date of the appraisal; the use of current cost information; the analysis of historical sales information (sold after exposure and after completion of negotiations between the seller and buyer); and the analysis of future income expectancy projected from the effective date of the appraisal.

Rationale and Method for Developing an Opinion of Reasonable Exposure Time

The opinion of the time period for reasonable exposure is not intended to be a prediction of a date of sale or a one line statement. Instead, it is an integral part of the analyses conducted during the appraisal assignment. The opinion may be expressed as a range and can be based on one or more of the following.

- statistical information about days on market;
- information gathered through sales verification; and
- interviews of market participants.

Related information garnered through this process may include the identification of typical buyers and sellers for the type of property involved and typical equity investment levels and/or financing terms.

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The reasonable exposure period is a function of price, time, and use, not an isolated opinion of time alone. As an example, an office building, an important artwork, a fine gemstone, a process facility, or an aircraft could have been on the market for two years at a price of $2,000,000, which informed market participants considered unreasonable. Then the owner lowered the price to $1,600,000 and started to receive offers, culminating in a transaction at $1,400,000 six months later. Although the actual exposure time was 2.5 years, the reasonable exposure time at a value range of $1,400,000 to $1,600,000 would be six months. The answer to the question "what is reasonable exposure time?" should always incorporate the answers to the question "for what kind of property at what value range?" rather than appear as a statement of an isolated time period.

Applications to Client Uses of an Appraisal

When an appraisal is commissioned as the result of a mortgage application after a potential seller and buyer enter into a Contract for Sale, no conflict exists between the presumption in the appraisal process that exposure time occurs prior to the effective date of the appraisal and the intended use of the appraisal.

When an appraisal is commissioned for employee relocation, asset evaluation, foreclosure, or asset management purposes, the presumption in the appraisal process that exposure time occurs prior to the effective date of the appraisal may conflict with the intended use of the appraisal. Problems arise when clients attempt to make business decisions or account for assets without understanding the difference between reasonable exposure time and marketing time (see related Advisory Opinion 7, *Marketing Time Opinions*).

CONCLUSIONS:

- The reasonable exposure time inherent in the market value concept is always presumed to precede the effective date of the appraisal.
- Exposure time is different for various types of property and under various market conditions.
- The answer to the question "what is reasonable exposure time?" should always incorporate the answers to the question "for what kind of property at what value range?" rather than appear as a statement of an isolated time period.

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STATEMENT ON APPRAISAL STANDARDS NO. 7 (SMT-7)

SUBJECT: Permitted Departure from Specific Requirements in Real Property and Personal Property Appraisal Assignments

This Statement has been retired by action of the Appraisal Standards Board.

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STATEMENT ON APPRAISAL STANDARDS NO. 8 (SMT-8)

SUBJECT: Electronic Transmission of Reports

This Statement has been retired by action of the Appraisal Standards Board.

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STATEMENT ON APPRAISAL STANDARDS NO. 9 (SMT- 9)

SUBJECT: Identification of Intended Use and Intended Users

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

An appraiser must identify and consider the intended use and intended users of the appraiser's reported opinions and conclusions in order to identify the problem to be solved and to understand his or her development and reporting responsibilities in an appraisal, appraisal review, or appraisal consulting assignment. An appraiser must state the intended use and intended users of the opinions and conclusions in a report.

What kind of information must an appraiser identify and consider regarding the intended use and intended users in the course of accepting and completing an assignment, and how much of that information must an appraiser include in the report?

THE STATEMENT:

Relevant USPAP References

The term "Client" is defined in the DEFINITIONS section of USPAP as

> *the party or parties who engage an appraiser (by employment or contract) in a specific assignment.*

The term "Intended Use" is defined as

> *the use or uses of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.*

The term "Intended User" is defined as

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.*

General

The SCOPE OF WORK RULE requires an appraiser to identify the intended use and intended users as part of problem identification. Identifying the intended use and intended users is required to determine the scope of work necessary to develop credible assignment results. The credibility of assignment results is always measured in the context of their intended use.

STANDARDS 1, 3, 4, 6, 7, and 9 require an appraiser to identify the intended use and intended users in the course of developing his or her opinions and conclusions in the assignment. In the context of a real property appraisal, Standards Rules 1-2(a) and (b) (for example) state:

> *In developing a real property appraisal, an appraiser must:*
>
> *(a) identify the client and other intended users;*
>
> *(b) identify the intended use of the appraiser's opinions and conclusions…*

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STANDARDS 2, 3, 5, 6, 8, and 10 require an appraiser to state the intended use in the report. In the context of a written real property appraisal report, Standards Rule 2-2(a) (for example) states, *The content of a Self-Contained Appraisal Report must be consistent with the* ***intended use*** *of the appraisal…* (bold added for emphasis).

In the context of a real property appraisal report (for example), Standards Rules 2-2(a)(i) and (ii) require the appraiser to:

> *(i) state the identity of the client and any intended users, by name or type;*
>
> *(ii) state the intended use of the appraisal…*

An appraiser identifies the intended use by communicating with the client before accepting an appraisal, appraisal review, or appraisal consulting assignment. The intended use may encompass requirements of intended users other than the client. An appraiser cannot reasonably identify the intended use without having identified the client and communicating with the client or the client's agent.

Although an appraiser must identify and consider the intended use of the appraiser's opinions and conclusions, an appraiser must not allow the objectives of the client or other intended users of the report to affect the appraiser's independence and objectivity. An appraiser must not allow the objectives of a client or other intended users to cause the analysis or report to be biased.

Identification of the Client and Other Intended Users in an Assignment

In order to properly define the problem under study and to understand his or her responsibilities in an assignment, an appraiser must identify the client and other intended users. This is accomplished by communication with the client prior to accepting the assignment.

An appraiser should use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. The client may be identified as a person or entity, or as an agent of an intended user. In instances where the client wishes to remain anonymous, the appraiser must still document the identity of the client in the workfile but may omit the client's identity in the appraisal, appraisal review, or appraisal consulting report.

Neither the client nor the appraiser is obligated to identify an intended user by name. If identification by name is not appropriate or practical, an appraiser's client and the appraiser may identify an intended user by type.

An appraiser's obligations to the client are established in the course of considering and accepting an assignment. If an appraiser becomes aware of a change in the intended use of the report, the appraiser must consider whether the extent of the development process and type of report initially identified are still appropriate. If they are not, the appraiser must communicate with the client to establish an appropriate basis upon which to proceed.

If the appraiser is contacted regarding an assignment or report by a party other than the appraiser's client, before responding the appraiser must review his or her obligations to that client. An appraiser may need to review the Confidentiality section of the ETHICS RULE and Advisory Opinions 25, 26, and 27 for guidance.

An appraiser's obligations to other intended users may impose additional development and reporting requirements in the assignment. It is essential that an appraiser establish with the client a clear and mutual understanding of the needs of all intended users prior to accepting an assignment. An appraiser's obligation to intended users other than the client is limited to addressing their requirements as identified by the appraiser at the time the appraiser accepts the assignment.

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A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship.

Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless they were specifically identified by the appraiser at the time of the assignment.

Disclosure of Client and Other Intended User(s) in an Appraisal, Appraisal Review, or Appraisal Consulting Report

Except when specifically requested not to do so as part of the agreement with the client, an appraiser must disclose the identity of the client and any other intended users in an appraisal, appraisal review, or appraisal consulting report. The purpose of this reporting requirement is to (1) ensure that the client and any other intended users can recognize their relationship to the assignment and report, and (2) ensure that unintended users will not be misled by notifying them that they are neither the client nor an intended user. For example, a statement similar to the following may be appropriate:

> This report is intended for use only by (identify the client) and (identify any other intended users by name or type). Use of this report by others is not intended by the appraiser.

If the client's identity is omitted from an appraisal report, the appraiser must (1) identify the client in the workfile, and (2) provide a notice in the appraisal report that the identity of the client has been omitted in accordance with the client's request and that the report is intended for use only by the client and any other intended users.

Identification of the Intended Use in an Appraisal, Appraisal Review, or Appraisal Consulting Assignment

Identification of the intended use is one of the assignment elements necessary to properly identify the appraisal, appraisal review, or appraisal consulting problem. Identification of the intended use helps the appraiser and the client make two important decisions about the assignment:

- the appropriate scope of work for the appraisal, appraisal review, or appraisal consulting development process; and
- the level of detail to provide in the appraisal, appraisal review, or appraisal consulting report.

Disclosure of the Intended Use in an Appraisal, Appraisal Review, or Appraisal Consulting Report

An appraiser can avoid misleading parties in possession of an appraisal, appraisal review, or appraisal consulting report by clearly identifying the intended use in the report and stating that other uses are not intended. For example, a statement similar to the following may be appropriate:

> This report is intended only for use in (describe the use). This report is not intended for any other use.

The intended use description provided in the statement must be specific to the assignment.

CONCLUSIONS:

- An appraiser must identify the client and other intended users as part of the process of identifying the client's intended use of an appraisal, appraisal review, or appraisal consulting report, by communication with the client prior to accepting the assignment.

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- Identification of the intended use and intended users are necessary steps in determining the appropriate scope of work.
- Whether or not assignment results are credible is measured in the context of the intended use of the opinions and conclusions.
- An appraiser should use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE.
- The appraiser's obligations to the client are established in the course of considering and accepting an assignment.
- The appraiser's obligation to intended users other than the client is limited to addressing their requirements as identified by the appraiser at the time the appraiser accepts the assignment.
- Identification of the intended use and intended users of the report is one of the essential steps in order to identify the problem to be solved.
- An appraiser identifies the intended use and any intended users of an appraisal, appraisal review, or appraisal consulting report by communicating with the client before accepting an assignment.
- Appraisers can avoid misleading parties in possession of a report by clearly identifying the intended use and any intended users in the report and stating that other uses and/or users are not intended by the appraiser.
- Except when specifically requested not to do so as part of the agreement with the client, an appraiser must disclose the identity of the client and any other intended users of an appraisal report in the report.
- If the client's identity is omitted from an appraisal report, the appraiser must (1) document the identity of the client in the workfile, and (2) provide a notice in the appraisal report that the identity of the client has been omitted in accordance with the client's request and that the report is intended for use only by the client and any other intended users.

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STATEMENT ON APPRAISAL STANDARDS NO. 10 (SMT-10)

SUBJECT: Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction

This Statement has been retired by action of the Appraisal Standards Board.

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USPAP ADVISORY OPINIONS

2008-2009 EDITION

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APPRAISAL STANDARDS BOARD

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APPRAISAL STANDARDS BOARD
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FOREWORD

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. **The 2008-2009 Edition of USPAP (2008-2009 USPAP) is effective January 1, 2008 through December 31, 2009.** It is important that individuals understand and adhere to changes in each edition of USPAP. State and federal authorities enforce the content of the current or applicable edition of USPAP.

Advisory Opinions are a form of guidance issued by the ASB to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. Advisory Opinions do not establish new standards or interpret existing standards. Advisory Opinions are not part of USPAP and can be approved by the ASB without public exposure and comment.

Advisory Opinions are based on presumed conditions without investigation or verification of actual circumstances. Guidance provided in the Advisory Opinions does not represent the only possible solution to the issues discussed and the advice provided may not be applied equally to seemingly similar situations.

The *USPAP Advisory Opinions* are a reference for appraisers, enforcement officials, users of appraisal services, and the public. The use of this edition of the *USPAP Advisory Opinions* is intended to be in conjunction with the 2008-2009 Edition of USPAP.

Contacting the Appraisal Standards Board

The ASB invites questions about USPAP, commentary on USPAP and proposed changes to USPAP from all interested parties, including appraisers, state enforcement agencies, users of appraisal services, and the public.

If you have any comments, questions, or suggestions regarding USPAP, please contact the ASB.

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ADVISORY OPINION 1 (AO-1)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Sales History

APPLICATION: Real Property

THE ISSUE:

The *Uniform Standards of Professional Appraisal Practice* (USPAP) contain sales history requirements that obligate appraisers of real property to analyze and report pending and recent agreements, options, listings, and sales involving the property being appraised. Because of differences in federal law and regulations, state laws and operating practices relating to the disclosure and confidentiality of real property sales data, the ways in which appraisers comply with the sales history requirements vary according to the jurisdiction and the availability of information. This lack of consistency has raised questions regarding the applicability and relevance of the sales history requirements.

How can the appraiser best comply with the sales history provisions of the applicable appraisal standards in the face of obstacles that are beyond the control of the appraiser?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- Advisory Opinion 24 which addresses the "normal course of business."

Analysis and Reporting Requirements

This Advisory Opinion offers advice and guidance for compliance with the requirements to analyze and report sales history and related information in the appraisal of real property.

USPAP Standards Rules 1-5(a) and (b) require an appraiser, when the value opinion to be developed is market value, and if such information is available to the appraiser in the normal course of business, to analyze (1) all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal and (2) all sales of the subject property that occurred within three (3) years prior to the effective date of the appraisal. USPAP Standards Rules 2-2(a)(viii), (b)(viii), and (c)(viii) call for the written appraisal report to contain sufficient information to indicate compliance with the sales history requirement. Standards Rules 2-2(a)(viii), (b)(viii), and (c)(viii) further require that, if sales history information is unobtainable, the written appraisal report must include a commentary on the efforts taken by the appraiser to obtain the information.

Laws, regulations and guidelines issued by government agencies, or government sponsored enterprises, also contain requirements that require the appraiser to analyze and report sales history information, and these requirements vary according to jurisdiction.

The requirement for the appraiser to analyze and report sales history and related information is fundamental to the appraisal process. Just as the appraiser must analyze pending and recent sales of comparable properties, the appraiser must take into account all pending and recent sales of the subject property itself. This is not to say that the agreed price in a pending or recent sale of the subject property is necessarily representative of value as defined in the report, but the appraiser's failure to analyze and report these facts may exclude important information from the sales comparison approach. Information pertaining to the current market status and the

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sales history of the subject property may also be useful information for the determination of highest and best use or the analysis of market trends.

Sample Sales Histories

The following sample sales histories are offered as examples of information that might be included in an appraisal report in compliance with the applicable standards.

For a property that is not under agreement or option, that is not offered for sale on the open market and that has not changed hands within the past three years, the sales history might be shown in the appraisal report as follows:

> Research of the applicable public records, private data services and an interview of the current owner, revealed that the subject property is not under current agreement or option and is not offered for sale on the open market. Additionally, according to these sources, the subject property has not been transferred during the past three years.

For a property that is offered for sale on the open market and that was acquired by the current owner during the past three years, the sales history to be included in the appraisal report might appear as follows.

> The subject property is currently offered for sale at a listing price of $XXX,XXX. A copy of the listing agreement with Mary Smith, real estate broker, is included in the addendum to this report.
>
> The subject property was sold by John Jones to the current owner on June 1, 20XX, for a reported price of $XXX,XXX. The parties to the transaction have affirmed that the seller received all cash and that the reported price was unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. This sale is analyzed in the Sales Comparison Approach section of the appraisal report.
>
> According to the public records, there have been no other transfers of the subject property within the past three years.

Sample Comments

The following sample comments are offered as examples of comments that might be included in an appraisal report in cases where pertinent information is not available to the appraiser in the normal course of business. The comments are fictitious and are offered only for purposes of illustration.

In cases where the property being appraised is known to be the subject of a pending transaction, but the appraiser is not privy to the terms of the pending transaction and the parties to the transaction have declined to disclose the terms of the transaction to the appraiser, the sales history to be included in the appraisal report might include a comment such as the one shown below.

> The property being appraised is known to be the subject of a pending purchase and sale agreement, but the appraiser was unable to obtain the terms of the agreement. The current owner confirmed that the property is under agreement but declined to disclose the terms of the agreement or to discuss the nature of the agreement.

In jurisdictions where reliable price information cannot be found in the public records and where the appraiser is unable to obtain complete information in the normal course of business, it would be appropriate to include in the appraisal report a comment similar to the one shown below.

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The subject property was sold by John Jones to the current owner on June 1, 20XX, for an unknown price. The appraiser attempted to obtain the purchase price and other terms of the transaction without success. The parties to the transaction declined to discuss the terms or conditions of the sale.

According to the public records, there have been no other transfers of the subject property within the past three years.

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ADVISORY OPINION 2 (AO-2)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Inspection of Subject Property

APPLICATION: Real Property, Personal Property

THE ISSUE:

For real property and personal property appraisal assignments, USPAP requires the report to contain a certification indicating whether or not the subject property was personally inspected by the appraiser(s).

- What is the purpose of inspecting the subject property?
- Does USPAP mandate a minimum level of property inspection?
- What are the disclosure obligations relating to inspection?

ADVICE FROM THE ASB ON THE ISSUE

Purpose of an Inspection

The primary reason for inspection of a property is to gather information about the characteristics of the property that are *relevant* to its value. [1]

While there are other ways to gather such information, in many cases the personal observations of the appraiser are the primary source of information regarding the subject property.

Minimum Level of Inspection

An inspection is not required by USPAP, but one is often conducted.

The extent of the inspection process is an aspect of the scope of work, and may vary based on assignment conditions and the intended use of the assignment results.[2] It is the appraiser's responsibility to determine the appropriate scope of work, including the degree of inspection necessary to produce credible assignment results given the intended use.

Every assignment is subject to conditions that limit, in one way or another, the inspection of the subject property. Regardless of the detail one employs, it is always possible to perform an inspection that is more thorough. The appraiser's inspection commonly is limited to those things readily observable without the use of special testing or equipment.

An appraiser may use any combination of property inspection, plans and specifications, asset records, photographs, property sketches, recorded media, etc., to gather information about the relevant characteristics of the subject property.[3] For some assignments, it may be necessary to rely on reports prepared by other

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[1] See Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment.*

[2] See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure.*

[3] See Comment to Standards Rules 1-2(e) and 7-2(e).

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professionals. In such cases the appraiser must comply with USPAP requirements related to reliance on work done by others.

There are many circumstances that influence the extent of the appraiser's property inspection. In some assignments, the client may request that the appraiser perform an exterior-only inspection from the street or perform no inspection of the subject property (i.e. a "desktop appraisal"). There are situations where inspection of the subject property is not possible; for example, if the improvements have been destroyed, removed, or not yet built. In other cases the appraiser is denied access to the property.

The appraiser must ensure that the degree of inspection is adequate to develop a credible appraisal. An appraiser cannot develop a credible appraisal if adequate information about the relevant characteristics of the subject property is not available. When adequate information about relevant characteristics is not available through a personal inspection or from sources the appraiser believes are reliable, an appraiser must withdraw from the assignment unless the appraiser can:

- modify the assignment conditions to expand the scope of work to include gathering the necessary information; or
- use an extraordinary assumption about such information, if credible assignment results can still be developed.

An inspection conducted by an appraiser is usually not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, a licensed home inspector, a Renaissance art expert). An appraiser's observations must, at the minimum, be thorough enough to properly develop the appraisal and adequately report the relevant characteristics. Regardless of how the information is gathered, it must be sufficient for the development of relevant analyses, such as highest and best use, the application of the approaches, etc.

Disclosure Requirements

Appraisal reports for real and personal property must contain a signed certification indicating whether the appraiser has or has not personally inspected the subject property. All appraisal reports must also contain sufficient information to enable the intended users to understand the extent of the inspection that was performed.

Because of the infinite variability of inspections, it is important that the appraisal report clearly communicates the degree of the inspection in order for the report to be meaningful.[4]

Illustrations

1. I have been asked to appraise a single-family home based on an exterior-only inspection from the street. What are my development and reporting obligations?

   If an appraiser's observations are limited to an exterior-only inspection from the street, then the appraiser must gather information on relevant characteristics from other data sources and/or use extraordinary assumptions.[5] The data sources used are often the same sources used to gather information on comparable sales. For example, the size of the property might be obtained from public records, and other information might be obtained from interior photographs included in a listing of the property for sale, or information from the appraiser's own files.

   The report must disclose the extent of the property inspection in a manner that is clear to the intended users. For example, in this case it would probably be insufficient to merely state that the property was

[4] See Standards Rules 2-2(a)(vii), 2-2(b)(vii), 2-2(c)(vii), 7-2(a)(vii), 7-2(b)(vii) and 7-2(c)(vii).

[5] See Standards Rules 2-2(a)(x), 2-2(b)(x), 2-2(c)(x), 7-2(a)(x), 7-2(b)(x) and 7-2(c)(x).

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inspected. The report must make clear that the appraisal was based on an "exterior only" inspection from the street and state the sources used to identify the relevant characteristics other than those observed during the inspection.

2. A dealer has asked me to appraise a Rolex watch. I will not be provided access to the piece. However, I have been given the serial number, a copy of an authenticity certificate and several recent photographs of the watch. Can I develop an appraisal based solely on this information?

   Yes, if the data provided contains sufficient information about the subject's relevant characteristics, one could develop an appraisal based on the information described in the illustration. Without directly inspecting the watch, however, the information provided is "assumed" to be accurate. Because some of these assumptions will have a significant effect on the assignment results, the assignment will involve the use of extraordinary assumptions and require proper disclosure. The scope of work in the assignment, including the degree of the inspection, must provide results that are credible in the context of the intended use.[6]

3. I have been contacted by a property owner who is being transferred by his company to another city. The owner indicated that while he might want a "detailed appraisal" later, right now he only needs a rough idea of the value of the residence to begin negotiations related to the relocation. The owner has asked me to perform a "desktop" appraisal (i.e., an appraisal with no inspection of the property). I believe that, given this intended use, credible assignment results can be developed without an inspection. Is this permitted under USPAP?

   Yes, this is permitted if sufficient information regarding the relevant characteristics of the property is available. Such information could be obtained from public records, previous listings of the property for sale, appraiser's files, etc. If use of extraordinary assumptions related to various relevant characteristics is necessary, then one must comply with the requirements for their use.

[6] See SCOPE OF WORK RULE.

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ADVISORY OPINION 3 (AO-3)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Update of a Prior Appraisal

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

Once an appraisal of a property, or an appraisal consulting assignment, has been completed, there are many cases in which a client may need a subsequent appraisal or analysis involving the same property. Examples include:

- In the appraisal of real property, a current value is commonly required by lenders and secondary market participants when the time frame between the effective date of a prior appraisal and the closing of a loan exceeds certain limits. A current value is also required by agencies in eminent domain cases when time has elapsed between a prior appraisal and the date of taking.
- In the appraisal of business equity of privately held companies held by Employee Stock Ownership Trusts, current values are required at least annually.
- In the appraisal of personal property, it may be necessary to appraise equipment every two years for financing purposes.
- Similarly, a client may request an update of a prior appraisal consulting assignment, or a review assignment that included the reviewer's opinion of value.

Clients sometimes label such requests as "updates," "reappraisals," or "recertifications." Does USPAP address these and how can an appraiser comply with USPAP for such assignments?

ADVICE FROM THE ASB ON THE ISSUE:

<u>Clarification of Terminology</u>

Various terms have been developed by clients and client groups for certain appraisal assignments, including "updates" and "recertifications". While such terms may be convenient for use in a business setting, they do not necessarily impart the same meaning in every situation.

The term "Update" is often used by clients when they are seeking a current appraisal of a property that was the subject of a prior assignment. This practice is addressed in this Advisory Opinion.

The term "Recertification of Value" is often mistakenly used by some clients in lieu of the term "Update." A Recertification of Value is performed to confirm whether or not the conditions of a prior appraisal have been met. A Recertification of Value does not change the effective date of the value opinion. If a client uses this term in an assignment request that includes an updated value opinion, then it constitutes a new appraisal assignment that must be completed as discussed in this Advisory Opinion.

<u>A New Assignment of a Prior Assignment</u>

Regardless of the nomenclature used, when a client seeks a more current value or analysis of a property that was the subject of a prior assignment, this is not an *extension* of that prior assignment that was already completed – it is simply a new assignment. An "assignment" is defined in USPAP as:

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a valuation service provided as a consequence of an agreement between an appraiser and a client.

The same USPAP requirements apply when appraising or analyzing a property that was the subject of a prior assignment. There are no restrictions on who the appraiser is in such a circumstance, who the client is[1], what length of time may have elapsed between the prior and current assignments, or whether the characteristics of the subject property are unchanged or significantly different than in the prior assignment.

Development Requirements

For all assignments, the development of the assignment results must be in accordance with the requirements contained in the applicable STANDARD (1, 3, 4, 6, 7, or 9). When developing an opinion regarding a property that was the subject of a previous assignment, the scope of work in the new assignment may be different from the scope of work in the prior one. In addition, rather than duplicating steps in the appraisal process, the appraiser can elect to incorporate some of the analyses from the previous assignment (those items that the appraiser concludes are credible and in compliance with the applicable development Standard) into the new assignment through the use of an extraordinary assumption.

Reporting Requirements

For all assignments, the results must be reported in accordance with the requirements of STANDARDS 2, 3, 5, 6, 8, or 10, as applicable. The new report is not required to have the same level of detail as the original report – i.e. a different reporting option may be used. However, the new report must contain sufficient information to be meaningful and not misleading to the intended users. There are three ways that the reporting requirements can be satisfied for these types of assignments:

1. Provide a new report that contains all the necessary information/analysis to satisfy the applicable reporting requirements, *without incorporation* of the prior report by either attachment or reference.

2. Provide a new report that *incorporates by attachment* specified information/analysis from the prior report so that, in combination, the attached portions and the new information/analysis added satisfies the applicable reporting requirements.

3. Provide a new report that *incorporates by reference* specified information/analysis from the prior report so that, in combination, the referenced portions and the new information/analysis added satisfies the applicable reporting requirements. This option can only be used if the original appraiser's firm and original intended users are involved, since the prior report was issued from that appraiser to those intended users, assuring they have access to a copy. When this incorporation by reference option is used, the following items from that prior report must be specifically identified in the new report to avoid being misleading:

   - subject property
   - client and any other intended users
   - intended use
   - appraiser(s)
   - effective date of value or assignment results
   - date of report, and
   - interest(s) appraised

When information is being extended to the report by use of an extraordinary assumption, the requirements in USPAP for use of an extraordinary assumption must be met.

[1] See Advisory Opinion 27, *Appraising the Same Property for a New Client*.

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Confidentiality

In all assignments the appraiser must comply with the Confidentiality section of the ETHICS RULE with respect to the handling of confidential information – i.e. if the prior appraisal, appraisal review, or appraisal consulting report included any confidential information, its disclosure in a new report to a different client or intended user might violate the ETHICS RULE. This includes the requirement to comply with *all confidentiality and privacy laws and regulations.*

Record Keeping

If the assignment includes use of, or reliance upon, all or part of a prior report, that report (or the portions used or relied upon) must be retained in the workfile for the new assignment, or its location must be properly referenced in the workfile. Refer to the Record Keeping section of the ETHICS RULE for more information.

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ADVISORY OPINION 4 (AO-4)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Standards Rule 1-5(b)

APPLICATION: Real Property

THE ISSUE:

In developing a real property appraisal, Standards Rule 1-5(b) requires an appraiser to analyze all sales of the subject property being appraised that occurred within three (3) years prior to the effective date of the appraisal. Must a transfer of title in lieu of foreclosure or a foreclosure sale be analyzed?

ADVICE FROM THE ASB ON THE ISSUE:

The intent of Standards Rule 1-5(b) is to encourage the research and analysis of prior sales of the subject property. All sales of the appraised property within the 3 year time period stated in Standards Rule 1-5(b) includes transfers in lieu of foreclosure and foreclosure sales.

Foreclosure sales and voluntary transfers of title by mortgagor to mortgagee in lieu of foreclosure are transactions grounded in objective necessity. Nevertheless, they are sales because they transfer ownership of and title to property for a valuable consideration. With research and analysis, an appraiser would be able to report under STANDARD 2 that a prior sale of the subject property is influenced by undue stimulation or that the sale does not reflect typical buyer and seller motivation.

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ADVISORY OPINION 5 (AO-5)

SUBJECT: Assistance in the Preparation of an Appraisal

This Advisory Opinion has been retired by action of the Appraisal Standards Board.

Please refer to Advisory Opinion 31, *Assignments Involving More Than One Appraiser* for related advice.

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ADVISORY OPINION 6 (AO-6)

SUBJECT: The Appraisal Review Function

This Advisory Opinion has been retired by action of the Appraisal Standards Board.

Please refer to Advisory Opinion 20, *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value* and Advisory Opinion 21, *USPAP Compliance* for related advice.

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ADVISORY OPINION 7 (AO-7)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Marketing Time Opinions

APPLICATION: Real Property, Personal Property

THE ISSUE:

The *Uniform Standards of Professional Appraisal Practice* recognizes that some assignment conditions require the appraiser to analyze and report a reasonable marketing period for the subject property when developing and reporting an opinion of market value of real or personal property.

How is this reasonable marketing period opinion developed, and what is the relationship of this opinion of marketing time to the appraisal process?

ADVICE FROM THE ASB ON THE ISSUE:

The reasonable marketing time is an opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal.

Marketing time differs from exposure time, which is always presumed to precede the effective date of an appraisal.[1]

Rationale and Method for Developing a Marketing Time Opinion

The development of a marketing time opinion uses some of the same data analyzed in the process of developing a reasonable exposure time opinion as part of the appraisal process and is not intended to be a prediction of a date of sale or a one-line statement. It is an integral part of the analyses conducted during the appraisal assignment. The opinion may be a range and can be based on one or more of the following:

- statistical information about days on market,
- information gathered through sales verification,
- interviews of market participants, and
- anticipated changes in market conditions.

Related information garnered through this process includes other market conditions that may affect marketing time, such as the identification of typical buyers and sellers for the type of real or personal property involved and typical equity investment levels and/or financing terms. The reasonable marketing time is a function of price, time, use, and anticipated market conditions, such as changes in the cost and availability of funds, and is not an isolated opinion of time alone.

Discussion of Marketing Time in the Appraisal Report

Marketing time occurs after the effective date of the market value opinion and the marketing time opinion is related to, yet apart from, the appraisal process. Therefore, it is appropriate for the section of the appraisal report that discusses marketing time and its implications to appear toward the end of the report after the market value

[1] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*.

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conclusion. The request to provide a reasonable marketing time opinion exceeds the normal information required for the appraisal process and should be treated separately from that process.

It is also appropriate for the appraiser to discuss the impact of price/value relationships on marketing time and to contrast different potential prices and their associated marketing times with an appraiser's market value opinion for the subject property.

Applications to Client Uses of an Appraisal

Clients concerned with marketing real or personal properties who obtain a market value appraisal as part of their decision-making process should be aware that it may be inappropriate to assume that the value remains stable during the marketing period. Therefore, it is technically incorrect for the user of an appraisal to take a current value opinion, carry it forward to the end of a concluded marketing period, and then discount back to the present.

Some clients attempt to solve their problem by ordering a "120-day market value," a "six-month market value," or a "one-year market value" from the appraiser. Unless the opinion of reasonable exposure time made by the appraiser in the course of such an assignment coincides with the precondition imposed by the client, the answer to this assignment cannot be stated as market value under a typical definition of the term. In such situations, the appraiser must clearly distinguish between a market value opinion allowing for reasonable exposure time and any alternative, appropriately defined, value opinion(s) subject to a special limiting condition resulting from the client-imposed marketing time.

Whether or not the appraiser and client define the appraisal problem to include more than one opinion of market value, the roles of the parties must be kept clear. The appraiser provides the client with a supported opinion of defined value in an appropriately documented report that includes a section on reasonable marketing time and any inherent price/value implications. The ultimate decision on issues like what price to ask, when to accept a particular offering price, and how to account for the asset during the interim rests with the client.

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ADVISORY OPINION 8 (AO-8)

SUBJECT: Market Value vs. Fair Value in Real Property Appraisals

This Advisory Opinion has been retired by action of the Appraisal Standards Board.

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ADVISORY OPINION 9 (AO-9)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: The Appraisal of Real Property That May Be Impacted by Environmental Contamination

APPLICATION: Real Property

THE ISSUE:

Appraisals of contaminated properties, or properties suspected of being contaminated, are sometimes developed using either a hypothetical condition or an extraordinary assumption that the property is free of the contamination. While this is acceptable practice under certain conditions and for certain intended uses, there are assignments that require an appraisal of the "as-is" condition of the property, with full consideration of the effects of environmental contamination. In these assignments, the appraiser is asked to analyze the effects of known environmental contamination on the value of the subject property.

How does an appraiser comply with USPAP when appraising properties that may be impacted by environmental contamination?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- DEFINITIONS, specifically the definitions of
  Extraordinary Assumption*: an assumption, directly related to a specific assignment, which, if found to be false could alter the appraiser's opinions or conclusions.*
  Hypothetical Condition*: that which is contrary to what exists but is supposed for the purpose of analysis.*
- ETHICS RULE, particularly
  Conduct*: An appraiser must perform assignments ethically and competently, in accordance with USPAP. … An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests …. An appraiser must not communicate assignment results in a misleading or fraudulent manner.*
- COMPETENCY RULE: *Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must: (1) disclose the lack of knowledge and/or experience to the client before accepting the assignment; (2) take all steps necessary or appropriate to complete the assignment competently; and (3) describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.*
- Standards Rule 1-1(a): *In developing a real property appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;*
- Standards Rule 1-2(e): *In developing a real property appraisal, an appraiser must: (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal.…*
- Standards Rule 1-2(f) and (g): *In developing a real property appraisal, an appraiser must: (f) identify any extraordinary assumptions necessary in the assignment; and (g) identify any hypothetical conditions necessary in the assignment.*
- Standards Rule 1-3(b): *When necessary for credible assignment results in developing a market value opinion, an appraiser must: (b) develop an opinion of the highest and best use of the real estate*.

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- Standards Rule 1-4: *In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.*

Competency and Related Issues

Consistent with Standards Rule 1-1(a): in the appraisal of a property as impacted by environmental contamination, an appraiser must *be aware of, understand, and correctly employ those recognized methods and techniques necessary to develop and communicate a credible appraisal*. Accordingly, an appraiser must have the requisite knowledge about appropriate methods, and be able to assemble the required information. An appraiser who lacks knowledge and experience in analyzing the impact of environmental contamination on the value of real property must take the steps necessary to complete the assignment competently, as required by the COMPETENCY RULE. However, an appraiser need not be an expert on the scientific aspects of environmental contamination, and in most situations the appraiser will utilize scientific and other technical data prepared by others, such as environmental engineers. In these situations, the appraiser should utilize an extraordinary assumption [see Standards Rule 1-2(f)] regarding the information obtained from other experts that is used in the appraisal. Examples of such information include items (1) to (10) under the header titled "Relevant Property Characteristics" later in this Advisory Opinion. This is especially important in situations where there is conflicting information about such information.

Specialized Terms and Definitions

The appraisal of properties that may be impacted by environmental contamination involves specialized terms and definitions that might not be used in an appraisal assignment in which the effect of the property's environmental condition is not analyzed, or when the property is not contaminated. Though it is recognized that there are other valid definitions of these and similar terms, for purposes of this Advisory Opinion, the following definitions apply:

Diminution in Value (Property Value Diminution): The difference between the unimpaired and impaired values of the property being appraised. This difference can be due to the increased risk and/or costs attributable to the property's environmental condition.

Environmental Contamination: Adverse environmental conditions resulting from the release of hazardous substances into the air, surface water, groundwater or soil. Generally, the concentrations of these substances would exceed regulatory limits established by the appropriate federal, state, and/or local agencies.

Environmental Risk: The additional or incremental risk of investing in, financing, buying and/or owning property attributable to its environmental condition. This risk is derived from perceived uncertainties concerning:

1) the nature and extent of the contamination;

2) estimates of future remediation costs and their timing;

3) potential for changes in regulatory requirements;

4) liabilities for cleanup (buyer, seller, third party);

5) potential for off-site impacts; and

6) other environmental risk factors, as may be relevant.

Environmental Stigma: An adverse effect on property value produced by the market's perception of increased environmental risk due to contamination. (See Environmental Risk)

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Impaired Value: The market value of the property being appraised with full consideration of the effects of its environmental condition and the presence of environmental contamination on, adjacent to, or proximate to the property. Conceptually, this could be considered the "as-is" value of a contaminated property.

Remediation Cost: The cost to cleanup (or remediate) a contaminated property to the appropriate regulatory standards. These costs can be for the cleanup of on-site contamination as well as mitigation of off-site impacts due to migrating contamination.

Remediation Lifecycle: A cycle consisting of three stages of cleanup of a contaminated site: before remediation or cleanup; during remediation; and after remediation. A contaminated property's remediation lifecycle stage is an important determinant of the risk associated with environmental contamination. Environmental risk can be expected to vary with the remediation lifecycle stage of the property.

Source, Non-source, Adjacent and Proximate Sites: Source sites are the sites on which contamination is, or has been, generated. Non-source sites are sites onto which contamination, generated from a source site, has migrated. An adjacent site is not contaminated, but shares a common property line with a source site. Proximate sites are not contaminated and not adjacent to a source site, but are in close proximity to the source site.

Unimpaired Value: The market value of a contaminated property developed under the hypothetical condition that the property is not contaminated.

Relevant Property Characteristics

The appraisal of a property that includes the effects of environmental contamination on its value usually requires data not typically used in an appraisal of an otherwise similar but uncontaminated property or an appraisal of a potentially impacted property using either a hypothetical condition or an extraordinary assumption that it is uncontaminated or not impacted. The inclusion of these additional relevant property characteristics is consistent with Standards Rule 1-2(e). The relevant property characteristics may include, but are not limited to:

1) whether the contamination discharge was accidental or permitted;
2) the status of the property with respect to regulatory compliance requirements;
3) the remediation lifecycle stage (before, during or after cleanup) of the property as of the appraisal date;
4) the contamination constituents (petroleum hydrocarbons, chlorinated solvents, etc.);
5) the contamination conveyance (air, groundwater, soil, etc.);
6) whether the property is a source, non-source, adjacent or proximate site;
7) the cost and timing of any site remediation plans;
8) liabilities and potential liabilities for site cleanup;
9) potential limitations on the use of the property due to the contamination and its remediation; and
10) potential or actual off-site impacts due to contaminant migration (for source sites).

Since the appraiser is usually not an expert on the scientific aspects of contamination, experts from other fields will typically provide this information. Appropriate regulatory authorities should also be consulted to confirm the presence or absence of contamination. The appraiser should consider the use of extraordinary assumptions

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when this information serves as a basis for an opinion of value. The appraiser should also collect similar data for any comparable sales used in the analysis.

Valuation Issues – As If Unimpaired

In some assignments, the appraiser may be asked to appraise a property known to be contaminated under the *hypothetical condition* that the real estate is free of contamination. In these assignments, an appraiser may appraise interests in real estate that is known to be contaminated under the hypothetical condition that the real estate is free of contamination when:

1) the resulting appraisal report is not misleading,

2) the client has been advised of the limitation, and

3) all the requirements of the ETHICS RULE have been satisfied.

To avoid confusion in the marketplace, the appraiser should disclose available information about the contamination problem, explain the purpose of the hypothetical condition that the real estate is not contaminated, and state that the use of the hypothetical condition might have affected the assignment results in accordance with SR 2-2(a), (b), and (c)(x).

In other situations, the appraiser may be asked to appraise a property believed to be free of contamination or for which the environmental status is uncertain due to the lack of information or conflicting information. For these assignments, the property may be appraised under the *extraordinary assumption* concerning assumed factual information about its environmental condition and status. Indeed, since an appraiser is usually not an expert in detecting contamination, or confirming its absence, extraordinary assumptions regarding environmental condition may be necessary in many assignments.

Valuation Issues - As Impaired

Highest & Best Use Issues: The appraisal of properties that may be impacted by environmental contamination usually involves extensive highest and best use analysis. In accordance with Standards Rules 1-2(e) and 1-3(b), the appraiser must consider relevant factors in developing an opinion of the highest and best use of the property in its impaired condition. The valuation of properties impacted by environmental contamination usually involves the estimate of two values: the unimpaired value and the impaired. As such, two highest and best use analyses are typically required. The first does not consider any limitations on the property due to the environmental contamination. The second does consider any limitations due to the contamination, its remediation, and any legal use restrictions associated with the cleanup of the contamination source. Environmental contamination and its remediation to appropriate regulatory standards may affect the feasibility of site development or redevelopment, use of the site during remediation, use of the site after remediation, marketability of the site, and other economic and physical characteristics of a contaminated property. The appraiser should consider the possibility that site remediation and any remaining limitations on the use of the site following remediation may alter or limit its highest and best use in the impaired condition. In addition, excessive environmental risk and stigma may deter site development or redevelopment and thereby limit the highest and best use until the property's environmental risk is reduced to levels acceptable to the relevant market participants.

Satisfying SR 1-4 Requirements: When the appraiser addresses the diminution in value of a contaminated property and/or its impaired value, the appraiser must recognize that the value of an interest in impacted or contaminated real estate may not be measurable simply by deducting the remediation or compliance cost estimate from the opinion of the value as if unaffected (unimpaired value). Rather, *cost, use* and *risk* effects can potentially impact the value of contaminated property. *Cost effects* primarily represent deductions for costs to remediate a contaminated property. These costs are usually estimated by someone other than the appraiser, and should include consideration of any increased operating costs due to property remediation. The appraiser should

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also be aware that the market might not recognize all estimated costs as having an effect on value. *Use effects* reflect impacts on the utility of the site as a result of the contamination. If the contamination and/or its cleanup rendered a portion of the site unusable, or limited the future highest and best use of the property, then there could be a use effect on value. *Risk effects* are typically estimated by the appraiser and often represent the most challenging part of the appraisal assignment. These effects are derived from the market's perception of increased environmental risk and uncertainty. The analysis of the effects of increased environmental risk and uncertainty on property value (environmental stigma) must be based on market data, rather than unsupported opinion or judgment.

In general, the unimpaired value of the property being appraised can be estimated using the sales comparison approach [SR 1-4(a)], cost approach [SR 1-4(b)], and income approach [SR 1-4(c)]. Estimating the effects of environmental contamination on real property value usually involves the application of one or more specialized valuation methods. These methods should be consistent with the requirements related to the valuation approaches in USPAP.

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ADVISORY OPINION 10 (AO-10)

SUBJECT: The Appraiser-Client Relationship

This Advisory Opinion has been retired by action of the Appraisal Standards Board.

Please refer to Advisory Opinion 25, *Clarification of the Client in a Federally Related Transaction*, Advisory Opinion 26, *Readdressing (Transferring) a Report to Another Party*, and Advisory Opinion 27, *Appraising the Same Property for a New Client*, for related advice.

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ADVISORY OPINION 11 (AO-11)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2[1]

APPLICATION: Real Property, Personal Property

THE ISSUE:

Standards Rules 2-2 and 8-2 of the *Uniform Standards of Professional Appraisal Practice* (USPAP) offer three written appraisal report options. What information should be contained in each type of report?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- Under Standards Rules 2-2 and 8-2, an appraiser may communicate the results of the appraisal in one of three formats: Self-Contained Appraisal Report (Standards Rules 2-2(a) and 8-2(a), Summary Appraisal Report (Standards Rules 2-2(b) and 8-2(b)), or Restricted Use Appraisal Report (Standards Rules 2-2(c) and 8-2(c)). Standards Rules 2-2 and 8-2 require that the report prominently state which option is used.
- The Comments to Standards Rules 2-2 and 8-2 state that *the essential difference among the three options is in the content and level of information provided.*

Prominent Statement of Option Used

The prominent statement of which option was used is a label that indicates to the reader how the appraisal is reported. Therefore, the statement should appear at or near the beginning of the report.

In narrative appraisal reports, the prominent statement of which report option is used could appear with the statement of the intended use of the appraisal because the decision on which report option to use is primarily related to the intended use of the appraisal. For added prominence, a statement of the report option used could also appear on any cover page or transmittal letter, if part of the report.

In form appraisal reports, the prominent statement of which report option is used could appear in the margin at the top of the front of the form.

Content of the Self-Contained Appraisal Report

The Self-Contained Appraisal Report should contain all information significant to the solution of the appraisal problem. “Describe” is the distinguishing term related to the Self-Contained Appraisal Report.

Standards Rules 2-2(a)(vii) and 8-2(a)(vii) require a description of the scope of work used to develop the appraisal. The intended users of the Self-Contained Appraisal Report should expect to find all significant data reported in comprehensive detail.

[1] See Standards Rules 2-2 and 8-2. See also related Advisory Opinion 12, *Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2*.

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Content of the Summary Appraisal Report

As noted in the Comments to Standards Rules 2-2(b) and 8-2(b):

> *The essential difference between the Self-Contained Appraisal Report and the Summary Appraisal Report is the level of detail of presentation.*

The Summary Appraisal Report should contain a summary of all information significant to the solution of the appraisal problem. "Summarize" is the distinguishing term related to the Summary Appraisal Report.

Standards Rules 2-2(b)(vii) and 8-2(b)(vii) require a summary of the scope of work used to develop the appraisal. The intended users of the Summary Appraisal Report should expect to find all significant data reported in tabular or abbreviated narrative formats.

Content of the Restricted Use Appraisal Report

As noted in the Comment to Standards Rules 2-2(c)(i) and 8-2(c)(i):

> *The Restricted Use Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Use Appraisal Report.*

The Restricted Use Appraisal Report should contain a brief statement of information significant to the solution of the appraisal problem. "State" is the distinguishing term related to the Restricted Use Appraisal Report.

Standards Rules 2-2(c)(vii) and 8-2(c)(vii) requires the report to state the scope of work used to develop the appraisal. The client for a Restricted Use Appraisal Report should not expect to find all significant data reported.

The report must reference the existence of specific workfile information in support of the appraiser's opinions and conclusions. The contents of the workfile must be sufficient for the appraiser to produce a Summary Appraisal Report. The workfile should be available for inspection by the client (or a client's representative, such as those engaged to complete an appraisal review), state enforcement agencies, and such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee, except when such disclosure to a committee would violate applicable law or regulation.

Differences in the Appraisal Report Options

Each of the appraisal report options has reporting rules that serve as a content outline. The reporting rules for the Self-Contained Appraisal Report are Standards Rules 2-2(a)(i)-(xi) and 8-2(a)(i)–(xi). The reporting rules for the Summary Appraisal Report are Standards Rules 2-2(b)(i)-(xi) and 8-2(b)(i)–(xi). The reporting rules for the Restricted Use Appraisal Report are Standards Rules 2-2(c)(i)-(xi) and 8-2 (c)(i)–(xi).

The chart on the following page displays a rule by rule comparison of the reporting rules for the three types of reports. Space does not permit inclusion of the Comment to the reporting rules in the chart. The Comments contain important distinctions that must be considered in the preparation of each type of appraisal report, and the reader of this Advisory Opinion should refer to the full text of Standards Rules 2-2 and 8-2.

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STANDARDS RULES 2-2 AND 8-2 REPORT COMPARISON CHART: The essential difference among the three options is in the use and application of the terms "describe," "summarize," and "state." "Describe" is used to connote a comprehensive level of detail in the presentation of information. "Summarize" is used to connote a more concise presentation of information. "State" is used to connote the minimal presentation of information.

a)	Self-Contained Appraisal Report	b)	Summary Appraisal Report	c)	Restricted Use Appraisal Report
i.	state the identity of the client and any intended users, by name or type;	i.	state the identity of the client and any intended users, by name or type;	i.	state the identity of the client by name or type; and state a prominent use restriction that limits use of the report to the client and warns that the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;
ii.	state the intended use of the appraisal;	ii.	state the intended use of the appraisal;	ii.	state the intended use of the appraisal;
iii.	describe information sufficient to identify the real estate or personal property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;	iii.	summarize information sufficient to identify the real estate or personal property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;	iii.	state information sufficient to identify the real estate or personal property involved in the appraisal;
iv.	state the property interest appraised;	iv.	state the property interest appraised;	iv.	state the property interest appraised;
v.	state the type and definition of value and cite the source of the definition;	v.	state the type and definition of value and cite the source of the definition;	v.	state the type of value, and cite the source of its definition;
vi.	state the effective date of the appraisal and the date of the report;	vi.	state the effective date of the appraisal and the date of the report;	vi.	state the effective date of the appraisal and the date of the report;
vii.	describe the scope of work used to develop the appraisal;	vii.	summarize the scope of work used to develop the appraisal;	vii.	state the scope of work used to develop the appraisal;
viii.	describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;	viii.	summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;	viii.	state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;
ix.	state the use of the property existing as of the date of value and the use of the real estate or personal property reflected in the appraisal; and, when an opinion of highest and best use or the appropriate market or market level was developed by the appraiser, describe the support and rationale for that opinion;	ix.	state the use of the property existing as of the date of value and the use of the real estate or personal property reflected in the appraisal; and, when an opinion of highest and best use or the appropriate market or market level was developed by the appraiser, summarize the support and rationale for that opinion;	ix.	state the use of the property existing as of the date of value and the use of the real estate or personal property reflected in the appraisal; and, when an opinion of highest and best use or the appropriate market or market level was developed by the appraiser, state that opinion;
x.	clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and that their use might have affected the assignment results; and	x.	clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and that their use might have affected the assignment results; and	x.	clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and that their use might have affected the assignment results; and
xi.	include a signed certification in accordance with Standards Rule 2-3 or 8-3.	xi.	include a signed certification in accordance with Standards Rule 2-3 or 8-3.	xi.	include a signed certification in accordance with Standards Rule 2-3 or 8-3.
Comments have not been included in this chart					

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Examples of the Application of the Terms "Describe," "Summarize," and "State" in the Context of a Real Property Appraisal Report

The following presentations of the zoning section of a commercial appraisal report are used to exemplify the content differences in the three appraisal report options. These examples show a relative illustration of depth and detail of presentation and are not intended to characterize the format for an entire appraisal report. The examples are not intended to imply that information on zoning is necessary in all appraisal reports.

EXAMPLE OF "DESCRIBE"

Zoning

The General Business B-4 zoning classification applies to the subject real estate. The purpose of the B-4 zone is to encourage local commercial development along arterial streets to serve the surrounding residential areas. The uses of B-4 zoning and yard and bulk regulations to the B-4 zone are described below.

Principal Permitted Uses

Banking facilities, houses of worship, public buildings and facilities, service establishments, sit-down restaurants serving patrons on the premises, and stores for the sale of goods at retail.

Special Permit Uses

Business and professional offices, manufacturing of goods sold on the premises, medical clinics, multifamily dwellings (sites in excess of 15,000 sq. ft.), and take-out restaurants (sites in excess of 25,000 sq. ft.).

Yard and Bulk Regulations

Minimum Requirements	Lot Area:	10,000 sq. ft.
	Lot Width:	100 feet
	Front Yard:	20 feet
	Side Yards:	10 feet (each)
	Rear Yard:	10 feet
	Off-Street Parking (Stores):	4 spaces per 1,000 sq. ft. of sales area
Maximum Requirements	Building Coverage:	50% of lot area
	Building Height:	2 stories or 20 feet

Conclusion

On the basis of a review of the zoning regulations and a discussion with John N. Forcer of the Anytown planning and zoning office, the existing use and subject improvements are in conformance with zoning.

EXAMPLE OF "SUMMARIZE"

Zoning

The General Business B-4 zoning classification applies. Its purpose is to encourage local commercial development of banking facilities, retail stores, and service establishments along arterial streets on minimum lots of 10,000 sq. ft. with a width of 100 feet. Building coverage is limited to 50% of the lot, and building height is limited to two stories or 20 feet. John N. Forcer of the Anytown planning and zoning office indicates that the existing use and subject improvements conform.

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EXAMPLE OF "STATE"

Zoning

General Business, B-4; existing use and subject improvements conform.

The purpose of the above examples is to show one view of the differences among the application of the terms "describe," "summarize," and "state." The examples should not be extended beyond this Advisory Opinion to every section of an appraisal report.

Varying Depth and Detail Within the Report Option Selected

Standard Rules 2-2(a)(viii) and 8-2(a)(viii) and 2-2(b)(viii) and 8-2(b)(viii) use the words "describe" and "summarize," respectively, as the distinguishing verb, but they contain the identical Comment that each item must be addressed in the depth and detail required by its significance to the appraisal. The overall depth and detail of information presented to satisfy each Standards Rule, not the length of any specific item, determine the proper application of the report option utilized.

This Advisory Opinion focuses on the content of the appraisal report options and should be read in conjunction with Advisory Opinion 12, which focuses on the use of the appraisal report options of STANDARD 2 and STANDARD 8.

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ADVISORY OPINION 12 (AO-12)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2[1]

APPLICATION: Real Property, Personal Property

THE ISSUE:

Standards Rules 2-2 and 8-2 of the *Uniform Standards of Professional Appraisal Practice* (USPAP) offer three written appraisal report options. What are appropriate circumstances for the use of these options?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- Under Standards Rules 2-2 and 8-2, an appraiser may communicate the results of an appraisal in one of three formats: Self-Contained Appraisal Report (Standards Rules 2-2(a) and 8-2(a)), Summary Appraisal Report (Standards Rules 2-2(b) and 8-2(b)), or Restricted Use Appraisal Report (Standards Rules 2-2(c) and 8-2(c)).

Deciding Which Report Option to Use

As with other business decisions that involve the application of USPAP, the existence of appraisal report options implies a dialogue between the appraiser and the client to define the appraisal problem prior to reaching an agreement to perform an assignment. Part of that dialogue is a decision on which report option is appropriate for the assignment. This dialogue/decision process can be applied to a single assignment or to a series of assignments performed by an appraiser for the same client. In most situations, the client may decide which report option is appropriate for the assignment. The appraiser may agree to provide the report option suggested by the client as long as the report option is consistent with the intended use of the appraisal.

The decision between using a Self-Contained Appraisal Report and a Summary Appraisal Report is not absolute. The following factors should be considered by the appraiser and the client in deciding whether a Self-Contained Appraisal Report or a Summary Appraisal Report is appropriate:

- the intended use of the appraisal;
- that the appraiser and client understand the differences between the options; and
- whether the intended use of the appraisal warrants comprehensive or summary disclosure of the steps in, and information considered in, the appraisal process.

A decision to use the Restricted Use Appraisal Report is absolute because the minimum level of information required in a Restricted Use Appraisal Report is not designed to address the needs of any third-party users. When an appraiser uses the Restricted Use Appraisal Report option, a prominent notice to any reader must be provided. The prominent notice must warn any reader of the report that the appraiser's opinions and conclusions set forth in the report may not be understood properly without the additional information in the appraiser's workfile. The Restricted Use Appraisal Report may be useful when:

[1] See Standards Rules 2-2 and 8-2. See also related Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*.

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- the client is the only intended user of the appraiser's opinions and conclusions set forth in the report;
- the client understands the limited utility of this option;
- the intended use of the appraisal warrants restricted disclosure about the appraisal process steps completed in the assignment; and
- the client (the only intended user) does not need the level of information required in a Self-Contained Appraisal Report or Summary Appraisal Report.

This Advisory Opinion focuses on the use of the appraisal report options and should be read in conjunction with Advisory Opinion 11, which focuses on the content of the appraisal report options of STANDARDS 2 and 8.

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ADVISORY OPINION 13 (AO-13)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Performing Evaluations of Real Property Collateral to Conform with USPAP

APPLICATION: Real Property

THE ISSUE:

How can an appraiser operating under the *Uniform Standards of Professional Appraisal Practice* (USPAP) develop an evaluation of real property collateral (evaluation)?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- Under STANDARD 1, in developing a real property appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal
- The SCOPE OF WORK RULE of USPAP states in part, *Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal, appraisal review, and appraisal consulting assignment.*

Background

The terms "appraisal" and "evaluation" have special meaning and use for institutions regulated by and under the rules and published guidelines of the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRS), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of Thrift Supervision (OTS) (Agencies). The October 27, 1994, *Interagency Appraisal and Evaluation Guidelines* (Agencies' Guidelines) discusses "evaluation" as a term used to describe an estimate of value for certain real estate-related transactions that are exempt from the Agencies' appraisal requirements. The federal regulators have ruled that an appraisal must conform to generally accepted appraisal standards as evidenced by USPAP but that an evaluation need not conform to USPAP. This distinction is important because appraisers who are bound by USPAP must comply with USPAP whenever they provide an opinion of value.

Many professional appraisers and state appraiser regulators have expressed uncertainty as to whether evaluations of real property collateral comply with USPAP. Appraisers are concerned with the potential consequences of a violation of USPAP.

The October 27, 1994, *Interagency Appraisal and Evaluation Guidelines* state*:*

> "An institution should establish prudent standards for the preparation of evaluations. At a minimum, an evaluation should:
> - be written;
> - include the preparer's name, address, and signature and the effective date of the evaluation;
> - describe the real estate collateral, its condition, and its current and projected use;
> - describe the source(s) of information used in the analysis;
> - describe the analysis and supporting information; and
> - provide an estimate of the real estate's market value, with any limiting conditions

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> An evaluation report should include calculations, supporting assumptions, and, if utilized, a discussion of comparable sales. Documentation should be sufficient to allow an institution to understand the analysis, assumptions, and conclusions. An institution's own real estate loan portfolio experience and value estimates prepared for recent loans on comparable properties might provide a basis for evaluations.
>
> An evaluation should provide an estimate of value to assist the institution in assessing the soundness of the transaction. Prudent practices also require that as an institution engages in more complex real estate-related financial transactions, or as its overall exposure increases, a more detailed evaluation should be performed. For example, an evaluation for a home equity loan might be based primarily on information derived from a sales data services organization or current tax assessment information, while an evaluation for an income-producing real estate property should fully describe the current and expected use of the property and include an analysis of the property's rental income and expenses."

Appraisers need to be aware that lenders regulated by different agencies may have different interpretations of the Agencies' Guidelines. Lender institutions may have developed different requirements for evaluations based on their interpretations of the Agencies' Guidelines. It is critical that the appraiser and the client have a mutual understanding of the intended use and the scope of work for the assignment. One way to enhance this mutual understanding is for the appraiser to request copies of the institution's evaluation standards or requirements pertinent to the assignment.

ASB Opinion on Evaluations of Real Property Collateral

Appraisers operating under USPAP may accept all requests for evaluations of real property collateral as long as the appraiser's work meets minimum USPAP requirements.

When an evaluation assignment includes a request for an opinion of value, under USPAP the evaluation becomes an appraisal, which USPAP defines as *the act or process of developing an opinion of value; an opinion of value.*

Any request for an opinion of value of real property requires compliance with the SCOPE OF WORK RULE, which states in part:

> *The scope of work must include the research and analyses that are necessary to develop credible assignment results.*
>
> *An appraiser must be prepared to support the decision to exclude any investigation, information, method, or technique that would appear relevant to the client, another intended user, or the appraiser's peers.*
>
> *An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.*

If the evaluation request does not call for an opinion of value of a specific property, the request might be a part of appraisal practice for which there are no specific performance standards in USPAP. If the evaluation request requires information that is an aspect of value, but not an opinion of value, the appraiser would then be obligated to comply only with the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, the JURISDICTIONAL EXCEPTION RULE. Examples of requests for services that do not require a value conclusion of a specific property include, without limitation:

- providing sales and rent data, listings, assessments and other similar information, without adjustments to indicate the value of a specific property; and

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- providing data describing a neighborhood, community, or any other real estate market segment and analyses on real estate market trends.

Appraisers who believe certain requests for evaluations of real property collateral are inconsistent with USPAP or contrary to law should explain their concerns to the potential client. If necessary, additional information and advice may be obtained from the appropriate federal regulator regarding the Agencies' Guidelines. Issues regarding state law should be directed to those state government regulators with jurisdiction.

Illustrations

Scenario #1: Market Value

A potential client requests two evaluations of real property collateral. The client wants as little as possible in writing on the current market value of the fee simple interest for each property. The client is knowledgeable about the market for the type(s) of property involved.

In either case, the appraiser should determine the appropriate scope of work to develop credible assignment results based on the problem to be solved before considering the reporting options of STANDARD 2.

One evaluation is for an existing single-family residential fee simple property in connection with a real estate loan of $250,000 or less. The client requests only the sales comparison approach for this residential evaluation.

If the appraiser determines that the sales comparison approach alone is sufficient to produce credible assignment results in the appraisal of the residential property, an evaluation based solely on this evidence can be performed in compliance with USPAP.

The other evaluation is for an existing office building, occupied by the owner (without a lease). The lender is considering a business loan of $1,000,000 or less that is not dependent on the sale of or rental income derived from real estate as the primary source of repayment. The client requests only the income capitalization approach for this office building evaluation.

If the appraiser determines that the income capitalization approach alone is sufficient to produce credible assignment results in the appraisal of the office building property, an evaluation of this property based solely on this evidence can be performed in compliance with USPAP.

Scenario #2: Value/Assessments

The potential client requests evaluations, including value conclusions, of the same two properties based only on their current assessments for real estate taxation purposes.

In the example of the residential evaluation, the appraiser should first verify the processes, accuracy, and reliability of the assessing agency. Assuming these are sound, the appraiser may be able to accept the assignment if the appraiser is competent to employ sales/assessment ratio techniques and employs a valid sales/assessment ratio analysis as part of the evaluation.

In the example of the office building evaluation, if the income approach is not used in determining the assessed value, the assessment analysis alone would not appear to be sufficient.

In either case, the appraiser must be sufficiently diligent to ensure that any value opinion will not result in significant errors of omission or commission and the scope of work is sufficient to produce assignment results that are credible in the context of the intended use of the assignment.

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Scenario #3: Providing Market Information

The potential client requests a residential or office property evaluation but asks for an opinion on market trends or conditions and not an opinion of value. However, since market trend information includes data on aspects of value, these assignments may be completed as a part of appraisal practice, in compliance with USPAP, but no specific performance standards apply. USPAP would require that when an appraiser provides this service he or she do so competently, impartially, independently and without bias or accommodation of personal interests, in recognition of any applicable jurisdictional requirements, as well as any applicable laws and regulations. As examples and without limitation, the appraiser could provide, as part of appraisal practice, information and/or conclusions on:

- rent, sale, or assessment levels, for such purposes as to address a client's need for market trend conclusions;
- sales and/or assessment levels at various or certain points in time, for such purposes as to address sales/assessment ratio or loan portfolio ratio questions;
- the rate of market absorption of new or existing properties—such as time from listing to sale or lease of a property, a set of properties, or a volume of space—for such purposes as to address questions on market supply/demand balance.

The above are examples of only a few of the many situations when an appraiser may best serve the client's evaluation-related needs by simply providing market information without indicating a value conclusion of a specific property. Such assignments are not appraisals and have no specific performance standards in USPAP.

Scenario #4: Subdivision Lot

The potential client requests an evaluation on a vacant residential subdivision lot where many nearby lots have been sold and improved with new homes within recent years.

If a value opinion for a specific lot is requested, the evaluation could be performed and reported as an appraisal assignment under STANDARDS 1 and 2 of USPAP. Based on the definition of "appraisal," an opinion of value may be expressed as a single point value, a range in value, or a value relationship.

If a value opinion for a specific lot is not required, the appraiser could provide a variety of market data, including a listing of sales that have occurred in the subdivision, or information relating to assessment values of other lots in the subdivision. Such an assignment is not an appraisal and has no specific performance standards in USPAP.

Reporting the Results of an Evaluation

When reporting evaluations, appraisers need to be aware that the evaluation content, described in the Agencies' Guidelines, differs from the content required for appraisal reports under STANDARD 2 (see Advisory Opinion 11). It is important that appraisers take care that the contents of their appraisal reports satisfy the requirements of STANDARD 2. When reporting the results of an evaluation that includes a value conclusion, an appraiser could use the Summary Appraisal Report format, as described in Standards Rule 2-2(b). In some instances, and depending on the client's needs, a Self-Contained or a Restricted Use Appraisal Report may also be appropriate.

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ADVISORY OPINION 14 (AO-14)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Appraisals for Subsidized Housing

APPLICATION: Real Property

THE ISSUE:

Preparation of appraisals for subsidized housing in compliance with the *Uniform Standards of Professional Appraisal Practice* (USPAP) requires knowledge and experience that goes beyond typical residential appraisal competency. What guidance does USPAP provide for the appraisal of subsidized housing?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- The requires the appraiser to *…properly identify the problem to be addressed…"* and (in the Comment) *"…understand the nuances of the local market and the supply and demand factors relating to the specific property type and the location involved.*
- The Comment to the COMPETENCY RULE states: *The COMPETENCY RULE requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.*
- The Comment to Standards Rule 1-1(a) states: *Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect…*
- Standards Rule 1-2, particularly (a), (b), (c)(iv), (e) and (h); Standards Rule 1-3(a) and (b); and Standards Rule 1-4(g).

Identification of Subsidized Housing

Subsidized housing may be defined as single- or multifamily residential real estate targeted for ownership or occupancy by low- or moderate-income households as a result of public programs and other financial tools that assist or subsidize the developer, purchaser, or tenant in exchange for restrictions on use and occupancy. The United States Department of Housing and Urban Development (HUD) provides the primary definition of income and asset eligibility standards for low- and moderate-income households. Other federal, state, and local agencies define income eligibility standards for specific programs and developments under their jurisdictions.

Competency Issues

Appraisers should be aware that the competency required to appraise subsidized housing extends beyond typical residential appraisal competency. Subsidized housing appraisals require the appraiser to understand the various programs, definitions, and pertinent tax considerations involved in the particular assignment applicable to the location and development. An appraiser should be capable of analyzing the impact of the programs and definitions in the local subsidized housing submarket, as well as in the general market that is unaffected by subsidized housing programs. Appraisers should also be aware of possible political changes that will affect the durability of the benefits and restrictions to subsidized housing projects and fully understand interpretation and enforcement of subsidy programs. An appraiser's lack of knowledge and understanding of the impact of the various influences that affect subsidized housing projects could lead to misleading conclusions. For example,

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subsidized housing projects may have differences in income, expenses, and rates of returns when compared with nonsubsidized housing projects. Appraisers should reflect the actions of the participants in the market and avoid any stereotyped or biased assumptions.

Property Rights Issues

Subsidies and incentives that encourage housing for low- and moderate-income households may create intangible property rights in addition to real property rights and may also create restrictions that modify real property rights. The appraiser should demonstrate the ability to discern the differences between the real and intangible property rights and value the various rights involved. Low-Income Housing Tax Credits (LIHTCs) are an example of an incentive that results in intangible property rights that are not real property but might be included in the appraisal. Project-based rent subsidies are an example of a subsidy accompanied by restrictions that modify real property rights. Appraisers should be aware that tenant-based rent subsidies do not automatically result in a property right to the owner or developer of subsidized housing.

Standards Rule 1-2(e) allows the inclusion of intangible assets that are not real property in the appraisal. *When personal property, trade fixtures, or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-real property items*, as required by Standards Rule 1-4(g).

A critical factor in all subsidized housing appraisals is the analysis of whether or not the various subsidies, incentives, and restrictions remain with the real property following a sale or foreclosure and thus are marketable property rights to be included in the appraisal.

Value Definition Issues

The value definition in any appraisal is a controlling factor of the bundle of rights to be considered in the appraisal. Standards Rule 1-2(c) requires an appraiser to identify the type and definition of value. Standards Rule 1-2(c) further states, *if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:*

(i) *in terms of cash; or*
(ii) *in terms of financial arrangements equivalent to cash; or*
(iii) *in other precisely defined terms; and*
(iv) *if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data.*

If the appraisal of a subsidized housing assignment is for market value, the appraiser must determine if requirement (i), (ii), (iii), or (iv) above applies to the specific definition selected or required by the client. The appraiser can then determine if the programs and intangible assets created by the programs affecting the subject property qualify under the selected or required market value definition. This determination requires competent knowledge of the programs and whether the programs qualify under (i), (ii), (iii), or (iv) above.

USPAP does not mandate market value appraisals, but it does require that the type and definition of value be identified. If the type of value for the total property (real property and intangible assets) is not market value, then (i), (ii), (iii), and (iv) above may not be applicable.

In appraisal of subsidized housing, the value definition selected or required by the client and the reporting techniques used should be discussed with the client prior to the acceptance of the assignment because the analyses may be based on general market terms, subsidized housing submarket financing with unusual conditions or incentives, both, or some other defined premise.

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Because Standards Rule 1-2(c) also states that the terms of submarket financing or financing with unusual conditions or incentives must be clearly set forth, their contributions to or negative influence on value must be developed by analysis of relevant market data.

Subsidies and incentives should be explained in the appraisal report, and their effect on value, if any, needs to be reported in conformity with STANDARD 2.

Market Analysis Issues

Certain specific steps should be taken when appraising subsidized property. Research with housing organizations and public agencies should be completed to find appropriate data on financing, rental and occupancy restrictions, resale restrictions, and sales of comparably subsidized or restricted properties. Knowledge of the general markets and the subsidized housing submarkets should be evident in all analyses. The market analyses should also address the subject's ability to attract a sufficient number of subsidized tenants. Reversion projections should be based on interviews with market participants; any factual information from developments that have reached the expiration of their subsidies, incentives, and restrictions; and other relevant information.

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ADVISORY OPINION 15 (AO-15)

SUBJECT: Using the DEPARTURE RULE in Developing a Limited Appraisal

This Advisory Opinion has been retired by action of the Appraisal Standards Board.

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ADVISORY OPINION 16 (AO-16)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Fair Housing Laws and Appraisal Report Content

APPLICATION: Real Property

THE ISSUE:

In developing and reporting an appraisal, appraisal review, or appraisal consulting assignment, what should an appraiser consider to comply with current fair housing laws?

BACKGROUND:

Fair housing law(s) preclude the use of certain specific information or supported conclusions related to protected group(s) in some assignments. Accordingly, an appraiser should be knowledgeable about the laws that affect the subject property of an assignment. Laws and regulations on fair lending and fair housing (such as the Fair Housing Act; the Equal Credit Opportunity Act (ECOA), and the laws and regulations of applicable federal, state, and local jurisdictions) continue to evolve. Further, appraisers must continue to provide appraisals that do not illegally discriminate or contribute to illegal discrimination. The Conduct section of the ETHICS RULE states in part, *An appraiser must not use or rely on **unsupported** conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an **unsupported** conclusion that homogeneity of such characteristics is necessary to maximize value* (Bold added for emphasis).

In some cases, even **supported** conclusions in assignments relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or group homogeneity cannot be used because they are precluded by applicable law.

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- The PREAMBLE states, *It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.*
- The Conduct section of the ETHICS RULE states:
  An appraiser must perform assignments ethically and competently, in accordance with USPAP.
  An appraiser must not engage in criminal conduct.
  An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.
- The Comment to the COMPETENCY RULE states: *The COMPETENCY RULE requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.*
- The COMPETENCY RULE states, *…an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently….*

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- The Comment to Standards Rule 1-1(a) states, *Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and developing new methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in real property appraisal.*
- Standards Rule 2-1(a) states, *Each written or oral real property appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading.*
- The content of the certification in Standards Rules 2-3, 3-3, 5-3 and 6-9 requires the following disclosures: *I certify that, to best of my knowledge and belief, … the reported analyses, opinions, and conclusions are my personal, impartial, and unbiased professional analyses, opinions, and conclusions …[and] my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.*
- The Conduct section of the ETHICS RULE states, *An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.*

Appraisal Report Content

An appraiser must ensure that his or her appraisal, appraisal review, or appraisal consulting opinions and conclusions are impartial and objective and do not illegally discriminate or contribute to illegal discrimination through subjective or stereotypical assumptions.

The use of terms or descriptive phrases in place of factual information in a report imposes particular obligations on an appraiser to ensure that the user properly understands the report and is not misled. An appraiser needs to have, and should report wherever possible and appropriate, factual information to support the use of terms or descriptive phrases that reflect a scale or rating of a market or property that affects value or marketability conclusions. If such factual information is absent, an appraiser should clearly disclose that the rating or descriptive phrase is the appraiser's opinion but that no factual information was available to support that rating or descriptive phrase and ensure that the use of the term or descriptive phrase is not illegally discriminatory.

An appraiser should research the actions of participants in the subject's market to identify factors having a direct favorable or unfavorable influence on marketability or value. Failure to extract pertinent market information (e.g., sales, rents, occupancy rates, expense ratios, capitalization or discount rates, construction costs, depreciation, or exposure times) from the subject's market could produce conclusions that are misleading and/or illegally discriminatory.

Appraisers should exercise care that comments made in a report will not be perceived as illegally biased or discriminatory. Factual descriptions, rather than subjective phrases, allow the user of a report to draw his or her own conclusions. The use of terms that reflect a scale such as "high," "low," "good," "fair," "poor," "strong," "weak," "rapid," "slow," "average," or the like should also provide contextual information that properly explains the frame of reference and the relative position of the subject property on the scale. For example, if absorption is stated as "rapid," the context of the rating should be cited as well ("rapid" relative to what?).

Competency

Situations such as those listed below require specific research and competency to avoid the use of unsupported conclusions:

- the property is designed to suit the needs of a protected group;
- there is little or no transaction information available on similar properties;
- the property is in a market setting where similar properties have not previously existed;

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- market conditions are not similar to the conditions prevailing during the time frame in which previous market transactions occurred; or
- there are financially subsidized rental or ownership programs.

Illustrations:

1. An appraiser is completing an assignment in an area where crime activity has recently been publicized. The appraiser considers the use of the term "high-crime area."

   This is a subjective term that may be understood by the appraiser but may mislead the client. This term does not provide the evidence that the appraiser used in making the observation. The appraiser may provide a specific reference that is factual and objective (e.g., one crime per 100 people or one crime per 1,000,000 people) but may still mislead the client. If the appraiser is to be competent with these types of statistics, the crime ratio should be correlated to the actions of the market in reflecting a valuation adjustment or other indication of property demand. If all of the comparables used by the appraiser are from a market sharing the same crime characteristic, the appraiser should question whether the term and/or the statistic(s) are relevant to the appraisal assignment.

2. A religious organization requests an appraiser to determine if a facility offering unique services to specific religious members is feasible. The appraiser must research a geographic market and identify concentrations of individuals that are members of that specific religion. Is the appraiser permitted to complete the assignment under USPAP?

   The assignment is not covered by ECOA or the Fair Housing Act. Under USPAP, the appraiser must comply with the ETHICS RULE concerning discrimination.

   The key in this case is not to use or rely on unsupported conclusions. If the appraiser can identify the market behavior of the religious members and relate that behavior to the assignment, the appraiser is not in violation of USPAP.

3. An appraiser is requested to review a portfolio of apartment appraisal reports in a market area where apartments with public rent subsidies also exist. How does the Conduct section of the ETHICS RULE affect the appraisal reviewer's actions?

   The review and conclusion of acceptance or rejection of the reports should not rely on the appraisal reviewer's unsupported conclusions regarding public assistance projects.

4. An appraiser is requested to appraise a house with specific features (e.g., ramps, wider doorways, and special plumbing fixtures) designed to accommodate handicapped individuals. How does the appraiser analyze the unique improvements?

   The appraiser should reflect market preferences for the components of the structure. However, the appraiser should not draw an unsupported conclusion that the fixtures either enhance or diminish value.

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ADVISORY OPINION 17 (AO-17)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Appraisals of Real Property with Proposed Improvements

APPLICATION: Real Property

THE ISSUE:

Can either a current or a prospective value opinion for a property subject to completion of proposed improvements be provided in compliance with the *Uniform Standards of Professional Appraisal Practice* (USPAP)?

BACKGROUND:

An appraisal of real property with proposed improvements presents complex analysis and reporting issues because some portion of the property appraised does not exist at the time of the appraisal. Consequently, an appraiser must use particular care when performing an appraisal of such property to ensure that the results are credible and the appraisal report is not misleading.

A client may have a legitimate need for either a current or a prospective opinion of value (or both) concerning proposed improvements to real property. This kind of appraisal may be performed for a variety of client types, such as lenders, developers, private investors, trusts, attorneys, government agencies, or insurance companies. Further, such an appraisal may be for purposes other than providing an opinion of market value.

Many real property appraisers have been uncertain whether a current value opinion, rather than a prospective value opinion, may be provided in compliance with USPAP for a property subject to completion of proposed improvements and, if so, which portions of USPAP are most relevant to the assignment.

Statement on Appraisal Standards No. 4 addresses how an appraiser may provide a prospective value opinion in a manner that is not misleading. This Advisory Opinion provides guidance in performing an assignment involving proposed improvements to real property, whether the purpose of the assignment is to develop a current value opinion or to develop a prospective value opinion.

The value opinion in an appraisal assignment involving proposed improvements is developed on the basis of one or more extraordinary assumptions. Using an extraordinary assumption always requires specific reporting steps. An appraiser must properly address the requirements set forth in Standards Rule 1-2(f) related to use of an extraordinary assumption in developing an appraisal and must address Standards Rules 2-2(a)(x), (b)(x), and (c)(x) in reporting the appraisal opinions and conclusions so as to ensure that the results are credible and not misleading

ADVICE FROM THE ASB ON THE ISSUE:

<u>Relevant USPAP & Advisory References</u>

The following USPAP references are applicable when completing an assignment involving proposed improvements to real property:

- COMPETENCY RULE, as it relates to the complexity of an appraisal assignment involving proposed improvements;

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- SCOPE OF WORK RULE particularly regarding laws, regulations, or guidelines which may augment USPAP;
- JURISDICTIONAL EXCEPTION RULE;
- STANDARD 1, particularly Standards Rules 1-1(a), 1-2(d), 1-2(e), 1-2(h), 1-3(a); and
- STANDARD 2, particularly Standards Rules 2-1(a), 2-1(c), and Standards Rule 2-2.

Additional standards information is provided in these Statements on Appraisal Standards:

- No. 2 , addressing discounted cash flow analysis;
- No. 4, explaining that three categories of effective appraisal dates may be used—retrospective, current, or prospective—according to the intended use of the appraisal assignment, and addressing how an appraisal can be prepared and presented in a manner that will not be misleading when a prospective value opinion is required; and
- No. 6, addressing reasonable exposure time in market value opinions.

Additional guidance appears in Advisory Opinion 7, which addresses marketing time opinions. AO-30, *Appraisals for Use by a Federally Regulated Financial Institution* addresses when other requirements may augment USPAP.

General Comments

Both current and prospective value appraisals subject to completion of proposed improvements to real property are permitted under USPAP. As noted in Statement on Appraisal Standards No. 4, a current value appraisal occurs when the effective date of appraisal is contemporaneous with the date of the report, and a prospective value appraisal occurs when the effective date of appraisal is after the date of the report.

Development of a value opinion(s) for a subject property with proposed improvements in a current value appraisal involves at least one hypothetical condition, specifically that the described improvements have been completed as of the date of value. The use of a hypothetical condition, in turn, imposes additional reporting requirements as set forth in Standards Rule 1-2(g) and Standards Rules 2-2(a)(x), (b)(x), and (c)(x). The additional reporting requirements are to ensure that an intended user understands that:

(a) the improved subject property does not yet, in fact, exist as of the date of appraisal;

(b) the analyses performed to develop the opinion of value are based on a hypothesis, specifically that the improved subject property is assumed to exist when in fact it does not exist;

(c) certain events need to occur, as disclosed in the report, before the property appraised with the proposed improvements will in fact exist; and

(d) the appraisal does not address unforeseeable events that could alter the proposed property improvements and/or the market conditions reflected in the analyses.

Development of a value opinion based on a hypothetical condition is addressed in Standards Rule 1-2(g). Use of a hypothetical condition is permitted when it is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison. An analysis based on a hypothetical condition must not result in an appraisal, appraisal review, or appraisal consulting report that is misleading. The hypothetical condition must be clearly and conspicuously disclosed in the report with a description of the hypothetical condition and a statement that its use might have affected the assignment results.

There may be laws, regulations or guidelines that affect how and when a hypothetical condition may be used in an appraisal assignment. An appraiser should consider these assignment conditions, but he or she must make certain that developing and reporting a current value opinion under a hypothetical condition in accordance with the assignment conditions still results in an appraisal that complies with USPAP.

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Assignment Considerations

An appraiser asked to complete an assignment involving proposed improvements to real property should consider and discuss with the client:

- the intended use of the appraisal report;
- the effective date of the appraisal and the date when the proposed improvements are expected to be complete;
- the physical and economic changes to the existing property and changes in the market for the property that may result from completion of the proposed improvement; and
- the possible change in market competition from other properties over the time frame of the improvement project.

It is important for an appraiser to ensure that the client knows that the differences in the information considered in the two types of analyses can result in significant differences between a current and a prospective value opinion concerning the same subject property.

Taken together, these factors and the client's needs determine whether it is most appropriate to develop:

- a current value opinion on the basis of a hypothetical condition that the proposed improvements already have been completed, or
- a prospective value opinion on the basis of an extraordinary assumption that the property will be improved as of a future date, as proposed.

If a prospective value opinion is the most appropriate, the appraiser must ensure that the requirements set forth in Statement on Appraisal Standards No. 4 are properly met in the course of completing the assignment.

As stated in "General Comments" above, an appraisal of a property subject to completion of proposed improvements with a current date of value always involves use of at least one hypothetical condition (i.e., the proposed improvements have been completed as of the date of value), and this always requires reporting that the proposed improvements are appraised as if completed as described in the report, as of the date of value.

In an appraisal with a prospective date of value, the extraordinary assumption that the proposed improvements are complete as of that future date must be disclosed clearly and conspicuously. The appraiser also should report that the extraordinary assumption might have affected the assignment results.

An appraiser should carefully review Standards Rule 1-2(e) and determine whether the information available for analysis is sufficient to identify the extent and character of the proposed improvements. If sufficient information is not available, an appraiser may use an extraordinary assumption about the extent and character of the proposed improvements, if credible assignment results can still be developed. In an appraisal with a prospective date of value, the extraordinary assumption about the extent and character of the improvements is in addition to the extraordinary assumption about those improvements being completed on the future date of value.

A current value opinion assignment does not require an appraiser to provide a prospective value opinion. However, so as to not be misleading the appraisal report should clearly indicate the fact that the value of the property that actually exists as of the date of the report would be different from the value concluded for the property with the proposed improvements completed as described in the hypothetical condition(s) used in the appraisal.

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Illustrations:

1. A client is considering financing the construction of a single-family residence. Construction is expected to be complete in six to eight months from the date of the appraisal report. No significant changes in market conditions are foreseeable during the construction period. The client requests a current value opinion based on the hypothetical condition that the improvements are complete as of the current date. Can such an appraisal be provided in compliance with USPAP?

    Yes, provided sufficient information about the extent and character of the proposed improvements is available or can be reasonably assumed under a hypothetical condition used for purposes of reasonable analysis in this case. Given the intended use of the appraisal (construction financing) and the lack of significant change in the market conditions during the construction period, in this case, a current value appraisal would not be misleading solely on the basis of the hypothetical condition that the improvements are complete as of a current date.

2. A client requests an appraisal to assist in establishing contract rent in a build-to-suit agreement. The agreement stipulates that contract rent will be based on a stated percentage of the market value of the property as if it were completed as of a current date. The client requests a current value opinion based on the hypothetical condition that the improvements are complete as of the current date. Can such an appraisal be provided in compliance with USPAP?

    Yes. Given the intended use of the appraisal, the use of the hypothetical condition is necessary for purposes of reasonable analysis and would not in itself result in a misleading appraisal.

3. A client is considering financing a proposed office tower with a loan commitment based on the value of the property as though the improvements were complete and occupancy is at stabilized market level. Because of the amount of vacant office space available in the subject's market area, it is anticipated that the subject property will take five years to reach stabilized occupancy. The client requests a current value opinion that assumes the property is complete and at stabilized occupancy. Can such an appraisal be provided in compliance with USPAP?

    No. Because of the combination of the intended use of the appraisal and the market conditions that are expected to affect the subject property, the resulting appraisal would most likely be misleading. A prospective value opinion could be provided, with an effective date of appraisal as of the date when stabilized occupancy is expected to be achieved. This would more realistically reflect the market conditions affecting the subject, when completed.

4. A client is considering construction of a large apartment complex. The client expects construction to be complete in about two years. Currently, demand for similar apartment units is strong, but because of the amount of new construction under way or planned in the near future, vacancy levels are expected to rise from the current level (below 1 percent) to about 20 percent in two years.

    A. The client requests an appraisal with a current value opinion for use in obtaining financing from a nonregulated financial institution, based on the hypothetical condition that the apartment complex is complete and at stabilized occupancy. Can such an appraisal be provided in compliance with USPAP?

        No, because given the intended use and the foreseeable changes in market competition during the course of construction, a current value opinion for the property, as if complete, would most likely be misleading. A prospective value opinion, with an effective value date as of the expected completion date, would more realistically reflect market conditions affecting the subject property as proposed.

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B. The client requests an appraisal with a current value opinion for use in testing project feasibility or investment alternatives, based on the hypothetical condition that the apartment complex is complete and at stabilized occupancy. Can such an appraisal be provided in compliance with USPAP?

Yes, because the intended use of the appraisal and the hypothesis, in this type of assignment, is for purposes of reasonable analysis and comparison. However, so as not to be misleading, the appraisal analyses should reflect the market risk resulting from the foreseeable trend in vacancy and its probable impact on cash flow and market competition, and the appraisal report must clearly indicate the intended use of the appraisal.

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ADVISORY OPINION 18 (AO-18)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Use of an Automated Valuation Model (AVM)

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

What steps should an appraiser take when using an AVM as a tool in the development of appraisal, appraisal review, or appraisal consulting opinions and conclusions concerning an individual property?

In addition, what steps should an appraiser take when he or she is using an AVM only to process information and communicate the AVM's output but is not performing an appraisal, appraisal review, or appraisal consulting assignment?

BACKGROUND:

This Advisory Opinion addresses how an appraiser may use an AVM.

An AVM is a computer software program that analyzes data using an automated process. For example, AVMs may use regression, adaptive estimation, neural network, expert reasoning, and artificial intelligence programs.

The output of an AVM is not, by itself, an appraisal. An AVM's output may become a basis for appraisal, appraisal review, or appraisal consulting opinions and conclusions if the appraiser believes the output to be credible for use in a specific assignment.

An appraiser can use an AVM as a tool in the development of appraisal, appraisal review, or appraisal consulting opinions and conclusions. However, the appropriate use of an AVM is, like any tool, dependent upon the skill of the user and the tool's suitability to the task at hand.

This Advisory Opinion applies when an appraiser uses an AVM in connection with an individual property. This Advisory Opinion does not apply to mass appraising.

An appraiser needs to know, before using an AVM, whether it is to be used:

1. to perform an appraisal, appraisal review, or appraisal consulting service, or
2. solely to provide the client with AVM output.

When an appraiser uses an AVM to develop his or her own opinions or conclusions in an appraisal, appraisal review, or appraisal consulting assignment, all of the USPAP rules governing that assignment apply and all of this Advisory Opinion is relevant.

An appraiser is not performing an appraisal, appraisal review, or appraisal consulting assignment when he or she simply runs an AVM by using information provided by the client and:

1. does not alter the input or affect the output of the AVM, and
2. does not communicate his or her own appraisal, appraisal review, or appraisal consulting opinions or conclusions regarding the AVM's output.

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If the appraiser uses an AVM only to provide the client with the AVM output, the references to the Conduct section of the ETHICS RULE and the "Communicating the AVM Output" section in this Advisory Opinion are relevant.

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- Conduct section of the ETHICS RULE:
  An appraiser must perform assignments ethically and competently, in accordance with USPAP.
  An appraiser must not engage in criminal conduct.
  An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.
  Further, *An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*
- COMPETENCY RULE: *Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently.*
- SCOPE OF WORK RULE: *The scope of work must include the research and analyses that are necessary to develop credible assignment results… Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal, appraisal review, and appraisal consulting assignment." "The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results… An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.*
- Standards Rule 1-1(a): An appraiser must *be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*
- Standards Rule 1-1(b): An appraiser must *not commit a substantial error of omission or commission that significantly affects an appraisal.*
- Standards Rule 1-1(c): An appraiser must *not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.*
- Standards Rule 1-6(b): An appraiser must *reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).*
- STANDARD 2: *In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.*
- STANDARD 3: *In performing an appraisal review assignment, an appraiser acting as a reviewer must develop and report a credible opinion as to the quality of another appraiser's work and must clearly disclose the scope of work performed.*
- Statement on Appraisal Standards No. 9: *Although an appraiser must identify and consider the intended use of the appraiser's opinions and conclusions, an appraiser must not allow the objectives of the client or other intended users of the report to affect the appraiser's independence and objectivity. An appraiser must not allow the objectives of a client or other intended users to cause the analysis or report to be biased.*

Competency

When an appraiser is asked to use an AVM in an assignment, the appraiser must ensure that he or she can comply with the requirements of the COMPETENCY RULE both prior to accepting the assignment and in the course of performing it.

In an appraisal assignment, an appraiser must have a basic understanding of how the AVM works in order to reasonably determine that:

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1. use of the AVM is appropriate for the assignment;
2. the output of the AVM is credible for use in the assignment; and
3. the AVM does not exclude relevant market measures or factual information necessary for a credible calculation.

A client may suggest or request the use of an AVM in an appraisal, appraisal review, or appraisal consulting assignment, but ultimately the appraiser is responsible for the decision to use or not use the AVM and its output. The appraiser must be able to reasonably conclude that the AVM's output is credible before deciding to use the AVM or rely on its output. For example, in an appraisal assignment, the credibility of the AVM output may be established by comparison to the subject market. If the appraiser concludes that using the AVM output in an assignment would be misleading, the appraiser should either use other tools to perform the analysis or decline the assignment.

Under What Conditions May AVMs Be Used?

There are five critical questions to which the appraiser should answer "yes" before deciding to use an AVM in an appraisal, appraisal review, or appraisal consulting assignment:

1. Does the appraiser have a basic understanding of how the AVM works?
2. Can the appraiser use the AVM properly?
3. Are the AVM and the data it uses appropriate given the intended use of assignment results?
4. Is the AVM output credible?
5. Is the AVM output sufficiently reliable for use in the assignment?

The answers to these questions may be affected by the degree to which the appraiser can interact with the AVM. The decision to use an AVM may also be affected by support information supplied by the AVM's developer, the appraiser's previous experience in using the AVM, or other available information.

Database

Credibility of the AVM output depends on the quality of its database and how well the AVM is designed to analyze that database. When using an AVM in an appraisal, appraisal review, or appraisal consulting assignment, the appraiser must have reason to believe the AVM appropriately uses data that are relevant.

Understanding and Control of the AVM

When using an AVM in an appraisal, appraisal review, or appraisal consulting assignment, an appraiser should have a basic understanding of how the AVM analyzes data to determine whether the AVM measures and reflects market activity for the subject property. The appraiser does not need to know, or be able to explain, the AVM's algorithm or intricacies of its statistical or mathematical formulae. However, the appraiser should be able to describe the AVM's overall process and verify that the AVM is consistent in producing results that accurately reflect prevailing market behavior for the subject property.

AVMs differ in the number and type of data characteristics as well as in the volume of data analyzed. The appraiser should know which characteristics (e.g., size, location, quality) are analyzed and how the analysis is tested for accuracy and reasonableness. The appraiser should ascertain that the characteristics analyzed are those to which the market responds.

Some AVMs allow the appraiser to select the data analyzed on the basis of, for example, distance from subject, size, or age of the improvements. An appraiser's ability to change the AVM's selection parameters may affect the appraiser's decision to use or rely on the AVM output.

The appraiser should be aware that the AVM may not perform consistently given the same input criteria. The appraiser should be confident of the AVM's credibility when applied to a specific property. The appraiser

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decides whether to rely on the AVM output, regardless of the AVM's overall test performance. In some cases, the appraiser may accept the AVM's output, while in other cases that same AVM's output would not be acceptable.

Communicating the AVM Output

An appraiser must ensure that his or her communication of an AVM's output is not misleading.

An AVM's output is not, by itself, an appraisal, and communication of an AVM's output is not, in itself, an appraisal report. When an AVM is used in an appraisal, appraisal review, or appraisal consulting assignment, information furnished about an AVM in the appraiser's report must satisfy the reporting requirements applicable to the type of report provided (e.g., in the case of a real property appraisal, a Self-Contained, Summary, or Restricted Use Appraisal Report). The appraiser should cite the name and version of the AVM software and provide a brief description of its methods, assumptions, and level of allowed user intervention. The report should, to the extent possible, identify the database (e.g., Multiple Listing Services) and the data analyzed.

An appraiser bound by USPAP may be asked to run an AVM and communicate its output without performing an appraisal, appraisal review, or appraisal consulting assignment. For example, an appraiser may be asked to simply enter property characteristics provided by the client but not alter the input or affect the AVM's output. In this specific instance, the appraiser is not acting in the capacity of an appraiser but rather is functioning only as an AVM operator. In such a situation, an appraiser must carefully avoid any action that could be considered misleading or fraudulent. The appraiser should take steps to ensure that communication of the AVM's output is not misconstrued as an appraisal, appraisal review, or appraisal consulting report. For example, the appraiser should:

1. not communicate his or her opinions or conclusions as an appraiser regarding the credibility or reliability of the AVM's output;
2. not provide an appraiser's certification or statement of limiting conditions in connection with the AVM's output; and
3. ensure that his or her role as only an AVM operator is clearly indicated if his or her signature or other identification marks appear on document(s) used to communicate the AVM's output.

Analyzing an AVM's Effectiveness

An appraiser bound by law, regulation, or an agreement to comply with USPAP may be asked to analyze and comment on the effectiveness of an AVM for a stated intended use. Such a request involves an aspect of value and thereby this would be an appraisal practice service, but one for which USPAP has no specific performance standards. In order to accept such an assignment, an appraiser bound to comply with USPAP must ensure compliance with the Conduct, Management and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE. To meet the COMPETENCY RULE, at a minimum, the appraiser should also have a basic understanding of how the AVM works.

Review of the Output of an AVM

An appraiser bound by law, regulation, or an agreement to comply with USPAP may be asked if the output of an AVM is credible for a specific property, given the intended use of the AVM's output. Such a request involves an aspect of value and thereby making this determination is an appraisal practice service, but one for which USPAP has no specific performance standards. The appraiser must ensure compliance with the Conduct, Management and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.

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Review of an Appraisal Report Containing Output of an AVM

An appraiser may be asked to review an appraisal report that includes an opinion of value based on the output of an AVM. This is an appraisal review assignment under USPAP which must follow the requirements of STANDARD 3. This kind of appraisal review assignment may be accepted if the appraiser performing the review understands how the AVM works and can form an opinion as to the adequacy and relevancy of the data and the appropriateness of the analysis, based on the information provided in the report under review.

Use of an AVM in an Appraisal Review Assignment

An AVM may be used in the process of reviewing a real property appraisal report. The appraisal reviewer may use the AVM to test the reasonableness of the value conclusion in the report under review if the appraisal reviewer has a basic understanding of how the AVM works, can use the AVM properly, determines that use of the AVM is appropriate for the appraisal review assignment, and believes the AVM output is credible and sufficient for the appraisal review assignment.

Illustrations:

1(a). Staff Appraiser D, who has access to market databases, is asked to use an AVM to process information. When Appraiser D runs the AVM, she has done no other appraisal research. Appraiser D does not apply any of her appraisal knowledge or judgment in operating the AVM. Appraiser D has entered only property characteristics provided by the client and does not know how the AVM analyzes the data. Is the AVM output an appraisal?

No. The AVM output by itself is not an appraisal. Appraiser D did not apply her appraisal knowledge, judgment, or expertise, nor did she represent that the output was her own opinion of value.

Appraiser D must be very careful in communicating the AVM output to ensure that there is no misunderstanding as to her role in operating the AVM or communicating its output. For example, Appraiser D should:

1. not communicate her opinions or conclusions as an appraiser regarding the credibility or reliability of the AVM's output;
2. not provide an appraiser's certification or statement of limiting conditions in connection with the AVM's output; and
3. ensure that her role as only an AVM operator is clearly indicated if her signature or other identification mark appears on documents used to communicate the AVM's output.

1(b). Staff Appraiser D receives AVM output from a coworker who is not an appraiser. Appraiser D is requested to determine if the AVM output is credible, given the intended use. What can Appraiser D do?

Appraiser D should not express an opinion regarding value. However, the request involves an aspect of value and, therefore, Appraiser D can indicate if the AVM output is credible. USPAP includes no specific performance standards for this kind of service. However, because performing the service requires an appraiser to consider an aspect of property value, it is part of appraisal practice. Appraiser D must, therefore, ensure compliance with the Conduct, Management and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.

1(c). After staff Appraiser D has received the AVM output, can she incorporate the information into the appraisal process?

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Yes. However, Appraiser D must be able to understand how the AVM works and determine that the information analyzed is credible and reliable.

2. Appraiser V provides residential appraisals to Client A, whose intended use is to document security for equity lines of credit. Appraiser V has determined that Orange Box AVM is sufficiently reliable to use as a tool in these appraisals. Orange Box AVM was recently used by Appraiser V on a house in a suburban single-family residential subdivision.

Client B requests Appraiser V to use Orange Box AVM, alone, for a relocation appraisal assignment on an identical house in the same subdivision. Can Appraiser V use Orange Box AVM alone in this relocation appraisal assignment?

AVM itself and the AVM output for Client A's needs may not be appropriate for Client B's needs.

Client A's intended use of the appraisal is to document security for an equity line of credit. Typically, Client A's lending decision is based primarily on the homeowner's capacity to pay the debt and only secondarily on the value of the house. The reliability expectation of the value opinion needed by Client A is relatively low.

The intended use of the relocation appraisal for Client B is to develop an opinion of a sale price of the house under very specific conditions. Typically, the reliability expectation of the opinion needed by Client B is relatively high because his or her intended use involves a near-term transfer of the house, with immediate financial implications. Appraiser V must determine if Orange Box AVM's output is sufficiently reliable to meet Client B's stated expectations.

3(a). Appraiser A developed a regression analysis model that suggests a relationship between the size of a residence and the price per square foot of similar residences in a specific market. This relationship has been confirmed by market behavior, and the database used is believed to be reliable. Can the appraiser use the regression analysis model in other appraisal assignments of similar properties in the same market?

Yes, because the appraiser knows how the regression analysis model works, has independently tested the conclusions it provides, and believes the database is reliable. However, the appraiser must consider whether the AVM output is credible and reliable for each assignment on a case by case basis.

3(b). Appraiser A's friend, Appraiser B, works in a different market area. Appraiser B is impressed with Appraiser A's model and wants to use the model in Appraiser B's market area. Can Appraiser B use Appraiser A's model?

Yes, if Appraiser B understands how Appraiser A's model works and verifies by independent testing that the model produces reliable results in Appraiser B's market area and that the database used by Appraiser B reflects behavior in Appraiser B's market area. However, the appraiser must consider whether the AVM output is credible and reliable for each assignment on a case-by-case basis.

4(a). A client of Appraiser A requests that Appraiser A use Blue Box AVM. The client says, "Since we are only doing residential appraisals, you can skip the cost and income approach. To lower the cost of the appraisal just use the Blue Box AVM results as the basis for your value conclusion." The client also says, "Blue Box AVM makes thirteen adjustments, and that is all that the appraiser needs to be concerned with." The Blue Box AVM developer feels that appraisers cannot understand this new technology and that appraisers do not need to know how the thirteen adjustments are made. What should Appraiser A do?

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Appraiser A should:

1. learn how the Blue Box AVM works;
2. determine if he can use the AVM properly; and,
3. given the intended use, determine if the output of Blue Box AVM is credible and sufficiently reliable for use in the assignment.

If Appraiser A cannot understand how the Blue Box AVM works or concludes that the results are not credible, given the intended use, Appraiser A should discuss the issue with the client. This discussion may result in a modified scope of work or in the appraiser declining the assignment.

4(b). Another client requests that Appraiser A consider Green Box AVM. The client indicates that Appraiser A can modify six of the thirteen items analyzed in Green Box AVM, such as the distance within which the comparables are selected and the size range (square footage) of the comparables. The developer of Green Box AVM will also describe how the AVM works and provide the results of test data, which indicate that the model is reliable. What should Appraiser A do?

Appraiser A needs to follow the same steps described in 4(a).

5. Appraiser C's client has licensed the Red Box AVM. The client requests that Appraiser C use the Red Box AVM as a tool in an appraisal consulting assignment. The client knows that Appraiser C has a reliable internal residential database. The client also knows that Appraiser C has tested Red Box AVM and has found it to be reliable. Further, the software developer of Red Box AVM has given Appraiser C information about how Red Box AVM works and test data showing its results. Can Appraiser C apply the Red Box AVM in the appraisal consulting assignment?

Yes, if the Red Box AVM is used for that part of the process for which it has been determined to be credible and reliable. However, the appraiser must consider whether the AVM output is credible and reliable for each assignment.

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ADVISORY OPINION 19 (AO-19)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Unacceptable Assignment Conditions in Real Property Appraisal Assignments

APPLICATION: Real Property

ISSUE:

All real property appraisal assignments involve conditions that affect the appraiser's scope of work and the type of report. What types of assignment conditions are unacceptable?

BACKGROUND:

Many residential property appraisers report requests for service where the caller includes statements or information in the request similar to the following:

1. We need comps for (property description) that will support a loan of $_____; can you provide them?
2. Sales Price: _____.
3. Approximate (or Minimum) value needed: _____.
4. Amount needed: _____.
5. Owner's estimate of value: _____.
6. If this property will not appraise for at least _____, stop and call us immediately.
7. Please call and notify if it is NOT possible to support a value at or above _____, BEFORE YOU PROCEED!!!!

Appraisers report that the caller usually makes it clear that they do not want the appraiser to do any fieldwork. Some callers refer to the service requested as a "comp check" while others refer to it as a "preliminary appraisal" or use some terms other than appraisal (such as preliminary evaluation, study, analysis, etc.). Some callers indicate that if the numbers will not work, the appraiser can send a bill for research services or a "preliminary" inspection. Other callers promise future assignments if the appraiser can make the present deal work.

Appraisers ask, "Can I respond to such requests without violating USPAP and, if so, how?"

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

Appraisers receiving requests for services that include the kind of information and situations described in the Background section of this Advisory Opinion should carefully review:

- The Conduct and Management sections of the ETHICS RULE, particularly in regard to assignments offered under condition of "predetermined opinions or conclusions" or compensation conditioned on the reporting of a predetermined value result, a direction in assignment results that favors the cause of the client, the amount of a value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.
- The definitions of "Appraisal," "Appraisal Practice," "Assignment" and "Scope of Work" in the DEFINITIONS section of USPAP.

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- Standards Rule 1-1(b), particularly as it relates to diligence in the level of research and analysis necessary to develop credible opinions and conclusions.
- Standards Rules 1-2(f), (g), and (h), regarding identification of the scope of work necessary to complete an assignment and any extraordinary assumptions or hypothetical conditions necessary in an assignment.
- Standards Rules 1-5(a) and (b), regarding the analysis of current or historical market activity regarding the property appraised.
- The SCOPE OF WORK RULE, with particular attention to the appraiser's responsibility in connection with the scope of work decision and disclosure obligations.
- As guidance, Advisory Opinions 11, 12, and 13.

Unacceptable Conditions

Certain types of conditions are unacceptable in any assignment because performing an assignment under such conditions violates USPAP. Specifically, an assignment condition is unacceptable when it:

- precludes an appraiser's impartiality, because such a condition destroys the objectivity and independence required for the development and communication of credible results;
- limits the scope of work to such a degree that the assignment results are not credible, given the intended use of the assignment; or
- limits the content of a report in a way that results in the report being misleading.

Accepting Assignment Conditions

The intended use of the assignment results affect whether assignment conditions are acceptable. Some assignment conditions may be acceptable in one type of assignment but not in another. An appraiser should carefully consider the information provided by the client in a prospective assignment before accepting or declining the assignment. (See Statement on Appraisal Standards No. 9.)

In the highly competitive financial services market, cost versus benefit is always an issue. Residential appraisers, particularly, have seen an increase in the use of sophisticated loan application screening tools by their lender-clients. Many lenders believe an appraiser can enhance their screening efforts by doing "preliminary work" that they do not view as an "appraisal."

Other client groups also ask appraisers to provide services under conditions that limit the appraiser's scope of work. Investors, trust administrators, and portfolio account managers often require opinions and data from appraisers in order to make decisions. Attorneys often rely on appraisers in counseling their clients and in preparing for litigation.

When considering a request for service, appraisers should ascertain:

- whether the service involves an appraisal,
- what levels of risk are associated with the service, and
- whether there are any unacceptable conditions attached to the assignment.

Appraisers should take care to communicate with prospective clients to reach a common understanding about assignment conditions. Further, the appraiser and client need to recognize that:

1) **the type of assignment in each request described in the Background section of this Advisory Opinion is an appraisal.**

If an appraiser is asked whether a specific property has a value (a point, a range, or a relationship to some benchmark), that request is for an opinion of value (an appraisal). Appraisers, obligated to comply with USPAP,

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must develop a real property appraisal in accordance with STANDARD 1. Communicating that value opinion must be accomplished in accordance with STANDARD 2.

Appraisers, like other professionals, must ensure that those who use their services recognize the amount of work required—and the expertise needed—to develop a credible value conclusion about a property.

However, this does not mean that the appraiser cannot provide an economic and competitive service. Indeed, the *Uniform Standards of Professional Appraisal Practice* recognize the need for different kinds of appraisals. A competent appraiser can vary the scope of work in an assignment, in accordance with the type and definition of value and intended use of the appraiser's opinions and conclusions in the assignment, and remain in compliance with USPAP.

2) assignment limitations affect the level of risk accepted by each party in an assignment;

Appraisers and users of appraisals should recognize that assignment limitations affect the reliability of an appraiser's opinions and conclusions. In some assignments, an appraiser can reasonably apply extraordinary assumptions to compensate for assignment limitations. In other situations, the use of the same assumptions may not be acceptable.

When the intended use is to screen a potential business for feasibility, the use of assumptions or extraordinary assumptions is more appropriate than when the intended use is for loan documentation or loan settlement. Because intended users' reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled.

3) assignment conditions that compromise an appraiser's impartiality and objectivity in an assignment are unacceptable.

While a client may feel that offering preference in current or future assignments on the basis of "making the numbers work" in a specific assignment is appropriate, attaching such a condition to an assignment compromises an appraiser's impartiality and destroys the appraiser's credibility.

The *Uniform Standards of Professional Appraisal Practice* is explicit about such matters. Accepting an appraisal assignment under such a condition violates the Conduct section of the ETHICS RULE in USPAP, which states:

> *An appraiser must perform assignments ethically and competently, in accordance with USPAP.*
>
> *An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.*
>
> *An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.*

Furthermore, accepting compensation for completing an appraisal assignment under such a condition violates the Management section of the ETHICS RULE in USPAP, which states:

> *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:*
>
> *1. the reporting of a predetermined result (e.g., opinion of value);*
> *2. a direction in assignment results that favors the cause of the client;*
> *3. the amount of a value opinion;*
> *4. the attainment of a stipulated result; or*

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5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose* (Bold added for emphasis).

Illustrations:

Some of the requests shown in the Background section of this Advisory Opinion share common characteristics. Possible responses to each common group of requests could be:

1. *We need comps for (a specific property) that will support a loan of _____; can you provide them?*

   "Maybe, but I'll need to research the market to know whether the 'comps' will support a value range relative to the loan amount. In doing this, I will be deciding which sales are 'comps' and what those 'comps' mean. Those decisions will result in a range of value for your prospective borrower's property, which is an appraisal.

   You also need to recognize that there are risks in this kind of assignment. You should realize that my value conclusion could change if I subsequently perform an appraisal. Under the research and analysis limitations you suggest, I would not have verified some of the data and would have to use extraordinary assumptions about the market data and your borrower's property information. I would not have performed some of the analyses steps I might complete in an appraisal assignment without those limitations. If all of that is agreeable to you, we can proceed."

2. *Sales Price: _____.*

   "As long as the amount is only to inform me of the pending contract [or of the sale price] and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics."

   Note: A sale price (in a pending or a settled transaction) is part of the information an appraiser is required to ascertain in accordance with Standards Rules 1-5(a) and (b). Receiving this information with a request for service is appropriate, but accepting an assignment with the price in an agreement of sale, option, or listing or a sale price in a settled transaction as a predetermined value in the assignment violates USPAP.

3. *Approximate (or Minimum) value needed: _____.*

4. *Amount needed: _____.*

5. *Owner's estimate of value: _____.*

   "As long as the amount is only to inform me of your objectives or someone else's opinion and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics."

6. *If this property will not appraise for at least _____, stop and call us immediately.*

7. *Please call and notify if it is NOT possible to support a value at or above _____, BEFORE YOU PROCEED!!!!*

   "Your request is acknowledged, but it is important for you to be aware that I must develop an appraisal before I can tell you whether the property will support the value indicated. It is also important for you

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> to be aware that your statement of that amount with this request for service does not, in my view, establish a 'condition' for my performing the appraisal. If you intend it to be a condition for performing the assignment, I cannot accept the assignment because it violates professional ethics."

Research Illustration:

The foregoing illustrations all include an appraisal assignment. In some situations, a client will request a service that is not an appraisal, appraisal review or appraisal consulting assignment as defined in USPAP. The service to be performed by the appraiser in the following illustration is:

- not an appraisal assignment (the appraiser does not develop a value opinion);
- not a real property appraisal consulting assignment (a value opinion is not a component of the analysis); and
- not a real property appraisal review (there is no appraisal to review).

The caller in this illustration is usually in the process of making a business decision and needs impartial and objective information but has not yet decided whether to pursue the matter at hand. The caller knows there is the potential for needing an appraisal, depending, in part, on what the sales data shows. The caller also believes that, if the data indicates that an appraisal is worthwhile, having that work completed by the appraiser in that subsequent assignment will lessen the time required to perform an appraisal. The prospective client may ask:

> "We want you to check your data resources to see if there are sales within the past six months that are within one mile of [address]. If you find some, we may order an appraisal from you."

One possible response would be:

> "If what you want is only the sales of properties shown in the databases available to me with the criteria you specified, I can do that research and send you the result. Then you can decide what you think your client's property is worth. If I do only that, it is just research and is not an appraisal.
>
> However, you need to recognize that there are risks if you decide to have the research done that way. If you decide to limit my work to just gathering the sales data using the research criteria you set, you are taking the risk that those criteria are both adequate and appropriate to find all of the market data relevant to your client's property. You also take the risk that any appraiser's analysis of that data would result in a value conclusion within the price range suggested by the sales data assembled using your criteria. There is no assurance that such would be the case."

Staff or Multi-Appraiser Firm Context

The foregoing illustrations reflect communications between a client and an appraiser in the context of the appraiser as an independent contractor (fee appraiser).

In a staff context, such as where the appraisal function is established as a business or agency unit, the part of the entity that uses the appraiser's opinions and conclusions represents the "client" (intended user) and the part that completes the assignment represents the "appraiser."

In that context, the "assignment" originates from the "intended user" part of the entity. The appraisal unit's response to an "intended user" in situations like those in the foregoing illustrations reasonably could be similar because imposing assignment conditions that compromise an appraiser's impartiality and objectivity is unacceptable, whatever the setting.

However, the example responses in the illustrations do not apply to the customary interaction and dialogue that occurs between appraisers within organizations or peers in multi-appraiser firms. Such interaction and dialogue

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within the unit or group that develops the opinions and conclusions in an assignment is not the same as communicating opinions and conclusions to an intended user.

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ADVISORY OPINION 20 (AO-20)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

A client may want an appraiser, functioning as a reviewer, to develop and report his or her own opinion of value (i.e., an appraisal) within an appraisal review assignment. This leads to two questions:

> How does the assignment change when the reviewer's scope of work includes the development of his or her own opinion of value?
>
> What language in appraisal review reports indicates when the reviewer did or did not develop his or her own opinion of value?

BACKGROUND:

Appraisal review is a specialized area of appraisal practice. Appraisal reviews are used in a variety of business, governmental, and legal situations and also have an important role in the enforcement of professional standards.

STANDARD 3 allows the reviewer to address all or part of the work under review (also referred to in this Advisory Opinion as the "original work"). In every appraisal review assignment, the reviewer is required to "… *develop and communicate an opinion or conclusion about the quality of another appraiser's work.*" The reviewer's opinion about the quality of the work under review includes addressing its completeness, relevance, appropriateness, and reasonableness, all in the context of the requirements applicable to that work.

However, a client may also want the reviewer to develop and report his or her own opinion of value (an appraisal) within an appraisal review assignment. In this instance, the appraisal review assignment is actually a two stage assignment: an appraisal review *plus* a value opinion by the reviewer.

The purpose and intended use together, of an appraisal review assignment, affect the scope of work in an assignment. Therefore, it is essential that reviewers clearly identify the purpose and intended use of the appraisal review and establish a well defined scope of work with their client to ensure a clear understanding of what steps are and are not necessary in an assignment.

This Advisory Opinion provides guidance to help appraisers, clients, and other users or readers of an appraisal review report:

A. recognize how terminology used in STANDARD 3 and in this Advisory Opinion prevents confusion as to the function the reviewer is fulfilling in an appraisal review assignment;
B. understand how the purpose of the appraisal review and the intended use of the appraisal review results affect the scope of work in an appraisal review assignment;
C. recognize how the scope of work changes when an appraisal review assignment includes a requirement for the reviewer to develop and report his or her own opinion of value concerning the subject property of the work under review; and
D. understand how the language in an appraisal review report can be used to indicate whether a value opinion was or was not developed by the reviewer.

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ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- DEFINITIONS section, specifically the definition of "Appraisal," "Appraisal Review," and "Assignment"
- Standards Rule 3-1, particularly SR 3-1(a) and SR 3-1(c), including the Comment in both Rules
- Standards Rule 3-2, particularly SR 3-2(a) and SR 3-2(d), including the Comment in the latter

Portions of the referenced material are cited in this Advisory Opinion. An appraiser performing an appraisal review assignment should carefully study the complete text to ensure a proper understanding of the requirements and the text in STANDARDS 1, 4, 6, 7, or 9, as applicable.

A. TERMINOLOGY

When reading the references cited above, appraisers performing appraisal review assignments (referred to as "reviewers" in USPAP) should note that the terminology used in STANDARD 3 have very specific meanings.

The term "Appraisal Review" is used in USPAP to identify the activity of a reviewer in an appraisal review assignment. Appraisers sometimes use such terms as "Desk Review," "Field Review," "Complete Review," "Limited Review," "Technical Review," and "Administrative Review." However, without appropriate explanation, these terms and phrases can result in misunderstanding about the function being performed by a reviewer. While such terms may be convenient labels for use in a business setting, they do not necessarily impart the same meaning in every situation.

Rather than simply using labels, reviewers should also accurately define the scope of work — in fact, the Comment to Standards Rule 3-1(c) requires the reviewer to*"…determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE"* and Standards Rule 3-2(c) requires the reviewer to *"state the scope of work used to develop the appraisal review…"* These requirements are designed to ensure that an intended user of appraisal review results is not misled as to the reviewer's scope of work and the basis for his or her opinions and conclusions.

The terms "Review Appraisal" and "Review Appraiser" are also sometimes used in practice, primarily to refer to the marketing of services or to an appraiser's functional status in employment. These phrases are not used in STANDARD 3, in part to avoid giving confusing implications, such as, for example, the impression that an appraisal is always part of a review.

B. HOW PURPOSE AND INTENDED USE AFFECT SCOPE OF WORK

A reviewer's scope of work in an appraisal review assignment is determined primarily by the purpose(s) of the assignment and the intended use of the assignment results. Standards Rule 3-1(a) requires, in part, that the reviewer "*identify … the intended use of the reviewer's opinions and conclusions and the purpose of the assignment.*"

Examples of intended use include (without limitation) quality control, audit, qualification, or confirmation. Each type of intended use affects the scope of work that may be appropriate for a particular appraisal review assignment.

As examples, a client may want the reviewer to develop and report an opinion as to the quality of another appraiser's work, *and*:

1. only state the corrective action to be taken by the appraiser with regard to curing any deficiency, leaving the client to decide whether to interact with the appraiser to accomplish the correction; or

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2. act on behalf of the client to interact with the appraiser that prepared the original work to ensure any deficiency is appropriately corrected by that appraiser; or

3. make corrections to cure an error, such as a mathematical miscalculation, by showing what the calculation would have been if correct but without expressing the result as the reviewer's own opinion of value; or

4. make corrections to cure a deficiency, expressing the result as the reviewer's own opinion of value, which is to be developed within the same scope of work as was applicable in the assignment that generated the original work; or

5. make corrections to cure a deficiency, expressing the result as the reviewer's own opinion of value, which is to be developed using a different scope of work than was applicable in the assignment that generated the original work; or

6. regardless of the appraisal review result, develop his or her own opinion of value using the same scope of work as was applicable in the assignment that generated the original work; or

7. regardless of the appraisal review result, develop his or her own opinion of value using a different scope of work than was applicable in the assignment that generated the original work.

In Examples 1, 2, and 3 the reviewer has not taken any steps to offer his or her own opinion of value, and therefore, has not bridged over into the appraisal stage.

In Examples 4, 5, 6, and 7, the appraisal review assignment is actually a two stage assignment—an appraisal review *plus* a value opinion by the reviewer. It is also important to note that this second stage occurs even if the reviewer concurs with the value opinion in the original work. This is because a reviewer's concurrence in a value opinion developed by another appraiser converts it to the reviewer's *own* opinion of value—in effect, the reviewer is taking ownership of that value by concurring with it. As such, it constitutes a value opinion (i.e., appraisal) by the reviewer.

In Examples 6 and 7, the client might, alternatively, engage the reviewer (as an appraiser) in a separate assignment to perform an appraisal outside the context of the appraisal review assignment.

In any case, the reviewer must carefully develop the scope of work as required by SR 3-1(c) and state the scope of work in the report as required by SR 3-2(c). The concluding language used (see illustrations to follow) should also be consistent with the scope of work decision.

C. SCOPE OF WORK AND THE REVIEWER'S OPINION OF VALUE

An appraisal review assignment that includes a requirement for the reviewer to develop his or her own opinion of value imposes on the reviewer an expanded scope of work. This additional scope of work requirement is set forth in the Comment to SR 3-1(c), which states, in part:

> *When the reviewer's scope of work includes developing his or her own opinion of value, the following apply:*
>
> - *The reviewer's scope of work in developing his or her own opinion of value may be different from that of the work under review.*
> - *The effective date of the reviewer's opinion of value may be the same or different from the date of the work under review.*

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- *The reviewer is not required to replicate the steps completed by the original appraiser. Those items in the work under review that the reviewer concludes are credible and in compliance with the applicable development standard (STANDARD 1, 4, 6, 7, or 9) can be extended to the reviewer's value opinion development process on the basis of an extraordinary assumption by the reviewer. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer, developed in conformance with STANDARD 1, 4, 6, 7, or 9, as applicable, to produce a credible value opinion.*
- *The reviewer may use additional information available to him or her that was not available to the original appraiser in the development of his or her value opinion, however, the reviewer must not use such information as the basis to discredit the original appraiser's opinion of value.*

Compliance with STANDARD 1, 4, 6, 7, or 9 through the Use of Extraordinary Assumption(s)—The development of the reviewer's opinion of value requires compliance with STANDARD 1, 4, 6, 7, or 9 as applicable. The reviewer's use of those items from the work under review that the reviewer concludes are credible and in compliance with the applicable development standard is based on an extraordinary assumption. This is because, unless the reviewer actually replicates the steps necessary to develop those items, the reviewer is assuming the integrity of that work without personal verification. If those assumptions were found to be false, the reviewer's appraisal-related opinions and conclusions would be affected. As such, this situation constitutes an extraordinary assumption (refer to requirements for proper application in SR 1-2(f), 4-2(f), 6-2(i), 7-2(f), or 9-2(f) as applicable). Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer, developed in conformance with STANDARD 1, 4, 6, 7, or 9, as applicable, to produce a credible value opinion.

Altering the Scope of Work in Developing the Reviewer's Opinion of Value—In some appraisal review assignments, the client needs a reviewer's opinion of value to be developed under a different scope of work than in the original appraisal.

If the reviewer's assignment has a different scope of work than does the original work, or if the reviewer relies on different information not available to, or not used by, the original appraiser, then it is possible that the two appraisal results could also differ. This does not mean that either set of results is "wrong" per se; in any event, the reviewer should not use this as the basis to discredit the original appraiser's opinion of value.

If there is a difference between the appraiser's opinion of value and the reviewer's opinion of value, the reviewer should use care to ensure correct identification of the cause of that difference in the appraisal review process. The reviewer should also use care to not mislead an intended user when providing support for the reviewer's conclusions in the appraisal review report. This is critical from an enforcement perspective as well as in a business setting. Incorrectly characterizing the cause of a deficiency can erode the credibility of appraisal review conclusions and of the reviewer's value opinion.

D. APPRAISAL REVIEW REPORT CONTENT

The reviewer's opinions and conclusions stated in compliance with SR 3-2(d) can vary significantly, depending on the purpose and intended use of the appraisal review. A reviewer should carefully compose the particular language stating his or her opinions and conclusions to avoid misleading the user of the appraisal review report as to the scope of work completed in the assignment and the meaning of the reviewer's stated opinions and conclusions. Note that any additional information relied upon and the reasoning and basis for the reviewer's opinion of value must be summarized, in contrast to the other requirements in this section that must only be stated. Additionally, changes to the report content by the reviewer to support a different value conclusion must match, at a minimum, the reporting requirements for a Summary Appraisal Report.

An Appraisal Review Assignment WITHOUT an Opinion of Value—If the assignment is only to develop an opinion as to the quality of another appraiser's work, the appraisal review report content must include:

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1. the information set forth in Standards Rules 3-2(a)–(f); and
2. the reviewer's certification shown in Standards Rule 3-3.

When the appraisal review is only for ascertaining quality, the reviewer should use extreme care to ensure the appraisal review report does not include language that implies the reviewer developed an opinion of value concerning the subject property of the original work. When the reviewer uses language to signify concurrence with the value or a different value opinion, the reviewer has additional appraisal development and reporting obligations.

Illustrations of the Language in an Appraisal Review Report WITHOUT an Opinion of Value

The following are examples of language that might be used in an appraisal review report that does not express an opinion of value and thus does not constitute evidence of an appraisal by the reviewer:

- "the value opinion stated in the appraisal report is (or is not) adequately supported"
- "the value conclusion is (or is not) appropriate and reasonable given the data and analyses presented"
- "the value opinion stated in the report under review was (or was not) developed in compliance with applicable standards and requirements"
- "the content, analyses, and conclusions stated in the report under review are (or are not) in compliance with applicable standards and requirements"
- "I reject the value conclusion as lacking credibility due to the errors and/or inconsistencies found"
- "the value conclusion is not appropriate due to (for example) a significant math error in the Sales Comparison Approach—if calculated properly, the value conclusion would change to $XXX; however, the reader is cautioned that this solely represents a recalculation and not a different opinion of value by the reviewer"
- "I accept (or approve) the appraisal report for use by XYZ bank (or agency)."

Such language, or language that conveys similar meanings to the intended of the appraisal review report, relates to the quality of the work under review, including the opinion of value stated in that work, but does not suggest either concurrence or a different opinion of value by the reviewer. It is also important that this language be consistent with the scope of work described in the appraisal review report.

An Appraisal Review Assignment WITH an Opinion of Value—When the appraisal reviewer develops an opinion as to the quality of another appraiser's work PLUS the reviewer's own opinion of value, the appraisal review report content must include:

1. the information set forth in Standards Rules 3-2(a)–(f); and
2. the reviewer's certification shown in Standards Rule 3-3.

The appraisal-related content of the appraisal review report, in combination with the content of the original work under review that the reviewer concludes is in compliance with the Standards applicable to that work, must at least match the report content required for a Summary Appraisal Report.

The reviewer is not required to replicate or duplicate in the appraisal review report the material in the work under review that the reviewer concludes is in compliance with the Standards applicable to that work. The reviewer can incorporate by reference those portions of the work under review that he or she concludes are in compliance with the applicable Standards by use of an extraordinary assumption.

Illustrations of the Language in an Appraisal Review Report WITH an Opinion of Value

The following are examples of language that signify a value opinion (i.e., either by concurrence or by indication of a numeric point, a range, or a relationship to a numeric benchmark). These examples DO constitute evidence

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of a value opinion (i.e., appraisal) by the reviewer, thereby making the appraisal review one that includes an appraisal.

- "I concur (or do not concur) with the value"
- "I agree (or disagree) with the value"
- "in my opinion, the value is (the same)"
- "in my opinion, the value is incorrect and should be $XXX"
- "in my opinion, the value is too high (or too low)"

Such language, or language that conveys similar meanings to the intended users of the report, represents that the reviewer has completed the steps required to develop his or her own value opinion. Such language indicates the reviewer has either concurred with the appraiser's value opinion in the underlying work, and thus has adopted that value opinion as his or her own, or has developed a different opinion of value—hence, this (or similar) language constitutes an opinion of value (i.e., appraisal) by the reviewer. It is also important that this language be consistent with the scope of work described in the appraisal review report.

Note that if a reviewer rejects the value, he or she should use care in how that result is stated. If the language of such rejection is based on errors or inconsistencies in the original work and does not include any qualifiers that would relate to a direction in value, it does not imply an appraisal by the reviewer.

However, if such rejection is stated in relation to a value or value range, such as indicating a direction in value (i.e., more than, less than) or to an established benchmark, that language indicates the appraisal review has taken on the "opinion of value" characteristic of an appraisal. This is an important distinction that must be kept in mind by the reviewer when composing any language regarding the original appraiser's opinions or conclusions. In addition, whichever category such language may fall under, it must also be consistent with the purpose, scope of work, and intended use of the appraisal review assignment results.

The following list summarizes the requirements in a real property appraisal review assignment with the reviewer's opinion of value. The sequence of steps completed in this type of assignment is presented in order.

1. The reviewer develops **opinions and conclusions about the quality** of the work under review.
2. The reviewer develops **an opinion of value for the subject property** of the work under review.
3. The reviewer then **communicates the opinions and conclusions** developed in the first two steps in the report.

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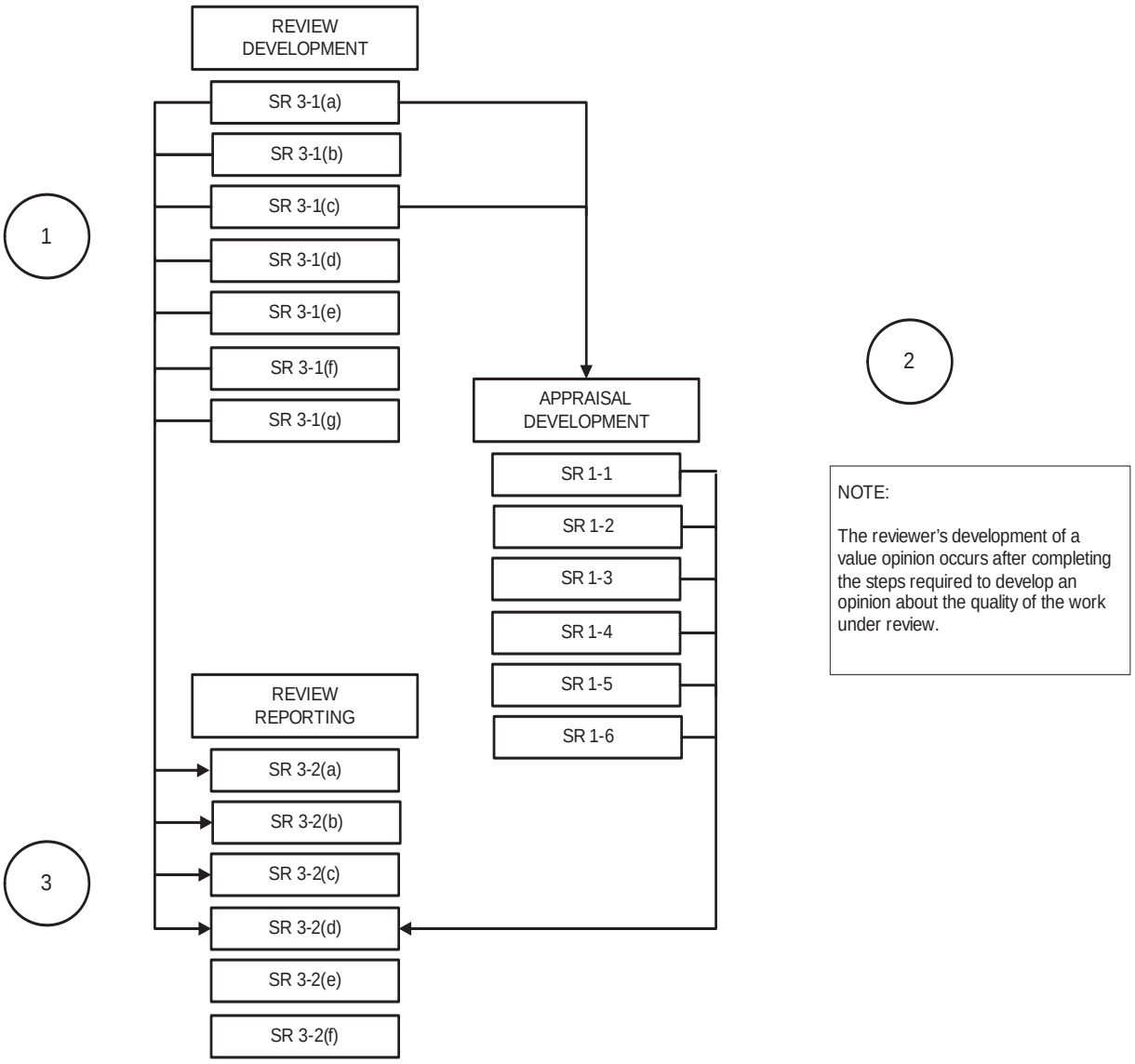
233 The sequence of steps is illustrated in the following table.

APPRAISAL REVIEW THAT INCLUDES THE REVIEWER'S OPINION OF VALUE

Using STANDARDS 1 and 2 as examples, the process flows as follows:



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ADVISORY OPINION 21 (AO-21)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: USPAP Compliance

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

Individuals perform numerous roles within the broad realm of valuation services. Examples include appraisal, brokerage, auctioning, property management, advocate consulting, appraisal consulting and collecting market data. Some valuation services are part of appraisal practice and require compliance with USPAP. What are the USPAP compliance requirements for these various services? More specifically:

1. When should an individual comply with USPAP?
2. What is the relationship between Valuation Services and Appraisal Practice?
3. What does acting "as an appraiser" or performing a service "as an appraiser" mean?
4. Why does an expectation for an individual to act as an appraiser indicate an obligation to comply with USPAP?
5. What are the responsibilities of an appraiser regarding intended user expectations?
6. What are the USPAP obligations for appraisal practice outside of appraisal, appraisal review, and appraisal consulting?
7. What are the USPAP obligations for valuation services outside of appraisal practice?

ADVICE FROM THE ASB ON THE ISSUE:

1. When should an individual comply with USPAP?

The PREAMBLE states that *compliance with USPAP is required when either the service or the appraiser is obligated to comply by law or regulation, or by agreement with the client or intended users.* An obligation to comply with USPAP is created by law, regulation, or agreement with intended users.[1] In such cases an appraiser must follow USPAP. The PREAMBLE also states that *when not obligated, individuals may still choose to comply* with USPAP. The ETHICS RULE states that *an individual should comply any time that individual represents that he or she is performing the service as an appraiser.*[2] An ethical obligation to comply with USPAP is created by choice, that is, by choosing to represent one's self as an appraiser.

Therefore,

- When required by law, regulation, or agreement, an individual must comply with USPAP.
- When choosing to represent one's self as an appraiser, an individual should comply with USPAP.

2. What is the relationship between Valuation Services and Appraisal Practice?

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[1] USPAP gains legal authority through adoption by the various state and federal jurisdictions. Consequently, the legal requirement to follow USPAP is rooted in federal and state laws or regulations.

[2] The PREAMBLE states that *the appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity.* However, the PREAMBLE also states that *USPAP does not establish who or which assignments must comply. Neither The Appraisal Foundation nor its Appraisal Standards Board is a government entity with the power to make, judge, or enforce law.*

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A key to distinguishing an appraiser's obligations is understanding the relationship between "valuation services" and "appraisal practice" in USPAP. Appraisal practice is a subset of valuation services.

"Valuation services" are *services pertaining to aspects of property value.* Appraisers and others for whom value is an issue provide valuation services. Examples include appraisal, brokerage, auctioning, property management, advocate consulting, appraisal consulting and collecting market data.

"Appraisal practice" is defined as *valuation services performed by an individual acting as an appraiser*. Only appraisers may offer services that are considered appraisal practice. Examples include appraisal, appraisal consulting, and collecting market data (acting as an appraiser).

Since USPAP obligations apply to those who are acting as appraisers, USPAP applies to appraisal practice.

3. What does acting "as an appraiser" or performing a service "as an appraiser" mean?

An "appraiser" is defined as *one who is expected to perform valuation services* ***competently*** *and in a manner that is* ***independent, impartial, and objective*** (Bold added for emphasis). Therefore, an individual "acting as an appraiser" is expected, in part, to be competent in the service being provided. Also, an individual "acting as an appraiser" is expected to provide the service in a manner that is independent, impartial, and objective. Performing a service in a manner that is independent, impartial, and objective is an ethical requirement within USPAP.

"Acting as an appraiser" means representing oneself as an appraiser. Many individuals have other professional roles in addition their appraiser role. For example, some appraisers are also brokers, consultants, or leasing agents. Individuals who have appraiser roles as well as other professional roles must be careful to explain their role in performing a given valuation service (see question #7 below).

Law, regulation, agreement, or representation (choice) each prescribes when a valuation service is to be provided by an appraiser as part of appraisal practice. Emphasizing another portion of the definition of an "appraiser" is *one who is* ***expected*** *to perform valuation services competently and in a manner that is independent, impartial, and objective* (Bold added for emphasis). The Comment to the definition goes on to state that the *expectation* [for ethical and competent performance] *occurs when individuals, either by choice or by requirement… represent that they comply.* Expectation is the crucial element in determining when one is acting as an appraiser.

4. Why does an expectation for an individual to act as an appraiser indicate an obligation to comply with USPAP?

Public trust requires that when an individual is expected to perform with the ethics and competency of an appraiser, he or she will do so. An individual who agrees to perform a valuation service as an appraiser has a duty to comply with the ethics and competency that the public expects from an appraiser. This obligates the individual to comply with USPAP in performing the service.

The definition of an appraiser in conjunction with the need for public trust establishes the "expectation" as the basis for the obligation to comply with USPAP.

Intended user expectations for valuation services performed in compliance with USPAP are created when an individual represents that he or she is acting as an appraiser in a service. For example, these expectations can arise when an individual advertises or solicits as an appraiser (such as telephone listings, professional directories, business cards, stationery, or office signage), holds appraiser accreditation from a licensing agency, or maintains membership in a professional appraiser organization. An individual's identification as an appraiser in a given valuation service establishes a justifiable expectation that the valuation service will be performed in compliance with USPAP.

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In summary, expectation is the basis for determining when an individual providing a valuation service is acting as an appraiser. Because of the need to preserve public trust and confidence in appraisal practice, the expectations of the client and other intended users for ethical and competent performance create an obligation to comply with USPAP.

5. What are the responsibilities of an appraiser regarding intended user expectations?

The appraiser has a professional responsibility to recognize the capacity in which he or she is performing. The responsibility includes inquiry about, and recognition of, the intended users' expectations. When an individual's appraisal expertise and reputation for providing services without bias induce the client or other intended users to select the individual to provide a valuation service, there is a justifiable expectation that the valuation service will be performed in compliance with USPAP.

When an individual who acts as an appraiser in some circumstances chooses to provide a valuation service in some other capacity (i.e., not as an appraiser and outside of appraisal practice), he or she must not represent himself or herself to be acting in the capacity of an appraiser. Since choice is an instrument to create USPAP obligations, it follows that when an individual has an opportunity to choose the capacity in which he or she will provide a valuation service, he or she is free to provide the valuation service as an appraiser or in some other capacity. However, an individual who is recognized as an appraiser must use great care not to violate the public trust.

6. What are the USPAP compliance obligations for appraisal practice outside of appraisal, appraisal review, and appraisal consulting?

Within appraisal practice, there are some assignments that are addressed by Standards (i.e. STANDARDS 1 through 10). The Standards describe the requirements for appraisal, appraisal review, or appraisal consulting assignments.

However, STANDARDS 1 through 10 do not apply in the performance of all appraisal practice services. Examples include assignments (performed as an appraiser) to teach appraisal courses, provide sales data, collect market data, analyze specific elements of value (e.g., reproduction cost or functional utility), and develop educational texts. (As defined in USPAP, assignments are performed by an individual acting as an appraiser. Therefore, all assignments fall within appraisal practice.)

Assignments to which STANDARDS 1 through 10 do not apply must still comply with the portions of USPAP that apply generally to appraisal practice. These include the DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE. As a result, such assignments must be provided without bias or accommodation of personal interest by competent appraisers.

The Record Keeping section of the ETHICS RULE applies to appraisal, appraisal review, or appraisal consulting assignments (i.e. STANDARDS 1 through 10). For other assignments, there are no workfile or record keeping requirements in USPAP. The SCOPE OF WORK RULE also applies only to appraisal, appraisal review, and appraisal consulting assignments.

7. What are the USPAP obligations for valuation services outside of appraisal practice?

As previously stated, many individuals have other professional roles in addition to their appraiser role. For example, some appraisers are also attorneys, accountants, brokers, or consultants. USPAP also places an obligation on an individual who sometimes acts as an appraiser even when he or she provides a valuation service in some other capacity – that obligation being not to mislead the users of the valuation service about the capacity in which he or she is acting. The ETHICS RULE states that *an appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.* If a valuation service is premised on advocacy or compensation arrangements that are contrary to the ETHICS RULE, the valuation

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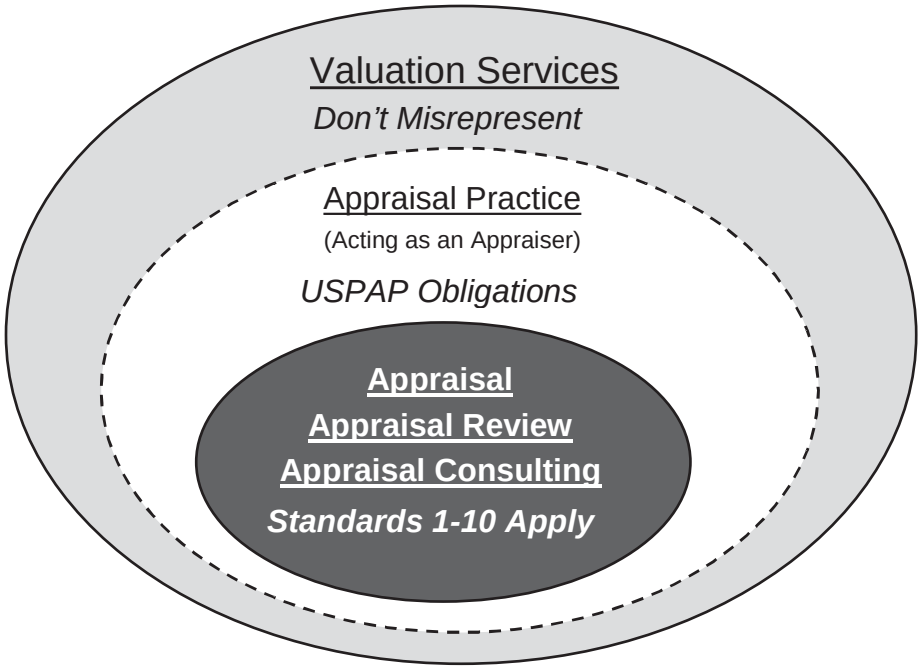
service is not consistent with the objectives of USPAP and cannot be performed by the individual acting as an appraiser.

An individual who sometimes provides services as an appraiser, but who is currently acting in another role, must ensure that intended users are not misled as to the individual's role in providing that valuation service. This can be accomplished through such means as disclosure, notification, or careful distinction when providing the valuation service as to the individual's role. Additionally, clear representation of the valuation services to be rendered in the engagement communication, scope of work description, or contract, as well as in written and oral correspondence with the client should assist in ensuring intended users are not misled.

Relationships and Application

The relationship between valuation services and appraisal practice can be illustrated as follows.



Valuation Services (large light-shaded oval): When providing valuation services, the obligation for an individual recognized in some circumstances as an appraiser is not to misrepresent his or her role.

Appraisal Practice (dotted-line oval): Within valuation services is appraisal practice (i.e., valuation services provided by an individual acting as an appraiser). All services performed as part of appraisal practice must comply with USPAP. The portions of USPAP that apply generally to appraisal practice include the DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.

Appraisal, Appraisal Review, Appraisal Consulting (dark-shaded oval within Appraisal Practice oval): Within appraisal practice, there are requirements that apply to developing and communicating appraisal, appraisal review, or appraisal consulting assignments in addition to those that apply to all appraisal practice. These requirements are described by STANDARDS 1 – 10, the SCOPE OF WORK RULE, and the Record Keeping section of the ETHICS RULE.

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	VALUATION SERVICES		
	Other Roles (e.g. brokerage, property management)	**Appraisal Practice**	
		Other Services	Appraisal, Appraisal Review & Appraisal Consulting
Pertains to aspects of value	√	√	√
Performed by individual acting as an appraiser		√	√
Obligation to comply with USPAP		√	√
Performance and reporting requirements (STANDARDS 1-10)			√
Record keeping and workfile requirements			√

Summary

- An individual must comply with USPAP when required by law, regulation, or agreement.
- An individual should comply with USPAP when choosing to represent one's self as an appraiser.
- Appraisal practice is a subset of valuation services. Since USPAP obligations apply to those who act as appraisers, USPAP applies to appraisal practice.
- The definition of appraiser and need for public trust establish the factor of "expectation" as the basis for the obligation to comply with USPAP.
- An individual's public identification as an appraiser establishes a justifiable expectation that valuation services will be performed in compliance with USPAP. Because of the need to preserve public trust and confidence in appraisal practice, the expectations of the client and other intended users for ethical and competent performance create an obligation to comply with USPAP.
- The appraiser has a professional responsibility to recognize the capacity in which he or she is performing. The responsibility includes inquiry about, and recognition of, the client's expectations.
- When an individual has an opportunity to choose the capacity in which he or she will provide a valuation service, he or she is free to provide the valuation service as an appraiser or in some other capacity.
- An individual who is recognized as an appraiser must use great care not to violate the public trust. An appraiser acting in another role must ensure that intended users are not misled as to the individual's role in providing that valuation service.
- USPAP also places an obligation on an appraiser even when he or she provides a valuation service in some other capacity – that obligation being to not mislead the intended users of the valuation service about the capacity in which he or she is acting.

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- If a valuation service is premised on advocacy, or compensation arrangements that are contrary to the ETHICS RULE, an individual acting as an appraiser cannot perform the valuation service.

- Within appraisal practice, there are Standards that describe the requirements for developing and communicating appraisal, appraisal review, or appraisal consulting assignments. Appraisers who provide valuation services for which there are no Standards need to comply with the portions of USPAP that apply generally to appraisal practice.

- The Record Keeping section of the ETHICS RULE applies to appraisal, appraisal review, or appraisal consulting assignments. For other assignments, there are no USPAP record keeping or workfile requirements.

- The SCOPE OF WORK RULE applies only to appraisal, appraisal review, and appraisal consulting assignments.

Illustrations

Brokerage and Appraisal

1. Liz Ross is an individual who provides both appraisal and brokerage services. When seeking a new brokerage client, Liz often prepares a market analysis to help establish an asking price for the client's property. What are Liz's obligations under USPAP?

   Answer: Many states' brokerage and appraiser licensing laws have specific provisions for appraisers who are also brokers. In the absence of such laws, USPAP provides flexibility for brokers/appraisers and others who have multiple professional roles.

   The critical element in determining whether Liz should comply with USPAP is the expectation of her brokerage client. If Liz includes her appraiser status in her brokerage marketing materials, such as advertisements, business cards, or letterhead, it is likely that her client expects her to bring to her brokerage practice the ethics and competence associated with an individual acting as an appraiser. By allowing her client to believe that her appraisal expertise adds credibility to her price estimate, Liz has created an obligation to comply with USPAP in the preparation of a price estimate for the client.

   The extent of Liz's USPAP obligation depends on the intended use of the price estimate. The distinction between "price" and "value" is crucial here: within USPAP, "price" is a fact[3] while "value" is an opinion[4]. If Liz recommends an asking price for a specific property owner, under specific circumstances, she is analyzing *price* as defined by USPAP. STANDARDS 1, 7 and 9 apply to the development of an appraisal, which is defined as an opinion of *value*. Therefore, the obligations of STANDARDS 1, 7 and 9 do not apply to estimates of *price*. However, as an individual acting as an appraiser, Liz is obligated to comply with the remainder of USPAP (i.e., DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE. For example, her estimate of *price* must be ethically and competently prepared, as part of appraisal practice.

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[3] Price is defined as *the amount asked, offered, or paid for a property.* The Comment goes on o*nce stated, price is a fact, whether it is publicly disclosed or retained in private. Because of the financial capabilities, motivations, or special interests of a given buyer or seller, the price paid for a property may or may not have any relation to the value that might be ascribed to that property by others.*

[4] Value is defined as *the monetary relationship between properties and those who buy, sell, or use those properties*. The Comment goes on to state, *value expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value. In appraisal practice, value must always be qualified for example, market value, liquidation value, or investment value.*

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If Liz's recommendation represents the relationship between typical buyers and sellers, she is analyzing *value*. Her recommendation is an opinion of value and is by definition an appraisal. It must be ethically and competently prepared in accordance with STANDARDS 1, 7 or 9 and reported in compliance with STANDARDS 2, 8, or 10.

Alternatively, if Liz has been careful to separate her roles as broker and appraiser, she would be able to prepare *price* estimates as a valuation service, outside of appraisal practice. Liz should have sound reasons to believe that her brokerage client does not expect her to act as an appraiser. Further, she should not characterize her conclusions in any manner as representing a "value" or, an "opinion of value" of any kind.

Appraisal Review

2. Dan Williams is an appraiser. He was asked by a client to perform an "administrative screening review" of an appraisal report to determine if a more thorough review is warranted. The client would like Dan to check the math calculations and determine whether the appraisal report complies with the client's basic content specifications. What are Dan's obligations under USPAP?

Answer: The client has engaged Dan because of his identification as an appraiser; this clearly creates an expectation by the client that the service will be provided in compliance with USPAP. Therefore, this service is part of appraisal practice; *at a minimum* Dan must comply with the portions of USPAP that apply generally to appraisal practice (i.e. DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.

Dan must next decide if compliance with STANDARD 3 is required. To do this, Dan must consider the intended use, intended user, and type and definition of value for the assignment. These factors are the basis of Dan's scope of work decision. If the appropriate scope of work includes *developing or communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment*, then that assignment is by definition an appraisal review. The label placed on the service cannot support acting outside of STANDARD 3. The client may call the assignment an "administrative screening review," but it is the extent of the service that defines it.[5] Dan must decide, based on the problem to be solved and scope of work, if the assignment is an *appraisal review* as defined by USPAP. If the assignment is an *appraisal review*, then Dan must comply with the development and reporting requirements of STANDARD 3.

There may be circumstances when Dan is not acting as an appraiser. If Dan acts in other roles, say as a mortgage underwriter, then Dan may be in position to provide the valuation service outside of appraisal practice. If Dan acts outside of appraisal practice, he must ensure that he does not misrepresent his role and that the client and any other intended users do not expect him to act as an appraiser.

[5] The Comment to the definition of appraisal practice states that *the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the Uniform Standards of Professional Appraisal Practice.*

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Rent Survey

3. A client has asked Mike Black to perform a rent survey. The client owns the Acme Office Building and wants to know if he is charging enough rent. The client asked Mike to perform this work because he knows Mike is an appraiser; therefore, this valuation service is included in appraisal practice and USPAP applies. How can Mike provide this service in compliance with USPAP?

   Answer: Mike should fully investigate the client's expectations before determining the scope of work for this assignment. Does the client want only to know what rental rates are being charged for other office buildings in the area? If so, this is likely a service for which USPAP has no Standards (i.e., STANDARDS 1 and 2 when providing real property appraisals). Mike would then be obligated to comply with the portions of USPAP that apply generally to appraisal practice (i.e., DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE). The development and reporting of the assignment results would be entirely at his discretion, and a workfile would not be required.

   However, if the client expects Mike to collect rental rate and lease term information and to analyze them to conclude the market rental terms for the Acme Building, this is an appraisal. This assignment is an appraisal because it includes a specific subject property (i.e., the right to use space in the building) and the problem to be solved in the assignment is a value opinion (i.e., the market rental terms for that space). The appraisal assignment should then be completed in compliance with STANDARDS 1 and 2.

Appraisal and Market Information

4. Steven Andrews is a residential appraiser. One day, when attending a backyard barbecue, Steven is approached by a neighbor, who says, "Hey, Steven, I know you're an appraiser. What do you think my house is worth?" What should Steven say?

   Answer: Steven should recognize immediately that his neighbor expects him to respond as an appraiser; therefore, Steven's answer should comply with USPAP. Steven can, of course, always decline to answer.

   Alternatively, Steven could provide data, such as, "I've been keeping track of the house sales in our subdivision, and they have been from $100,000 to $150,000 over the past couple of years." Giving such information is a part of appraisal practice for which there are no Standards (i.e., STANDARDS 1 and 2 when providing real property appraisals). Steven should be certain that he is acting ethically and competently in giving this kind of information, but he doesn't need to prepare a workfile for it.

   Steven should be careful, though, about applying any judgment in answering his neighbor's question. If Steven says, "House sales in our subdivision in the last year have been from $100,000 to $150,000. I know that you've done lots of interior improvements to your house and, besides, it's the more desirable two-story model, so its value should be near the high side of the range," he has just performed an appraisal. In this case, he should comply with STANDARDS 1 and 2 and prepare a workfile. If Steven only provides data, he is acting within appraisal practice, but if he relates that data to a specific property, he has provided an appraisal.

Litigation Services

5. Marie Vaughn has a diverse appraisal practice with a specialization in litigation services. She commonly aids attorneys in developing cross-examination strategies for expert witness testimony from appraisers. How does USPAP apply to Marie's "litigation services?"

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Answer: In order to determine Marie's obligation, it is necessary to understand the nature of her role. If she is acting as an appraiser, her litigation services are part of appraisal practice and the ethics and competency requirements of USPAP apply. Marie must comply, at a minimum, with the portions of USPAP that apply generally to appraisal practice. These include the DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION. As an appraiser, Marie cannot act as an advocate for any party or issue.

If Marie's services include providing an opinion of value, she must comply with the appropriate appraisal standards (STANDARDS 1 and 2, 7 and 8, or 9 and 10). If Marie's services include providing an opinion about the quality of another appraiser's work, the appraisal review requirements of STANDARD 3 apply. If the service includes providing analysis, recommendation, or an opinion to solve a real property problem where an opinion of value is a component of the analysis leading to the assignment results, then Marie must adhere to the appraisal consulting requirements of STANDARDS 4 and 5.

On the other hand, if Marie provides litigation services as an advocate, then she is providing a valuation service outside of appraisal practice. When performing services outside of appraisal practice, Marie can act as an advocate and accept contingent compensation. The only USPAP obligation is that she not misrepresent her role. She must use care to distinguish her role from other roles that would carry an expectation of being impartial, objective, and independent, i.e., acting as an appraiser.

Marie may provide litigation services by either acting as an appraiser **or** acting as an advocate for the client's cause; however, she must not perform both roles in the same case.

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ADVISORY OPINION 22 (AO-22)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Scope of Work in Market Value Appraisal Assignments, Real Property

APPLICATION: Real Property

THE ISSUE:

How does "market value" affect the scope of work in a real property appraisal assignment?

ADVICE FROM THE ASB ON THE ISSUE

Relevant USPAP & Advisory References

- COMPETENCY RULE
- SCOPE OF WORK RULE
- DEFINITIONS section: "Appraisal," "Intended Use," "Market Value," and "Scope of Work"
- STANDARD 1
- Statements on Appraisal Standards No. 6 and No. 9

Scope of Work in a Market Value Appraisal

This Advisory Opinion provides guidance that appraisers, users of appraisals, and enforcement bodies can use when making decisions about the scope of work in market value appraisal assignments (called a "market value assignment" or a "market value appraisal" in this Advisory Opinion).

Competently determining the scope of work is an essential step in all assignments performed under USPAP. In a real property appraisal assignment, Standards Rules 1-2(a)–(h) set forth eight identification actions or steps that an appraiser must understand and complete in performing any appraisal assignment. Completing the first seven action steps provides support for the eighth step, the appraiser's scope of work decision.

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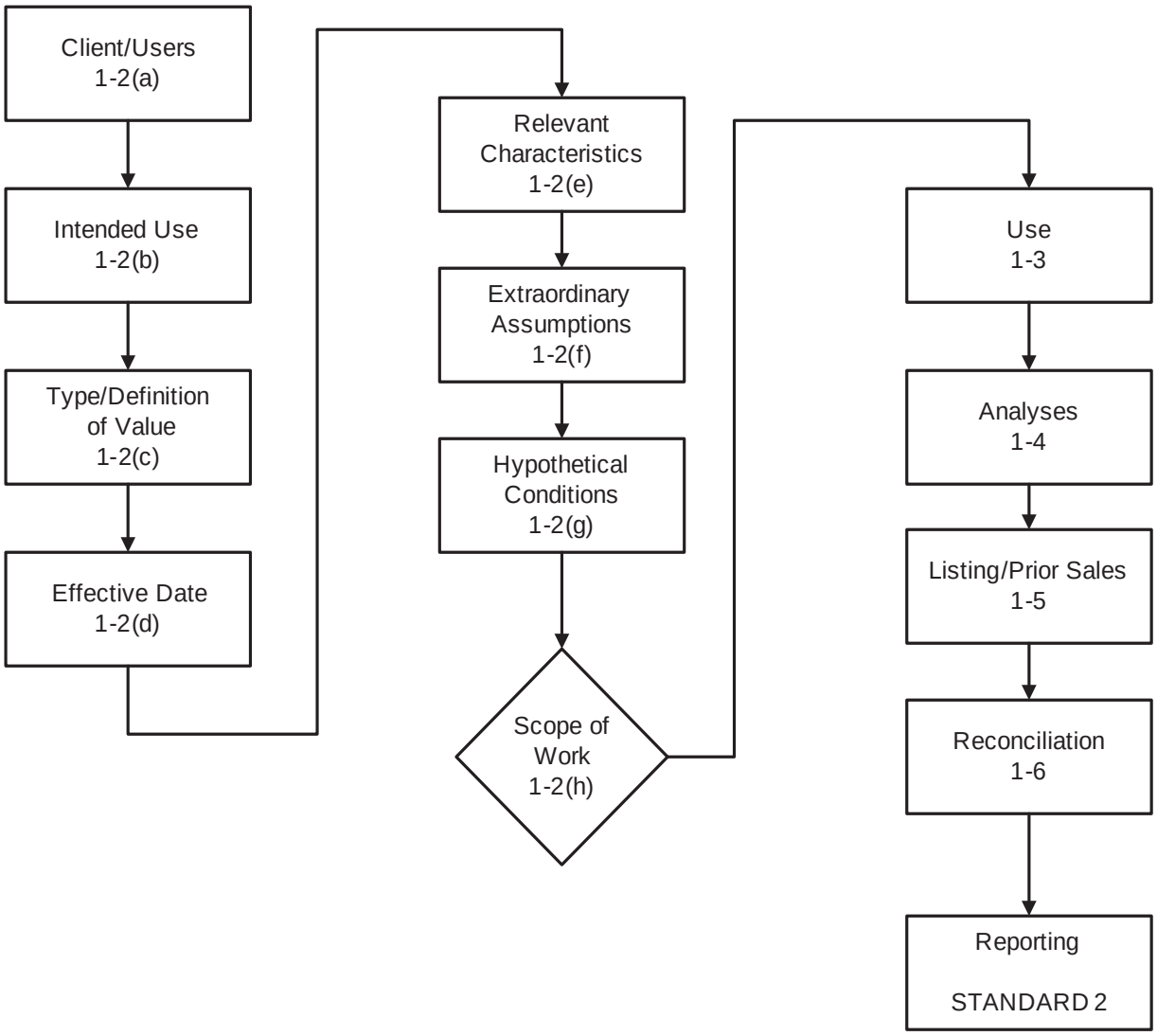
The Sequence and Relationship of Action Steps Required by SR 1-2 in a Real Property Appraisal—The following table illustrates the sequence and relationship of the action steps leading to the appraiser's scope of work decision and the steps taken after that decision through to completion of the appraisal process.



It is important to recognize that the action of identifying the client and intended users, the intended use, the type and definition of value, and the effective date of value (SR 1-2(a)-(d)) affects the appraiser's decisions as to the subject's relevant characteristics, the scope of work, and extraordinary assumptions or hypothetical conditions (SR 1-2(e)–(h)). The appraiser's decisions about the last four elements to be identified follow from, and must be consistent with, factual information identified in the first four elements shown in the table.

The sequence illustrated in the table requires the appraiser to begin the decision-making process in the early stages of an assignment. It also means the appraiser has a burden of proof for conclusions about which property characteristics are relevant and which are not.

Sequence and Relationship of Action Steps Required by SR 1-2 in a Real Property Appraisal

Competency and the Scope of Work Decision - Accomplishing the first four action steps (SR 1-2(a) through (d)) illustrated in the table provides the basis for deciding which of the property's characteristics are relevant in

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the assignment. This information, together with the appraiser's competency (knowledge and expertise) in appraising the specific type of property involved, permits the appraiser to determine whether any extraordinary assumptions or hypothetical conditions are necessary to complete the assignment and to make a reasonable and supportable scope of work decision.

It is important to note here that the appraiser's competency in performing similar assignments is a key factor in the scope of work decision. Without competency, the appraiser is not prepared to correctly interpret the information gathered in response to SR 1-2(a)–(e) or to make well reasoned decisions based on that information in response to the requirements set forth in SR 1-2(f)–(h). Moreover, without competency, the appraiser is not aware of or capable of understanding how the information gathered in compliance with SR 1-2(a)–(e) and the conclusions formed in compliance with SR 1-2(f) and (g) affect the decision about which of the analyses steps set forth in Standards Rules 1-3 and 1-4 are necessary in an assignment.

Understanding which analyses, methods and techniques are necessary and what data are necessary to correctly complete the analyses is an integral part of the scope of work decision. This decision cannot be made competently without understanding how the "conditions" in a market value definition work together with the other factors identified in compliance with Standards Rule 1-2 to determine what kind of data are relevant and which types of analyses are applicable and necessary in the assignment.

General Comment on Market Value Definitions

Market value appraisals are distinct from appraisals using other types of value because market value appraisals are based on a market perspective and on a normal or typical premise. These criteria are illustrated in the following definition of *Market Value**, provided here only as an example.

> **"Market value** means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
>
> 1. buyer and seller are typically motivated;
> 2. both parties are well informed or well advised and acting in what they consider their own best interests;
> 3. a reasonable time is allowed for exposure in the open market;
> 4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
> 5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

* This example definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the *Interagency Appraisal and Evaluation Guidelines*, dated October 27, 1994.

The market perspective replaces a user's (e.g., buyer, seller, lender, agent, etc.) perspective that might apply in other appraisals, such as for investment value or insurable value. This market perspective directly affects the scope of work necessary to develop credible opinions and conclusions in market value appraisals. The public's expectation that a market value appraisal reflects only the perspective of the marketplace, and is not affected by such other criteria as an intended user's objectives, is important. Meeting this expectation serves to foster and

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promote public trust in professional appraisal practice, a fundamental purpose of the *Uniform Standards of Professional Appraisal Practice* and one that applies to all work performed under USPAP.

A market value appraisal is also based on whatever the "normal" or "typical" conditions are in the marketplace for the property appraised in a time frame that is consistent with the date of value in the appraisal. If the definition of value used in an appraisal contains criteria that are different from those that are "normal" or "typical," the use of the term "Market Value," alone, to characterize the assignment result is not appropriate. For example, a value opinion developed to reflect the most probable price in a sale under forced conditions is a forced-sale value and not consistent with the "normal" or "typical" premise to be reflected in a market value appraisal.

Importance of Identifying the Specific Definition of Market Value—The definition of the value to be developed in an appraisal establishes specific conditions. These conditions impose parameters on the appraisal assignment that are necessary to ensure that the results of the assignment are meaningful in the context of that definition of value.

There are many definitions of value, some of which are market value definitions. Other definitions of value appear to be related to market value but are not called market value. For example, it is common practice in appraisals for intended use in employee relocation assignments to use a value definition based on "anticipated sales price" rather than "market value." The "anticipated sales price" definition contains very specific marketing, property condition, and terms of sale requirements that replace normal or typical market conditions. Thus, while the development process under the specific conditions may appear similar to market value assignments, the result is a value to the property user—the relocation company—under that client's specific criteria and is not market value.

Importance of Identifying the Source of a Market Value Definition—Definitions of market value from different sources contain different conditions. Those differences can directly affect the scope of work that is necessary to develop credible assignment results. Each definition is unique, with authority only in a specific jurisdiction or to a specific client group. Therefore, identification of the source for the definition of value to be applied in an assignment is essential.

The source must be consistent with the jurisdiction having authority over the transaction in which the appraisal is to be used. For example, using a definition of market value other than the definition specified in regulations published pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) may invalidate that appraisal for use in a federally related transaction. Likewise, if an appraisal is prepared for use in litigation, using a definition of value other than the definition specified by the court having jurisdiction over the matter being litigated may disqualify that appraisal for use in that court.

How the "Conditions" in a Market Value Definition Affect the Scope of Work Decision

Market Value is defined in USPAP as a general concept. But in an appraisal assignment, *Market Value* is defined by a specific jurisdiction (e.g., a court, a regulatory body or public agency with legal authority), or by a client group (e.g., Fannie Mae or Freddie Mac).

In a market value appraisal, the appraiser's conclusions about how best to analyze the market and what data are necessary for the development of credible results must be consistent with the conditions set forth in the specific definition of market value applicable in the assignment. The definition of *market value* included in this Advisory Opinion as an example illustrates the type of conditions that might be part of a specific market value definition used in an assignment.

Market value always presumes the transfer of a property as of a certain date, under specific conditions. The "Conditions" stated in market value definitions generally fall into three categories:

1. the relationship, knowledge, and motivation of the parties (i.e., seller and buyer);

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2. the terms of sale (e.g., cash, cash equivalent, or other terms); and
3. the conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale).

Market value appraisals focus on understanding how buyers and sellers are most likely to respond to a subject property under the conditions stated in a specific value definition. Not all market value definitions contain the same conditions, though most contain a common subset of elements. Experienced appraisers understand the nuances in the various definitions and develop their assignments using data and analyses that match the conditions required by the specific definition used in an appraisal.

The "knowledge" referred to in a market value definition is knowledge about the property appraised, about the market for that property, and about alternatives available in the marketplace that the appraiser concludes are reasonable competition for the property appraised.[1]

An appraiser is expected to be at least as knowledgeable as the typical market participant is about the market for the type of property to be appraised. By completing research and verification steps while performing the assignment, the appraiser is expected to become as knowledgeable about the subject property and its comparables as the typical market participants.

Knowledge of the Subject Property—Of the three areas typical market participants are presumed to be knowledgeable about (subject, market, and competition), the first area that the appraiser must address is knowledge of the subject property, which is accomplished by gathering and verifying information about the subject property. This action step may or may not require a personal inspection.

In a market value assignment, the relevant characteristics (SR 1-2(e)) are those that have a significant impact on the property's marketability. These features include legal, economic and physical characteristics. The decision as to which characteristics are relevant cannot be made without knowledge of the market in which the property is sold. This is why competency in appraising a specific type of property and knowledge of the subject property's market are essential in an assignment.

Knowing the property's relevant characteristics also provides the basis for deciding the applicability of an approach to value.

Knowledge of the Market—The scope of work necessary to ensure an adequate knowledge of the market for the subject property may range from very little (in addition to what the appraiser already knows) to extensive new research. If the subject property is of a type frequently appraised and in a locality where the appraiser regularly provides services, there may be little need for extensive market research beyond confirmation that the data available for analysis is current, adequate, relevant, and credible.

However, if the property involved is not of a type regularly appraised by the appraiser or if the market area is not familiar to the appraiser, the extent of research needs to be sufficient for the appraiser to acquire competency. As stated in the COMPETENCY RULE, this can be achieved in several ways (self-study, association with a locally knowledgeable and competent appraiser, etc.).

The critically important aspect of this factor in the scope of work decision is to recognize when additional research is necessary. A competent, professional appraiser will not assume knowledge merely for the sake of convenience. Even though the appraiser might be actively involved in appraising a particular type of property in a given locality, self-imposed professional discipline will prompt that individual to ensure that the scope of work includes verification that the market data used in the analyses is credible, relevant, appropriate, adequate, and as current as possible.

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[1] See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*.

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This is consistent with the requirement stated in SR 1-1(b), which is designed to ensure that the scope of work completed in an appraisal is sufficient to produce credible opinions and conclusions, given the intended use of the appraisal.

Knowledge of Alternatives—An understanding of market behavior requires a scope of work that includes research and analyses that is sufficient to ensure competent knowledge of the supply and demand relationships that are relevant to the time frame and the type of property involved in the appraisal. In a market value appraisal, this means gathering, verifying, and evaluating data about sales, listings, and failed efforts to sell "competitive" property, as well as more generalized market data.

Conditions of Sale—A market value appraisal requires research and analysis of market data sufficient to develop a reasonable opinion of exposure time (see the Comment to SR 1-2(c) and Statement on Appraisal Standards No. 6 with the property marketed in whatever manner is typical for that type of property in its locality. An appraiser working in different market areas should guard against presuming that a marketing process common in one area is typical in all areas. For example, in some markets, property is customarily sold through an auction arrangement, while in others professional brokerage is the norm, and in still others so called "for sale by owner" is the typical process. Each process, in a given time period and locality for the type of property involved, can be "normal." The identification of the marketing process and exposure time requires an understanding of the subject's market.

Market value definitions imply a sale of the property wherein the buyer and seller are "typically motivated." This condition requires that the level of research in a market value assignment is sufficient to understand the motivations of the buyers and sellers for the sales used in the approaches to value. The motivations that lead to a sale play a critical role in establishing the relevancy or irrelevancy of a sale as a comparable one in an assignment.

Analysis of sales data can yield numeric results, but the numbers lack real meaning without an understanding of the market conditions that generated the sales involved. Without an understanding of what the market conditions were at the time of a sale, as well as the conditions of a particular sale, an appraiser cannot reasonably conclude that the sale price, or any element of comparison based on that price, is a reliable indicator of market value.

Subject's Marketing and Sale History, and Reconciliation

The appraiser's scope of work decision in a market value appraisal needs to recognize the research and analyses steps that are necessary to comply with the requirements stated in SR 1-5 and SR 1-6. Those requirements have two objectives, both of which are especially important in a market value appraisal.

The first is to ensure that the appraiser makes the effort to obtain relevant information about current and recent market activity involving the subject property (SR 1-5(a) and (b)). This due diligence effort is consistent with the requirement stated in Standards Rule 1-1(b). It also serves as a safeguard against confusing the price in a contract (agreement of sale or option) or an offering with market value and as a safeguard against the appraiser being inadvertently involved in an effort to conceal the facts in regard to one or more recent sale transactions.

The second is to ensure that the appraiser reconciles the indications of value resulting from the various approaches utilized to arrive at the value conclusion (SR 1-6).

SUMMARY

The scope of work decision is a critical step in any appraisal. That decision must result in a match between the extent of the research and analyses completed in an assignment with the conditions specified in the definition of value used in that assignment.

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In a market value appraisal, the appraiser's scope of work decision carries a burden of proof to support the appraiser's conclusion about how he or she addresses each "condition" in the market value definition used in the appraisal. The definition includes conditions that often require a high degree of knowledge, competency, and judgment, which are necessary to effectively develop the appraisal process. An appraiser cannot meet his or her obligations in a market value assignment without having competently identified and then completed a scope of work that enables development of credible opinions and conclusions.

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ADVISORY OPINION 23 (AO-23)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment

APPLICATION: Real Property

THE ISSUE:

How does an appraiser determine which characteristics of a real property are relevant to its appraisal?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- DEFINITIONS, specifically the definitions of
  Appraisal: *(noun) the act or process of developing an opinion of value; an opinion of value.*
  …
  Comment: An appraisal must be numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).
  Assignment: *a valuation service provided as a consequence of an agreement between an appraiser and a client.*
  Real Estate: *an identified parcel or tract of land, including improvements if any.*
  Real Property: *the interests, benefits, and rights inherent in the ownership of real estate.*
  Value: *the monetary relationship between properties and those who buy, sell, or use those properties.*
  Comment: Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value. In appraisal practice, value must always be qualified for example, market value, liquidation value, investment value.
- Standards Rule 1-2(e): *An appraiser must identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
  (i) its location and physical, legal, and economic attributes;
  (ii) the real property interest to be valued;
  (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
  (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and
  (v) whether the subject property is a fractional interest, physical segment, or partial holding.

The Subject of a Real Property Appraisal Assignment

The subject of a real property appraisal has both physical and legal characteristics. In combination, these characteristics define the subject property and, together with the type and definition of value and intended use of the assignment results, provide the basis for deciding what data and analyses should be included in the scope of work.

Appraisers and property owners often discuss a subject property in physical terms, such as *my home*, *the residence*, *my land*, or *the building*. However, a physical object, alone, is not what is being appraised.

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Taken together, the definitions of *real* and *real estate* provided in USPAP require that the subject of a real property appraisal is a specific ownership of a right (or rights) in identified real estate.

The right or rights might be owned in part, as a fractional interest, or in full. Further, real estate can take many forms, such as land, land and improvements, improvements without the underlying land, or an infinite variety that involve one or more of the physical aspects of real estate. Alternatively, a type of property, such as Class A Office Space, does not signify specific ownership rights in identifiable real estate. Consequently, surveys or studies relating to a class of property do not constitute the "subject" of a real property appraisal under STANDARD 1. In such situations, the service provided by completing the survey or study is not an appraisal assignment because there is no "subject property."

Understanding these different characteristics is essential for correct identification of the subject of a real property appraisal and for determining which characteristics of the property are relevant in the assignment.

How the Characteristics of the Subject Affect the Scope of Work Decision

As discussed above, real property can have many different characteristics, each of which can significantly affect the scope of work in an assignment. Consider the following illustrations:

1. The subject is the fee simple interest owned in a single-family residence situated on an improved site. These components (the land, the improvements, and the ownership) are, together, the subject property of the appraisal assignment. In this assignment the appraiser is developing and reporting a market value opinion.

   The scope of work in this assignment should include gathering data about the characteristics of the subject that are significant in the market for this type of property under its highest and best use. Given the characteristics of the subject property, the analysis should include sales of other properties held in fee simple ownership situated in the subject's market area that are similar to the subject in as many other respects as possible.

2. If all of the same characteristics of the property in Illustration No. 1 apply, except that the land is a leased site, the subject property becomes:

   - leasehold interest, if the intended user needs to know the value of the rights in the real estate owned by the lessee in the lease, or
   - leased fee interest, if the intended user needs to know the value of the rights in the real estate owned by the lessor in the lease.

   Note that the subject real estate (physical asset) was the same, but the ownership interest of the subject changed. The impact of this change on the scope of work and on the relevant data in each assignment is significant. For example, in a market value appraisal:

   - If the subject property is the leasehold interest, the relevant analysis should include sales of leasehold interest properties that are as similar to the subject as possible, both physically and in terms of its lease (cash flow) characteristics.
   - If the subject is the leased fee interest, the relevant data should include sales of leased fee interest properties with similar physical and cash flow characteristics. The subject lease terms determine whether the improvements' characteristics are significant in this type of assignment. If the lease ends before the improvements reach the end of their economic life, the improvements' characteristics can be important to the appraisal problem. If the tenant must remove the improvements upon termination of the lease, the improvements' characteristics likely have little significance in the assignment.

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3. Next, assume the same subject property characteristics as in Illustration No. 1 but change the ownership to an undivided one-third interest in the fee simple title. The scope of work in this Illustration is significantly different than that in either Illustration No. 1 or No. 2. (See the Comment to Standards Rule 1-4(e)).

   If available, the most relevant analysis would be of sales of similar fractional interests in similar real estate. In the absence of such sales, the research might extend to secondary sources or other less direct analyses to develop, test, and support the fractional interest value conclusion.

4. A prospective client is considering a loan secured by a portfolio of properties owned in fee simple by a loan applicant. The real property offered as loan security is an ownership, held by one party, of several nearly identical properties in different locations.

   In this situation, the appraiser must pay particular attention to the intended use of the assignment results and how that use affects the property configuration that will be relevant in the analyses. This is essential because assignment results must be meaningful to the client and analyses of the market for the subject must reflect the intended use.

   If the client intends to use the appraisal to secure a single loan secured with all of the properties held by the client's loan applicant, the subject property is the entire holding (i.e., the portfolio). In this situation, the appraiser must include research and analyses to address the impact of all of the subject's individual parts appearing in the market at the same time, to be sold by one owner to one buyer. The intended use drives this configuration of the subject's characteristics.

   Alternatively, if the same client intended to use the appraisal to secure one loan under loan conditions that would allow each property in the holding to be released (sold) on its own, the assignment is actually for several appraisals communicated in one report or possibly in several reports. In this configuration, each individual property is a subject property to be sold by one seller in the same time frame to (potentially) different buyers. The analyses must still address the potential impact, if any, of having all of the properties in the loan applicant's portfolio on the market at one time but without the necessity of selling to one buyer in one transaction.

   The intended use of the assignment results alters the characteristics of the subject that are relevant to the appraisal and clearly alters the appropriate scope of work. In the first instance, the relevant data about the subject and about its market must reflect the subject's characteristics as a property portfolio rather than as an individual property within a community. In the latter case, the relevant data must address the relevant characteristics and market conditions for each individual property. Analyzing a portfolio of properties as if each property were a separate element or increment of value when the subject of the assignment is the portfolio fails to recognize distinct differences between the markets for individual properties and portfolios. Specifically, the value of the subject, as a portfolio, is not necessarily the sum of the values for each of the properties in that portfolio; it could be less or it could be more.

5. A prospective client finances real estate development projects and requests an appraisal for use in a single-family residential tract development financing package. The client needs an opinion of value for the project and values for each of four individual floor plans as if each was a finished property on a typical or so-called "base" lot within the development. The project involves acquisition of finished sites and the construction and sale of finished homes in phases over a period of years. All of the values are to be market value and the effective date of value is to be a current date, all for the intended use of securing the development loan and the take-out loan commitment.

   It is important to recognize that in this illustration the assignment actually involves five properties: the entire project plus each of the four floor plans. In this case, the subject that is the project includes the land and the entitlements that allow development of the residential tract on the land. Each of the four floor plans becomes a subject under the hypothetical condition that the finished home on the typical or base lot actually

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exists as a finished property as of a current date of value. The appraiser must then develop and report five appraisals of five different subject properties.

For the development loan, the subject's relevant characteristics are those of the project, not the homes, and the scope of work to analyze the market for the project must address the entire project's characteristics.

For each take-out loan, the relevant subject property is an individual finished home, not the project, and the summation of the value for those individual homes is not meaningful in terms of the value of the project. Indeed, summation of the value of the individual homes to indicate the market value of the project is incorrect development, and reporting such a summation as market value of the project is misleading.

The scope of work necessary to analyze the market for an individual home as a subject property is significantly different from that necessary to analyze the market for the project as a subject property.

SUMMARY

Identifying the relevant subject property characteristics, together with the other information gathered in response to Standards Rule 1-2, enables an appraiser to make a sound scope of work decision.

Accepting a prospective assignment on the basis of incomplete information can result in a significant mismatch between the scope of work and the valuation problem to be solved in the appraisal assignment. The lack of clear communication with the client before deciding to accept or forego an assignment can lead to an excessive or deficient scope of work. When the scope of work is excessive, appraisers might unnecessarily forego valuation service opportunities. When the scope of work is inadequate or the subject property characteristics are not appropriately analyzed given the intended use of the assignment results, the results are not likely to be credible or meaningful.

An appraiser should, by communicating with a prospective client, gather information about the type and definition of value, the intended use, and the effective date of the appraisal, as well as characteristics of the subject of a real property appraisal assignment, before deciding which characteristics are relevant and the appropriate scope of work.

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ADVISORY OPINION 24 (AO-24)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Normal Course of Business

APPLICATION: Real Property, Personal Property

THE ISSUE:

Standards Rules 1-5 and 7-5 require an appraiser to analyze certain information about the subject property if the information is *available to the appraiser in the normal course of business.* How does one determine the "normal course of business" for a given assignment?

BACKGROUND:

The analysis that is required in SR 1-5 and SR 7-5 promotes a certain degree of due diligence on the part of the appraiser. Appropriate due diligence increases public trust in the appraisal profession. The intent is to ensure that the research of past sales and current listings, options, or agreements of sale of the subject property is sufficient to promote public trust, without creating undue hardship on the appraiser.

The availability of the data necessary to comply with the requirements in SR 1-5 and SR 7-5 varies greatly. In some situations, this data is available from multiple sources. In other instances, sales and listing data is not readily available.

The "normal course of business" is controlled to a large degree by the scope of work in a specific assignment. Differences in intended use, intended users, the type and definition of value, or other factors can dramatically alter the scope of work. Therefore, the "normal course of business" for one assignment might not be the "normal course of business" for a seemingly similar assignment.

ADVICE FROM THE ASB ON THE ISSUE:

<u>Relevant USPAP & Advisory References</u>

- The following USPAP references are applicable when ascertaining the "normal course of business" in an assignment:
  — Standards Rules 1-2(h) and 7-2(h)
  — Standards Rules 1-5 and 7-5
- For additional advice, refer to Advisory Opinion 1, *Sales History*

<u>General Comments</u>

The "normal course of business" is determined by the actions of an appraiser's peers and by the expectations of parties who are regularly intended users for similar assignments; it is not any one appraiser's practices or any one appraisal firm's policies.

To fully understand this concept one must examine the definitions of "Scope of Work" and "Appraiser's Peers."

"Scope of Work" is addressed in the SCOPE OF WORK RULE, Standards Rules 1-2(h) and 7-2(h), and is defined in USPAP as:

> *the type and extent of research and analyses in an assignment*

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Researching the subject's sales history is an aspect of the scope of work. The Comment to the Scope of Work Acceptability section in the SCOPE OF WORK RULE states:

> *The scope of work is acceptable when it meets or exceeds:*
>
> - *the expectations of parties who are regularly intended users for similar assignments; and*
> - *what an appraiser's peers' actions would be in performing the same or a similar assignment.*

Therefore, it is not the work habits of an individual appraiser that define the "normal course of business" in an assignment. Rather, it is the requirements of the Standards Rules measured against the actions of the appraiser's peers and the expectations of parties who are regularly intended users for similar assignments.

"Appraisers Peers" is defined as:

> *other appraisers who have expertise and competency in a similar type of assignment.*

In addition to the concept of "normal course of business" in an assignment, an appraiser has the obligation to perform research and analysis appropriate to the intended use of the assignment. Standards Rules 1-1(b) and 7-1(b) state:

> *In developing a[n]…appraisal, an appraiser must:*
>
> *not commit a substantial error of omission or commission that significantly affects an appraisal…*

The Comments to these Standards Rules state, in part:

> *Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.*

Illustrations

1. A reviewer noted that a real property appraisal report did not include an analysis of a sale of the subject real property that had occurred six months prior to the effective date of the appraisal. The sale was reported in the local Multiple Listing Service (MLS), which is available to appraisers in the area and to which most area appraisers subscribe. When contacted about the matter, the appraiser stated that he did not subscribe to the MLS, and checking that data source was not within his normal course of business. Is this an appropriate response?

   Answer: No. The fact that the individual appraiser does not subscribe to this data source does not excuse the lack of analysis. Since most appraisers in the market area do subscribe, and informed market participants would be aware of this and expect this level of diligence, the appraiser's lack of research and analysis did not reflect the normal course of business in *this* market.

2. A real property appraiser is engaged to appraise a property that is located in a rural area. Sales prices are a matter of public record, but the records are not computerized, and personal analysis of the public records requires a trip to the municipal building and a great deal of time searching records. Local officials will not provide this information over the telephone. Most appraisers in the area analyze sales data by using information provided by a local on-line data provider and quarterly sales reports that are mailed out by the local jurisdiction. In this situation, what action is necessary by the appraiser to comply with the requirement to analyze the subject's sales history?

   Answer: In this case, the normal course of business is to use the information from the local data provider and the quarterly sales reports. If a trip to the municipal building does not reflect the typical actions of most other appraisers in this market for this property type, or the expectations of

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clients for this specific type of assignment, then it is not required as part of the research and analysis in this assignment.

3. A personal property appraiser is engaged to appraise a painting by a well-known artist for estate tax purposes. Neither the heirs nor the executor of the estate could locate the documentation for the purchase by the decedent, even though the painting had been bought less than six months before the appraisal was ordered. However, the sale was widely reported, both in newspapers and trade publications, since the painting had been purchased at public auction and at a price that set a new high for that artist's work. The appraiser used sales of other paintings by the same artist to support the final opinion of value, but not the recent sale of the subject property, stating in the report that the documentation was not available. Does this comply with the sales history requirements of Standards Rule 7-5?

Answer: No. This would not comply with the requirements of Standards Rule 7-5. Competent fine art appraisers would research relevant sections of newspapers and trade magazines and likely keep files or create databases of significant transactions. Therefore, this appraiser should have known at least the details of the sale that had been made public in the press.

4. During an appraisal assignment, the appraiser was informed by the owner that the subject property was listed for sale on a prominent Internet site. The appraiser did no additional research, and in the appraisal report indicated only that the property was listed for sale. Does this comply with the requirements of USPAP?

Answer: No. The appraiser must analyze the current listing and report the findings within the appraisal report. Since the listing was placed on the Internet, where it would be available to the general public, it would be available to the appraiser in the normal course of business.

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ADVISORY OPINION 25 (AO-25)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Clarification of the Client in a Federally Related Transaction

APPLICATION: Real Property

THE ISSUE:

The appraisal rules adopted by the Federal Financial Institutions Regulatory Agencies in August 1990 to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) impose a requirement on regulated institutions that "if an appraisal is prepared by a fee appraiser, the appraiser shall be directly engaged by the regulated institution or its agent……."[1]

In some cases, however, a property owner might directly engage the services of an appraiser for one intended use, but later desire to use the appraisal report in a federally related loan transaction. This and other similar scenarios lead to the question: "Does an appraiser have an obligation to ensure that his or her services are directly engaged by a federally regulated financial institution?"

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- DEFINITIONS, specifically those of "client," "intended user," and "intended use."
- The Confidentiality, Conduct, and Management sections of the ETHICS RULE.
- SCOPE OF WORK RULE, which requires an appraiser to determine an appropriate scope of work to produce credible assignment results including all assignment conditions.
- Standards Rules 1-2(a) and 1-2(b), which require an appraiser to identify the client, intended user, and intended use.
- Standards Rule 2-1(a), which requires an appraiser to clearly and accurately set forth the appraisal in a manner that is not misleading.
- Statement on Appraisal Standards No. 9, which addresses intended use and intended users in an assignment.
- Advisory Opinion 26 which covers readdressing (transferring) a report to another party.
- Advisory Opinion 27 which addresses appraising the same property for a new client.
- Advisory Opinion 30, *Appraisals for Use by a Federally Regulated Financial Institution*

Comments

USPAP requires an appraiser to identify the intended use and intended users in an appraisal assignment. USPAP also requires that an appraiser not be misleading in the marketing of their services (see Management section of the ETHICS RULE). Advisory Opinion 30 provides guidance on the applicability of federal regulations and USPAP obligations when performing appraisals for use by a federally regulated financial institution.

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[1] National Credit Union Administration – 2 CFR 722.5(b)
Federal Reserve System – 12 CFR 225.65(b)
Federal Deposit Insurance Corporation – 12 CFR 323.5(b)
Office of the Comptroller of the Currency – 12 CFR 34.45(b)
Office of Thrift Supervision – 12 CFR 564.5(b)

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In order to not be misleading when contacted by a prospective client the appraiser's obligation is one of proper disclosure. Before an appraiser accepts an assignment knowing the intended use of the appraisal is, or may be, for a federally related transaction by a federally regulated financial institution, it is that appraiser's responsibility to disclose to the prospective client that the lender or its agent is required to directly engage the appraiser. The appraiser should also disclose to the prospective client that it is unethical for the appraiser to later "readdress" or otherwise change the report to indicate a federally regulated financial institution was the client when the appraisal was performed for another party (see AO-26 titled *Readdressing [Transferring] a Report to Another Party* and AO-27, titled *Appraising the Same Property for Another Client* for related advice on this issue).

If the client still wishes to proceed with the appraisal after the appraiser has properly fulfilled these disclosure obligations, the appraiser can accept the assignment. It would be prudent to recite disclosures in the engagement letter and in the report. (Also refer to SMT-9 for additional information relating to intended use and intended users).

Illustrations:

1. Homeowner Susan Daly contacts appraiser John Hunt to perform an appraisal of her residence. She is considering refinancing and wants to determine the amount of equity in the residence before completing a loan application. Assuming the refinancing would be a federally related transaction at a federally regulated financial institution, what is John's responsibility to this potential client?

   Answer: Before John accepts this assignment, it is his responsibility to disclose to Susan that a lender or its agent is required to directly engage the services of an appraiser in a federally related transaction and should not accept his appraisal report. If Susan still wants to engage John, his disclosure allows him to accept the assignment.

2. A buyer of a commercial building contacts appraiser Jane Johnson about appraising the property for financing. The buyer explains that he will likely be providing the report to an insurance company that is interested in financing the property. The insurance company has no problem with the buyer being the client, as long as the insurance company is identified as an intended user in this assignment. However, the buyer says that he may also make application to his local bank, a federally regulated financial institution. Can Jane accept this assignment? If so, does she have any disclosure obligations?

   Answer: Jane has an obligation to disclose to the buyer that the federally regulated financial institution should not accept her appraisal report because a lender or its agent is required to directly engage the services of an appraiser in a federally related transaction. If the buyer still wants to engage Jane, her disclosure allows her to accept the assignment.

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ADVISORY OPINION 26 (AO-26)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Readdressing (Transferring) a Report to Another Party

APPLICATION: Real Property, Personal Property, and Intangible Property

THE ISSUE:

After an assignment has been completed and the report has been delivered, an appraiser may be asked to "readdress" (transfer) the report to another party. Does USPAP allow an appraiser to "readdress" (transfer) a report by altering it to indicate a new recipient as the client or additional intended user when the original report was completed for another party?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

- The Confidentiality and Conduct sections of the ETHICS RULE.
- Standards Rules such as 1-2(a) and 1-2(b); 7-2(a) and 7-2(b); and 9-2(a), which require an appraiser to identify the client, intended users, and intended use.
- Standards Rules such as 2-1(a), 8-1(a), 10-1(a), which require an appraiser to clearly and accurately set forth the appraisal in a manner that is not misleading.
- SCOPE OF WORK RULE, which requires an appraiser to ascertain whether other laws or regulations apply to the assignment in addition to USPAP.
- Statement on Appraisal Standards No. 9, which requires the appraiser to identify and disclose the client and intended users and the intended use in an appraisal, appraisal review, or appraisal consulting assignment.
- Statement on Appraisal Standards No. 10, which describes applicability of USPAP in federally related transactions.
- Advisory Opinion 25, which covers clarification of the client in a federally related transaction.
- Advisory Opinion 27, which addresses appraising the same property for a new client.

Comments

No. Once a report has been prepared for a named client(s) and any other identified intended users and for an identified intended use, the appraiser cannot "readdress" (transfer) the report to another party.

USPAP defines the Client as:

> *The party or parties who engage an appraiser (by employment or contract)* ***in a specific assignment*** (Bold added for emphasis).

Assignment is defined as:

> *A valuation service provided as a* ***consequence of an agreement*** *between an appraiser and a client* (Bold added for emphasis).

Intended Use is defined as:

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> *the use or uses of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client* ***at the time of the assignment*** (Bold added for emphasis).

Intended User is defined as:

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client* ***at the time of the assignment*** (Bold added for emphasis).

Identification of the client, any other intended users, and the intended use are key elements in all assignments. Because these identifications drive the appraiser's scope of work decision, as well as other elements of the assignment, they must be determined **at the time of the assignment**. They cannot be modified after an assignment has been completed. See Statement on Appraisal Standards No. 9 for further clarification.

Illustrations:

Question #1

An appraiser was engaged by Client A to appraise a property. The appraiser delivered the appraisal report to Client A. The client has decided not to pursue the transaction that generated the need for the appraisal report. The appraiser is contacted by Client B. Client B requests that the original report be readdressed (transferred) by replacing Client A's name with Client B's name in the report. Is this acceptable?

Answer: No. Simply changing the client name on the report cannot change or replace the original appraiser-client relationship that was established with Client A. Therefore, this action is misleading.

Question #2

How can this circumstance be handled according to Standards?

Answer: The appraiser can consider Client B's request as a new assignment. In so doing, the appraiser may establish a new appraiser-client relationship with Client B and appraise the property for this new client. Important considerations, i.e., confidential information and other factors are further addressed in AO-27 – "Appraising the Same Property for a New Client".

Question #3

Why might Client B want their name on the report that was completed for Client A?

Answer: Client B may want to establish an appraiser-client relationship because it provides all the rights, obligations, and liabilities such a relationship places on the appraiser.

A prudent method to establish an appraiser-client relationship is to have a written engagement letter or contract with any client at the time of the assignment.

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ADVISORY OPINION 27 (AO-27)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Appraising the Same Property for a New Client

APPLICATION: Real Property, Personal Property, and Intangible Property

THE ISSUE:

Situations often arise in which appraisers who have previously appraised a property are asked by a different party to appraise the same property. In some instances this request arises very soon after the first appraisal; in others, it may be months or years later. Under what circumstances can an appraiser accept an assignment to appraise a property for a prospective client when that appraiser has previously completed an appraisal of the same property for another client?

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References:

- Confidentiality section of the ETHICS RULE.
- Statement on Appraisal Standards No. 9, which addresses intended use and intended users in an assignment.
- Advisory Opinion 25 which covers clarification of the client in a federally related transaction.
- Advisory Opinion 26 which addresses reappraising/transferring a report to another party.

Comments:

Accepting the assignment from the second potential client is not prohibited by USPAP, assuming any existing confidential information is handled properly.

Several parts of the Confidentiality section of the ETHICS RULE are pertinent to this matter.

> *An appraiser must not disclose . . . assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client . . .*

An appraiser cannot disclose the results of a particular assignment, performed for a particular client, to anyone other than those designated by that client. However, an understanding of the definitions of *assignment*, *assignment results*, and *client* are key to a complete understanding of this requirement.

> Assignment – *a valuation service provided as a consequence of an agreement between an appraiser and a client*
>
> Client – *the party or parties who engage an appraiser (by employment or contract) in a specific assignment*
>
> Assignment Results – *an appraiser's opinions and conclusions developed specific to an assignment*

As can be seen in the definitions, both the client and the assignment results are specific to an assignment. If there is a new potential client, valuation services performed for that new client would constitute a new assignment and the assignment results would be specific to that new assignment. Therefore, acceptance and performance of the new assignment to appraise the same property would not be considered revealing the first

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client's assignment results to the second client, even if the value conclusions were the same. It should be noted that the value conclusion could easily be different if the effective date or the scope of work changed in any manner. It should also be noted that USPAP requires the appraiser to provide an unbiased opinion of value to each client.

Obtaining a Release:

As a matter of business practice, some appraisers request a release from a prior client before accepting an assignment to appraise the same property for a new client or to disclose the assignment for the second client to the first client. However, USPAP does not require this. Also, appraisers should be aware that, in some cases, informing a client about the existence of another client and the fact that the property was appraised for that other client may not be compliant with the portion of the Confidentiality section of the ETHICS RULE, which states:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*

Confidential Information:

In all assignments the appraiser must comply with the Confidentiality section of the ETHICS RULE with respect to the handling of confidential information. Confidential information is defined in USPAP as:

> *information that is either*
> - *identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
> - *classified as confidential or private by applicable law or regulation*

The Confidentiality section of the ETHICS RULE states:

> *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*
>
> *An appraiser must not disclose confidential information . . . . to anyone other than the client and persons specifically authorized by the client . . .*

If a prior assignment included any confidential information, its disclosure to a different client or intended user would violate the ETHICS RULE if the information were still classified as confidential information. This includes the requirement to comply with all confidentiality and privacy laws and regulations.

Client Expectations:

At times, an appraiser's client may believe that his or her legitimate business intent could be harmed by that appraiser providing an appraisal of the subject property of that assignment to another client. In such cases, the client and the appraiser may stipulate in their service agreement the conditions under which the appraiser may or may not appraise the same subject property. A client involved in litigation may stipulate that the appraiser cannot appraise a subject property for the opposing party in that litigation. As another example, if an appraiser is providing the value of a property to a client who is planning to sell that property in an auction, the appraiser and client may agree that the appraiser will not appraise the same property for a party planning to participate in the bidding process.

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Illustrations:

Example A – Litigation

An appraiser performs an appraisal for a client involved in litigation and then is requested to appraise the same property for the opposing party. Is accepting the assignment for the second client prohibited by USPAP?

No, assuming confidential information is handled correctly. However, there are common business practices in such circumstances. Often, the opposing parties each hire an appraiser to appraise the subject property. If the opposing parties do not plan to hire one appraiser jointly, each party could make it a part of the agreement between the appraiser and the client (the engagement letter or contract) that the appraiser is not to appraise the property for anyone representing the opposing side of the legal action.

In the absence of such an agreement between the client and the appraiser, the appraiser should consider the presence of confidential information. The knowledge of confidential information may prevent the appraiser from accepting the second assignment. The appraiser must decline the second assignment if:

1) the appraiser used confidential information in performing the first assignment;

2) that information would not be available from any other source; and

3) credible results cannot be derived without the use of this confidential information.

However, the appraiser may accept the second assignment, making sure to not disclose any confidential information from the original assignment to the second client, if

1) the information is available from another source (meaning it is not *confidential information*, as defined); or

2) the *confidential information* is not material to deriving credible assignment results.

However, the appraiser must ensure that confidential information is not disclosed, even if it has no impact on the assignment results (such as the litigation strategy of attorneys representing the first client).

Example B – Competing Banks

If an appraiser has appraised a property for Bank A and then is approached by Bank B to appraise the same property, does USPAP prohibit acceptance of the second assignment?

No, assuming confidential information is handled correctly. This constitutes a second assignment, a new client and a new agreement between a client and an appraiser.

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ADVISORY OPINION 28 (AO-28)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Scope of Work Decision, Performance, and Disclosure

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

The SCOPE OF WORK RULE states:

> *For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:*
>
> 1. *identify the problem to be solved;*
> 2. *determine and perform the scope of work necessary to develop credible assignment results; and*
> 3. *disclose the scope of work in the report.*

How are the requirements in the SCOPE OF WORK RULE incorporated into the process of developing and reporting assignment results?

ADVICE FROM THE ASB ON THE ISSUE

<u>Problem Identification</u>

Problem identification is the beginning point of every assignment. The appraiser must gather and analyze the information needed to properly recognize the appraisal, appraisal review, or appraisal consulting problem to be solved. The information necessary for problem identification is presented in each Standard that addresses the development process for an appraisal, appraisal review, or appraisal consulting assignment. For example, Standards Rules 1-2, 6-2, 7-2 and 9-2 provide the assignment elements that must be defined and analyzed in order to identify the problem to be solved in an appraisal assignment. These assignment elements include the:

- client and any other intended users;
- intended use of the appraiser's opinions and conclusions;
- type and definition of value;
- effective date of the appraiser's opinions and conclusions;
- subject of the assignment and its relevant characteristics; and
- assignment conditions.

Identifying the problem to be solved is required in order to make critical judgments in determining the appropriate scope of work. Therefore, the assignment elements necessary for problem identification in an appraisal, appraisal review, or appraisal consulting assignment also serve as reference points in determining whether the scope of work performed was appropriate to provide credible assignment results.[1]

Additionally, proper identification of the problem to be solved is required for compliance with the COMPETENCY RULE, which states:

[1] See Advisory Opinion 29, *An Acceptable Scope of Work.*

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> *Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must* ***properly identify the problem to be addressed*** *and* ***have the knowledge and experience to complete the assignment competently****; or alternatively, must…* (Bold added for emphasis).

One of the assignment elements that affects the scope of work is assignment conditions. Some assignment conditions are not a matter of choice, such as an inability to inspect a property because it has been destroyed. Other assignment conditions are a matter of choice, such as a client's request to perform a desktop appraisal of machinery and equipment to reduce fees.

Determining and Performing the Scope of Work

USPAP recognizes that the appropriate scope of work may differ significantly for different assignments; the SCOPE OF WORK RULE provides flexibility in determining the scope of work. The competency necessary to determine an appropriate scope of work within the allowed flexibility resides with the appraiser. Therefore, while it is common and reasonable for the client to provide input to the appraiser regarding a desired scope of work, the responsibility for determining the appropriate scope of work resides with the appraiser.

The flexibility and responsibility are linked in the SCOPE OF WORK RULE when it states:

> *Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal, appraisal review, and appraisal consulting assignment.*

This responsibility is described when the SCOPE OF WORK RULE states:

> *The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.*

The client, for example, might request that the appraiser include, or exclude, specific inspections, data collection, or analysis in the scope of work. The appraiser may accept an assignment with these types of assignment conditions provided that the assignment results are credible in the context of the intended use. The SCOPE OF WORK RULE addresses this issue in the Scope of Work Acceptability section:

> *An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.*

> *An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.*

Determining the appropriate scope of work requires judgment. This judgment rests on the appraiser's identification of the assignment elements and understanding of what is required to solve the identified problem. In many assignments, experienced appraisers are able to make this judgment about the appropriate scope of work quickly because they have performed many assignments addressing a similar problem to be solved (assignment with similar assignment elements). In other assignments, the determination of the appropriate scope of work may require more analysis by the appraiser because the problem to be solved has certain unusual characteristics. In yet other assignments, the appraiser may begin with a planned scope of work but in the course of the assignment find that the planned scope of work must be modified in order to produce credible assignment results.

The SCOPE OF WORK RULE recognizes that the scope of work actually performed may differ from the scope of work initially planned, when it states:

> *Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.*

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Disclosing the Scope of Work Performed

The SCOPE OF WORK RULE explains that proper disclosure of the scope of work:

> *…is required because clients and other intended users rely on the assignment results.*

The Rule also states that:

> *The report must contain sufficient information to allow intended users to understand the scope of work performed.*

An appraiser must disclose research and analyses not performed when such disclosure is necessary for intended users to understand the report properly and not be misled.

These disclosure requirements apply to the scope of work performed, rather than the scope of work initially planned by the appraiser. The appraiser must disclose the type and extent of research and analyses that were actually completed in the development process. Additionally, the information required to allow intended users to understand the scope of work may include disclosure of research and analyses not performed. There is no requirement for the scope of work description to be in a particular or separate section of the report.

Illustrations:

1. A real property appraiser is engaged to appraise the market value of a twelve-unit apartment building. The appraiser initially decided that the scope of work should include the inspection of two of each of the three unit types (studio, one- and two-bedroom). In the course of conducting the inspection, the property manager had a key for only one of the two-bedroom units; thus the appraiser was not able to inspect one of the two-bedroom units as planned.

   The scope of work, which includes the degree of inspection, was affected in this assignment because of lack of access. If the appraiser decides that she has sufficient information to produce credible assignment results, the appraiser can complete the appraisal based on the inspection completed. The report would include a description of the scope of work performed, stating that five units had been inspected.

2. A personal property appraiser was engaged to appraise four sets of china. The intended use of the report was for litigation regarding an estate. The client requested that all pieces of each set of china be inspected, since one cause of action claimed that several pieces were damaged.

   When the appraiser contacted the estate's administrator to arrange for inspection, he was told that one set of china was in storage and could not be retrieved until after the Court's deadline for the submission of expert reports.

   In this case, assignment conditions have changed the appraiser's scope of work. The appraiser may not have sufficient information to produce credible assignment results in the context of the intended use. The appraiser should consult with the client on the proper course of action. The appraiser may alter the scope of work to include the appraisal of only the three sets of china available for inspection or use an extraordinary assumption regarding the condition of the fourth set.

3. A business appraiser is appraising a closely held business enterprise with real property and personal property assets. In the course of the assignment, the appraiser's research indicates that the market for the company's product is declining and management's projections are not supported. Therefore, the appraiser believes the company might be worth more in liquidation than as a going concern, which would make performance of the work addressed in Standards Rule 9-3 necessary for credible assignment results.

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The scope of work must be modified because of what the appraiser learned in the course of performing research and analyses.

4. A real property appraiser is contacted by a potential client to appraise an occupied manufacturing facility. The client requests that the occupants not be disturbed by a property inspection. Additionally, the client requests that the cost approach be performed in the appraisal of the building. These requests are assignment conditions and will be part of the appraiser's identification of the problem to be solved and determination of the appropriate scope of work.

   Accepting and completing this assignment requires the appraiser to:

   - Determine that the client's assignment conditions do not limit the scope of work to such a degree that assignment results are not credible in the context of the intended use;
   - Gather information on relevant characteristics by means other than inspection and/or use extraordinary assumptions;
   - Include a cost approach in the scope of work, even if this approach is not otherwise necessary for credible assignment results; and
   - Properly reconcile the applicability or suitability of the cost approach in arriving at the value conclusion.

5. A real property appraiser accepted an assignment to appraise a three-unit residential property. The intended use of the appraisal was for mortgage financing. The client requested that the appraiser not verify the legal status (e.g., compliance with zoning, building codes, use permits) of the three units with municipal officials.

   The appraiser withdrew from the assignment because she concluded that the client's assignment condition limited the scope of work to such a degree that assignment results are not credible in the context of the intended use. The use of an extraordinary assumption about the legal use of the property would not produce credible assignment results in the context of the mortgage financing use.

6. An appraiser was engaged to appraise a one-unit residence. Based on the appraiser's identification of the appraisal problem, the appropriate scope of work was determined to include development of the sales comparison approach and cost approach. However, at the time of the inspection the appraiser discovered that the property was not a one-unit, but instead a three-unit property.

   Based on this new information, the appraiser re-considered the appraisal problem and the appropriate scope of work. The change in relevant property characteristics for the subject property significantly changes the appropriate scope of work; the initially planned scope of work is no longer suitable and would not produce credible assignment results. The type of data to be researched and the type of analysis to be applied changed when the property type changed from a single-unit to a three-unit.

   A new appraisal problem requires reexamination of the scope of work. The appropriate scope of work for the new appraisal problem includes an income approach, and the cost approach is not necessary for credible assignment results.

   The appraiser should consult with the client since the appraisal problem has changed.

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ADVISORY OPINION 29 (AO-29)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: An Acceptable Scope of Work

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

The SCOPE OF WORK RULE states that an appraiser's scope of work is acceptable when it meets or exceeds:

- *the expectations of parties who are regularly intended users for similar assignments; and*
- *what an appraiser's peers' actions would be in performing the same or a similar assignment.*

What makes an assignment similar?

Who are an appraiser's peers?

Must an acceptable scope of work satisfy both benchmarks?

ADVICE FROM THE ASB ON THE ISSUE

Similar Assignments

Assignment elements define and characterize the problem to be solved in appraisal, appraisal review, and appraisal consulting assignments. The assignment elements necessary for proper identification of the appraisal problem are addressed in the applicable Standards Rules (i.e., SR 1-2, SR 3-1, SR 4-2, SR 6-2, SR 7-2 and SR 9-2). The applicability of Standards Rules depends on the type of asset being appraised (real property, tangible personal property, or intangible property including business interests) and the type of assignment (appraisal, appraisal review, real property appraisal consulting).

Assignments are similar when the assignment elements used to identify the appraisal problem are comparable. Assignment elements include such things as the intended use, intended users, type and definition of value, effective date, relevant characteristics of the subject property, and assignment conditions.

The information gathered about the assignment elements is used by the appraiser to identify the problem to be solved and determine an acceptable scope of work. The greater the commonality among assignment elements, the more similarity there is between assignments.

An Appraiser's Peers

USPAP defines Appraiser's Peers as:

> *other appraisers who have expertise and competency in a similar type of assignment.*

To be an appraiser's peer for a particular assignment, one must have the competency to address the appraisal problem presented in that assignment. This includes the knowledge and experience to:

- properly identify the appraisal, appraisal review, or appraisal consulting problem to be solved;
- determine the type and extent of research and analyses to include in the development process; and
- perform the required research and analyses properly.

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Because assignments can require different types of expertise and competency, it is possible to be considered an appraiser's peer for some assignments, but not for others. Identifying an appraiser's peer is always done in the context of a particular assignment.

Within appraisal practice there are three disciplines (real property, tangible personal property, and intangible property including business interests), and within those disciplines there are many areas of specific expertise. An appraiser can have a focused area of expertise and competency or a wide variety of expertise and competency. Merely holding the same type or level of credential does not make one an appraiser's peer.

Determining if an individual is an appraiser's peer requires examining the individual's expertise regarding each of the elements that define the assignment. For example, solely having expertise in appraising the same type of property is not sufficient to make someone an appraiser's peer.

Application

The scope of work is acceptable when it leads to credible assignment results. The SCOPE OF WORK RULE establishes two benchmarks for measuring the acceptability of the scope of work, both of which need to be met. The scope of work is acceptable when it meets or exceeds **both** (1) the expectations of parties who are regularly intended users for similar assignments; and (2) what an appraiser's peers' actions would be in performing the same or a similar assignment. An acceptable scope of work must satisfy both benchmarks.

Illustrations:

1. An appraiser has been engaged to perform an "exterior only" appraisal of a single-family home for a potential home equity loan. Another appraiser has been asked to appraise a single-family home in the same development for an FHA loan. Since the subject properties are similar, would the assignments require the same scope of work?

   No. The subject of the assignment and its relevant characteristics is just one of several assignment elements that define an appraisal problem. Because of critical differences in the intended use and the appraisal problem to be solved, the scope of work that is acceptable for the first assignment would not be acceptable for the second assignment. For example, an appraisal performed for an FHA loan is subject to additional inspection requirements.

2. A state certified general appraiser is appraising a highly specialized industrial facility, and is concerned that the assignment is so complex that many appraisers who are knowledgeable about industrial property would not be qualified to judge whether or not the scope of work was appropriate. Who would be considered the appraiser's peers in this assignment?

   The appraiser's peers for this assignment would be other appraisers competent to complete a similar assignment. If special expertise is required, other state certified general appraisers without the required expertise and knowledge would not be the appraiser's peers for this assignment. Identifying appraisers with expertise and competency in appraising similar complex property types or unusual intended uses may require seeking appraisers from other geographic areas.

3. A business appraiser is engaged to value a 25% minority interest in the equity of a small privately held company for estate tax reporting purposes. The standard of value is fair market value as defined in the tax regulations. The engagement requires that a second appraiser, meeting the definition of an appraiser's peer, be retained to review the work and to opine on the value of the subject interest. Another appraiser is experienced in valuing companies in the same industry, but typically appraises them for purposes of sale, valuing 100% of the equity and has never performed appraisals of minority interests for estate tax reporting purposes. Is this other appraiser an appraiser's peer for this assignment?

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No. Part of problem identification for a business appraisal includes identification of the extent to which the subject interest contains elements of ownership control. Part of the appraisal process includes analyzing the effect on value, if any, of the extent to which the interest appraised contains elements of ownership control. Individuals who meet the definition of appraiser's peers would need to have expertise and competency in valuing minority interests. Additionally, the fact that the second appraiser has not performed appraisals for the same intended use could also render him or her to not be a peer in this assignment.

4. An appraiser has agreed to complete an assignment in the next two days. While conducting research, the appraiser discovers that the primary data source for the assignment, a regional computer database, is off-line and will not be available for three days. What is the appropriate course of action?

If an appraiser is unable to perform research that the appraiser's peers would conduct and intended users would expect, the appraiser must modify the assignment to allow time for the research to be conducted, or withdraw from the assignment.

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ADVISORY OPINION 30 (AO-30)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Appraisals for Use by a Federally Regulated Financial Institution

APPLICATION: Real Property

THE ISSUE:

In order to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the federal financial institutions regulatory agencies ("agencies")[1] of the United States have adopted appraisal regulations and guidelines. These laws, regulations and guidelines are established to protect federally insured depository institutions and include the requirement that appraisals be prepared in compliance with the *Uniform Standards of Professional Appraisal Practice* (USPAP).

What are an appraiser's obligations when performing a real property appraisal for use by a federally regulated financial institution?

ADVICE FROM THE ASB ON THE ISSUE

Recognition of Assignment Conditions

USPAP creates an obligation for appraisers to recognize and adhere to applicable assignment conditions. The appraiser's identification of the intended use and intended users drives the applicable assignment conditions. The relevant laws and agencies' appraisal regulations and guidelines are assignment conditions for real property appraisals for use by a federally regulated financial institution. These assignment conditions include, but are not limited to, the following:

- Laws, principally Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA);

- Regulations, primarily the following agency appraisal regulations:

  – Office of the Comptroller of the Currency (OCC) 12 CFR 34, Subpart C;
  – Federal Reserve Board (FRB) 12 CFR 225, Subpart G;
  – Federal Deposit Insurance Corporation (FDIC) 12 CFR 323;
  – Office of Thrift Supervision (OTS) 12 CFR 564; and
  – National Credit Union Administration (NCUA) 12 CFR 722.

- Guidelines provided in the agencies' bulletins and issuances, including documents such as:

  – *Interagency Appraisal and Evaluation Guidelines;*
  – *Independent Appraisal And Evaluation Function;*
  – *Frequently Asked Questions on Residential Tract Development Lending;*
  – *The 2006 Revisions to Uniform Standards of Professional Appraisal Practice;* and
  – *Frequently Asked Questions on the Appraisal Regulations and the Interagency Statement on Independent Appraisal and Evaluation Functions.*

[1] Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA)

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The guidelines identified in this Advisory Opinion are subject to change. Appraisers are cautioned to communicate with their client on the current guidance that is applicable in a given assignment. Reference can be made to the website of the applicable federal financial institutions regulatory agency for these documents and more information on current bulletins and applicable issuances. The website of The Appraisal Foundation (www.appraisalfoundation.org) also contains links to the agencies' documents.

USPAP Applicability

A client that is a federally regulated financial institution expects compliance with the applicable regulations and guidelines. An appraiser's obligations are established in the course of considering and accepting an assignment. Appraisers must recognize and adhere to assignment conditions that apply in an assignment to satisfy the following USPAP requirements:

1. The PREAMBLE requires that appraisers develop and communicate assignment results in a manner that is meaningful and not misleading.

2. The ETHICS RULE requires that appraisers perform assignments ethically and competently.

3. The COMPETENCY RULE requires appraisers to provide competent service, including the specific requirement to recognize and comply with applicable laws and regulations.

4. In developing assignment results, the SCOPE OF WORK RULE requires appraisers to determine, perform, and disclose the scope of work necessary to produce credible assignment results. Determining the appropriate scope of work requires identification of the problem to be solved, which includes identification of assignment conditions.

   The scope of work is acceptable when it meets or exceeds the expectations of parties who are regularly intended users for similar assignments. Upon accepting an assignment, an appraiser is obligated to competently satisfy the applicable assignment conditions.

5. Standards Rule 1-1(a) is an extension of the COMPETENCY RULE that specifically requires that *the appraiser be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*

6. Standards Rules 2-1(a) and 2-1(b) require that each written appraisal report (a) *clearly and accurately set forth the appraisal in a manner that will not be misleading;* and (b) *contain sufficient information to enable intended users of the appraisal to understand the report properly*.

7. STANDARD 2 also requires that report content be consistent with the intended use of the appraisal.

Use of the JURISDICTIONAL EXCEPTION RULE is not appropriate because none of the requirements in the agencies' appraisal laws and regulations are contrary to USPAP.

Appraisers must identify and consider the intended use and intended users in an assignment to understand their USPAP development and reporting obligations. The agencies' appraisal regulations and guidelines contain assignment conditions that are part of competent performance when they apply in an assignment. Therefore, compliance with USPAP requirements for proper development and reporting require adherence to those assignment conditions that apply in an assignment.

Failure to Adhere to Assignment Conditions

Failure to recognize and adhere to applicable assignment conditions violates one or more of the USPAP requirements previously identified.

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- An appraiser who represents that an assignment is or will be completed in compliance with applicable assignment conditions and who then knowingly fails to comply with those assignment conditions violates the ETHICS RULE.

- An appraiser who unintentionally fails to comply with or fails to recognize those assignment conditions violates the COMPETENCY RULE.

- An appraiser who fails to develop assignment results in accordance with the assignment conditions necessary for credible assignment results violates the SCOPE OF WORK RULE and STANDARD 1.

- An appraiser who fails to report assignment results in accordance with the assignment conditions that are necessary to enable intended users to understand the report properly violates STANDARD 2.

Obligations for Appraisers Performing Appraisals for Use by a Federally Regulated Financial Institution

Note: All quotations in this section are from the agencies' appraisal regulations.[2] The quoted text is only a portion of the complete regulations, and the applicable regulations should be reviewed in their entirety.

Appraiser Independence

The agencies' appraisal regulations state, in part:

> "If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an appraisal are involved in the lending, investment, or collection functions of the regulated institution, the regulated institution shall take appropriate steps to ensure that the appraisers exercise independent judgment. Such steps include, but are not limited to, prohibiting an individual from performing an appraisal in connection with federally related transactions in which the appraiser is otherwise involved and prohibiting directors and officers from participating in any vote or approval involving assets on which they performed an appraisal."
>
> "If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or the transaction."
>
> "A regulated institution also may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if:
>
> (i) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and
>
> (ii) The regulated institution determines that the appraisal conforms to the requirements of this subpart and is otherwise acceptable."

For more information on these requirements and related USPAP obligations, see Advisory Opinion 25, *Clarification of the Client in a Federally Related Transaction* and Advisory Opinion 26, *Readdressing (Transferring) a Report to Another Party*.

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[2] Office of the Comptroller of the Currency – 12 CFR 34.45(b), Federal Reserve Board – 12 CFR225.65(b), Federal Deposit Insurance Corporation – 12 CFR 323.5(b), Office of Thrift Supervision – 12 CFR 564.5(b), National Credit Union Administration - 12 CFR 722.5(b)

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Appraisal Development and Reporting

The agencies' appraisal regulations state, in part:

"For federally related transactions, all appraisals shall, at a minimum:

(a) Conform to generally accepted appraisal standards as evidenced by the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Ave., NW., Washington, DC 20005, unless principles of safe and sound banking require compliance with stricter standards;

(b) Be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction;

(c) Analyze and report appropriate deductions and discounts for proposed construction or renovation, partially leased buildings, nonmarket lease terms, and tract developments with unsold units;

(d) Be based upon the definition of market value as set forth in this subpart; and

(e) Be performed by State licensed or certified appraisers in accordance with requirements set forth in this subpart."

Market Value Definition

The agencies' appraisal regulations state, in part:

"*Market value* means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

<u>Commonly Asked Questions</u>

1. How do the assignment conditions that apply to appraisals for use by a federally regulated financial institution affect the appraiser's scope of work and report content?

   An appraiser accepting an assignment to be performed under the agencies' appraisal regulations and guidelines is obligated to complete that assignment in a manner that adheres to the applicable appraisal regulations and guidelines.

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2. What is a "real estate-related financial transaction"?

The term is defined in Title XI of FIRREA and the agencies' appraisal regulations as "any transaction involving —

(1) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities."

3. What is a "federally related transaction"?

The term is defined in Title XI of FIRREA as "any real estate-related financial transaction which —

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser."

The agencies' appraisal regulations define when the services of an appraiser are required. The agencies' appraisal regulations also list specific categories of transactions that do not require the services of an appraiser.

4. Do the agencies' appraisal regulations apply to FHA, VA, Fannie Mae, Freddie Mac, Farmer Mac, or Sallie Mae?

FHA, VA, Fannie Mae, Freddie Mac, Farmer Mac and Sallie Mae are not under the supervision of the federal financial institutions regulatory agencies and therefore are not subject to their appraisal regulations.

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ADVISORY OPINION 31 (AO-31)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Assignments Involving More than One Appraiser

APPLICATION: Real Property, Personal Property, Intangible Property

THE ISSUE:

What are the specific USPAP obligations when an appraisal, appraisal review or appraisal consulting assignment involves more than one appraiser?

BACKGROUND:

Many appraisal assignments involve participation by more than one appraiser. Typical scenarios include, but are not limited to:

- Two appraisers working together as equals on an assignment.
- A staff appraiser whose work is reviewed and/or directed by a more senior appraiser.
- A person who is being trained as an appraiser ("trainee") and requires supervision and direction by an appraiser already fully qualified to complete the assignment.
- An independent appraiser/contractor performing work for an appraisal firm.
- Two or more appraisers from different appraisal disciplines working on an assignment.

When assignments involve more than one appraiser there are often questions about the proper way to deal with USPAP requirements relating to record keeping, signatures and certifications.

It is important to realize that USPAP does not define an "appraiser" in terms of state licensing or certification requirements. USPAP defines an appraiser as one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective. Expectation is the crucial element in determining when one is acting as an appraiser. As a result, one could be a trainee by state licensing requirements and also identified as an appraiser by USPAP definition. Reference to applicable state law should be made to clarify the specific definition of appraiser and trainee in a jurisdiction.

ADVICE FROM THE ASB ON THE ISSUE

<u>Relevant USPAP References</u>

- SCOPE OF WORK RULE, which requires that the appraiser disclose the scope of work performed.
- <u>Record Keeping</u> section of the ETHICS RULE.
- Standards Rules 2-2(a)(vii), 2-2(b)(vii), 2-2(c)(vii), 3-2(c), 5-2(f), 6-8(j), 8-2(a)(vii), 8-2(vii) (b), 8-2(c)(vii), 10-2(a)(viii) and 10-2(b)(viii), which specify the reporting requirements when any portion of the work involves significant assistance.

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- Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3 and 10-3, which identify the requirements for an appraiser who is signing the certification and also for instances when appraisers provide significant assistance but do not sign the certification.

Record Keeping Requirements

The Record Keeping section of the ETHICS RULE requires an appraiser to

> *…prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.*

The Rule also mandates that workfiles be retained for a specified time, and states,

> *An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access and retrieval arrangements with the party having custody of the workfile.*

When an assignment is performed by more than one appraiser, each appraiser is subject to the same obligations regarding the workfile for the assignment, whether or not the appraiser signs the certification. These obligations may be met by creating a copy of the workfile for every appraiser involved in the assignment. Alternatively, the appraisers might agree to an access arrangement whereby the workfile is stored in a single location but access is provided to all appraisers involved. In whatever manner this USPAP requirement is met, all appraisers involved with the assignment must meet it.

Certifications/Signatures

A signed certification is required for all appraisal, appraisal review and appraisal consulting reports. An appraiser who signs any part of a report, including a letter of transmittal, must also sign the certification.

A signed certification provides important disclosures about aspects of the assignment. It provides evidence that the appraiser is aware of the ethical obligations of acting as an appraiser. In single-discipline appraisals, the certification also attests that the analyses, opinions, and conclusions expressed are those of the signatory. The certification is also where significant appraisal assistance from others not signing the certification must be acknowledged. Any appraiser who provides significant appraisal, appraisal review, or appraisal consulting assistance to the assignment must sign the certification or be identified in the certification. When more than one appraiser is involved in an assignment, USPAP allows for certification in a variety of ways, including:

- all appraisers could sign a certification accepting responsibility for the entirety of the analyses and the report if they are all competent to do so; or

- one appraiser could sign a certification and provide the name of each individual who provided significant appraisal, appraisal review, or appraisal consulting assistance. In such a case, the exact nature of the assistance must be reported, but this need not be in the certification; or

- for assignments involving multiple disciplines (e.g., real property appraisal and personal property appraisal), an appraiser could sign a certification accepting responsibility only for the elements of the certification, assignment results and report contents applicable to the appraiser's discipline.

Illustrations

Workfile Obligations When Trainee Signs the Report

1. Jennifer is currently being trained as an appraiser (a trainee) working toward her state license as a real property appraiser. Her work includes completing and co-signing appraisal reports with her supervising appraiser. Must she keep a copy of the workfile for every assignment she works on?

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If Jennifer acted as an appraiser in the assignment, USPAP provides two options: 1) she can maintain custody of the workfile, either the original or a copy; or 2) she can make appropriate access arrangements for the retention period, for example, with her employer or supervising appraiser.

Some common scenarios in such an assignment may include the trainee appraiser and the supervising appraiser each keeping a copy of the workfile. Or, the supervising appraiser may retain custody of the workfile and provide for access by the trainee appraiser. Both of these arrangements meet the record keeping requirements.

Certification Requirements When Trainee Does Not Sign the Report

2. Using the same scenario from Illustration 1 except only the senior appraiser signs the report and **not** the trainee appraiser, what certification requirements must each appraiser meet to comply with USPAP?

USPAP states that when a signing appraiser relies on work done by others who do not sign the certification, the signing appraiser is responsible for the decision to rely on the trainee appraiser's work.

The name of the trainee appraiser who provided significant assistance, but does not sign the certification, must be stated in the certification. It is not required that the description of the assistance appear in the certification, but the extent of the assistance must be set forth in the report as required in STANDARDS 2, 3, 5, 6, 8 and 10. The degree of this description is identified by the applicable reporting option for the assignment. For example, in a Summary Appraisal Report the extent of the significant assistance must be "summarized."

Possession of Workfiles

3. An appraiser is an employee of an appraisal firm. The firm has announced that the office is moving to another city. All appraisers not moving to the new location have been asked to turn over their workfiles to the company. The appraiser believes that he is required to keep the workfiles. Who is correct?

The Record Keeping section of the ETHICS RULE does not mandate that an appraiser have possession of assignment workfiles. Employment contracts and other employment arrangements often require appraisers to leave their workfiles with an employer should the appraiser leave that firm, or in other situations. However, if an appraiser must relinquish actual possession of the workfiles, the appraiser must establish appropriate access arrangements for the length of the retention period. In the circumstances described, another solution may be for the appraiser to obtain permission from the employer to make copies of his or her workfiles.

4. Jonathan is a trainee appraiser who has been working with the same supervising appraiser for some time. Recently, his supervising appraiser told him that since he was only a trainee, he had no right to access workfiles on appraisals where he had provided significant professional assistance. Is the supervising appraiser correct? Do trainees have any rights regarding access to workfiles?

The supervising appraiser is not correct. USPAP places workfile retention requirements on the **appraiser**. Jonathan, since he is acting as an appraiser, is an appraiser as defined in USPAP. In assignments where more than one appraiser is involved (e.g. a trainee appraiser and a supervising appraiser) each appraiser shares responsibility for complying with the Record Keeping section of the ETHICS RULE.

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Supervising appraisers should be aware that all appraisers, including trainee appraisers, must maintain access to workfiles for a minimum of five years. A supervising appraiser must not impede a trainee appraiser's ability to access workfiles. Denying access to workfiles is a violation of the ETHICS RULE.

An individual appraiser employed by a group or organization that conducts itself in a manner that does not conform to these Standards should take steps that are appropriate under the circumstances to ensure compliance with the Standards.

Acknowledging Significant Appraisal Assistance

5. Matthew, an appraiser, is working with a more senior appraiser on a complex appraisal assignment. His only task has been to develop the income approach based on information provided by the senior appraiser. What is the appropriate way to acknowledge Matthew's role in the assignment?

Since Matthew's work is limited to part of the assignment, signing a certification accepting responsibility for the entire assignment would not be appropriate. USPAP requires that Matthew be named in the certification, and the nature of his significant assistance be reported.

6. Margaret is performing a specific portion of a complex appraisal assignment, but is not competent to complete the entire assignment. As part of her training, she read the report and discussed it with the senior appraiser. Having now expanded her knowledge of the assignment, she wants to sign the certification along with the senior appraiser on the project. Is this appropriate?

No. By signing the certification, she would be accepting full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. Although she was competent to perform her assigned task, reading the report and discussing it with the senior appraiser does not confer competence. Therefore, she cannot accept full responsibility for the assignment results or sign the certification.

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ADVISORY OPINION 32 (AO-32)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments

APPLICATION: Real Property, Personal Property

THE ISSUE:

Ad valorem is Latin for "according to value." In ad valorem taxation assignments, the appraisal or mass appraisal is used to establish a value basis for a political subdivision's tax burden. This guidance is provided to address the application of USPAP to appraisal and mass appraisal assignments for ad valorem taxation.

As used in this Advisory Opinion, "appraisal assignments" are those covered by STANDARDS 1 and 2 or STANDARDS 7 and 8. "Mass appraisal assignments" are those covered by STANDARD 6.

ADVICE FROM THE ASB ON THE ISSUE

<u>Application of Standards</u>

Ad valorem taxation assignments include both appraisal assignments and mass appraisal assignments.

- STANDARDS 1 & 2 address the requirements for development of an appraisal and reporting of appraisal results for a particular real property interest as of a given date.

- STANDARD 6 addresses the requirements for development of a mass appraisal and reporting of mass appraisal results for real property and personal property. Mass appraisal is the valuation of a universe of properties (many properties) as of a given date using standard methodology, employing common data, and allowing for statistical testing. Mass appraisal provides for a systematic approach and uniform application of appraisal methods and techniques to obtain estimates of values that allow for statistical review and analysis of results.

- STANDARDS 7 & 8 address the requirements for development of an appraisal and reporting of appraisal results for a particular personal property interest as of a given date.

The keys to distinguishing a mass appraisal are: 1) the subject of the appraisal is a "universe" of properties, meaning more than one property; and 2) the assignment involves standard methodology employing common data that allows for statistical testing. These models may be based on the cost approach, the income approach and/or the sales comparison approach to value.

<u>Identification of Intended Users</u>

In ad valorem taxation assignments, the client is typically the government or taxing authority that engages the appraiser. As defined in USPAP, the intended users include the client. Through communication with the client, the appraiser may identify other intended users. A party receiving a copy of a report in order to satisfy disclosure requirements does not become an intended user of the appraisal or mass appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

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Scope of Work

The determination of an appropriate scope of work in all appraisal and mass appraisal assignments, including ad valorem taxation assignments, is based on problem identification. The assignment elements necessary for problem identification are identified in Standards Rule 1-2 (real property appraisal), Standards Rule 6-2 (real property and personal property mass appraisal) and Standards Rule 7-2 (personal property appraisal). This information provides the appraiser with the basis for determining the scope of work necessary to develop credible assignment results.

In ad valorem taxation assignments, applicable laws and regulations of an assessing jurisdiction may define the assignment elements needed for problem identification. For example, the type and definition of value is usually established by statute, as is the effective date of the appraiser's opinions and conclusions (tax year, levy year, valuation date, etc). Whatever the source of the assignment elements needed for problem identification, the appraiser must identify the problem to be solved, and determine and perform the scope of work necessary to develop credible assignment results.

In the interests of equity, the scope of work in mass appraisal assignments for ad valorem taxation can include consideration of appraisal level (the overall proximity between appraised values and actual prices) and the uniformity of property values (equity within groups of like properties). Standard Rule 6-1 (a) states:

> *In developing a mass appraisal, an appraiser must: (a) be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible mass appraisal;*

The appraiser is responsible for recognizing when the concepts of appraisal level and appraisal uniformity are necessary for credible assignment results in a mass appraisal assignment for ad valorem taxation.

Reporting

Standards Rules 6-8 and 6-9 address the requirements for reporting mass appraisal results for real property and personal property. The Mass Appraisal Report must clearly communicate the elements, results, opinions, and value conclusions of the mass appraisal. In mass appraisals for ad valorem taxation, local statutes may prescribe additional reporting requirements and procedures for the delivery of the assignment results.

In mass appraisal, the value opinion for each property is developed using the standard methods applied in the mass appraisal model for a universe of properties. There may be many mass appraisal models used to value an entire universe of properties. An individual property record or worksheet may describe the valuation of the specific property after the application of the mass appraisal model. A written report of the mass appraisal as described in Standards Rule 6-8 is not provided for each individual property. To understand the individual property result developed in a mass appraisal requires the examination of all the information and analysis required by Standards Rule 6-8.

STANDARDS 2 & 8 address the requirements for reporting of appraisal results for real property and personal property (respectively). The written report must be presented in a Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

An appraiser may be asked to communicate the assignment results for a single property that was appraised as part of a mass appraisal assignment. USPAP does not address this specific circumstance. The reporting requirements of STANDARD 2 apply to appraisal assignments developed under STANDARD 1 and do not apply to mass appraisal assignments prepared under STANDARD 6. However, the second sentence of the PREAMBLE states: *It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.* Additionally, the ETHICS RULE states: *An appraiser must not communicate assignment results in a misleading or fraudulent manner.* Therefore, if an appraiser communicates mass appraisal results for a single property, the communication must be meaningful and must not be misleading.

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In assignments for ad valorem taxation, public policy may direct property owner notification of the property values rendered as a result of an appraisal or mass appraisal. Notifications are commonly required within the jurisdiction to meet due process requirements. These property owner notifications are not "reports" as defined in USPAP. Further, a party receiving a notification in order to satisfy disclosure requirements does not become an intended user unless the appraiser identifies such party as an intended user as part of the assignment.

Workfile Requirements

The ETHICS RULE requirement to prepare a workfile applies to appraisals and mass appraisals performed for ad valorem taxation assignments. An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions and conclusions.

For a mass appraisal assignment, compliance with the Record Keeping section of the ETHICS RULE requires a workfile for the mass appraisal assignment, not a workfile for each property in the mass appraisal. The workfile for a mass appraisal contains the information to support the valuation of all properties in the mass appraisal. This supporting material may be documented in any form of media, including electronic files, and includes such items as property records, market data, sales ratios and other statistical studies, appraisal manuals and documentation, market studies, model building documentation, regulations, statutes, property photos, sketches, aerial imagery, maps, automated mapping and geographic information systems, worksheets, spreadsheets, and analysis reports. USPAP does not dictate the form or format of workfile documentation. There is no requirement that the contents of the workfile be held in a single location.

The retention of the workfile in support of an assignment for ad valorem taxation is governed by USPAP and may also be subject to retention schedules in the jurisdictions. The record retention time frames referenced in the Record Keeping section of the ETHICS RULE are minimums. Retention beyond the USPAP requirements is permitted. Unless compelled by law or regulation, USPAP does not permit appraisers to destroy records prior to five years after preparation **for any reason.** An appraiser citing a jurisdictional exception must comply with the requirements of the JURISDICTIONAL EXCEPTION RULE.

JURISDICTIONAL EXCEPTION RULE

The JURISDICTIONAL EXCEPTION RULE exempts appraisers from the part or parts of USPAP that are contrary to the law or regulation of a particular jurisdiction. If part of USPAP is contrary to any applicable federal, state, or local law or regulation, only that part shall be of no force and effect in that assignment. Appraisers using the JURISDICTIONAL EXCEPTION RULE must properly disclose the legal authority justifying the exemption of part or parts of USPAP that are contrary to law.

Use of the JURISDICTIONAL EXCEPTION RULE is triggered by a contradiction between the requirements of USPAP and the law or regulations of a jurisdiction, not by client or appraiser discretion.

USPAP does not establish who or which assignments must comply. Therefore, the JURISDICTIONAL EXCEPTION RULE cannot be applied to the decision to comply with USPAP.

An individual's identification as an appraiser is the basis for determining who should comply with USPAP. This is because an individual's public identification as an appraiser establishes an expectation that valuation services will be performed in compliance with USPAP. An individual must comply with USPAP when required by law, regulation, or agreement. Even if the governing authority's policy does not require USPAP compliance, other applicable law or regulation might require compliance.

Illustrations

1. An appraiser is in the process of developing appraisals for the next year's tax roll. The residential properties, condominiums, and general commercial and major commercial properties will be valued with a mass appraisal model. Which development standards apply?

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Because the subject of the appraisal is a universe of properties, and because they are being appraised with a mass appraisal model, STANDARD 6 applies.

2. An appraiser has completed a mass appraisal for ad valorem taxation using a mass appraisal model. There is a special use property for which it has been determined that the mass appraisal model is not appropriate. This property will be appraised as an individual property. Which development standard applies to the appraisal of the special use property?

Even though the special use property is being appraised for ad valorem taxation, STANDARD 1 would apply because the subject is an individual property, not a universe of properties.

3. An assessment appeal is in process, and an appraisal of an individual property is being conducted as part of that appeal. Which development standards apply?

STANDARD 1 or STANDARD 7 would apply because an individual property is being appraised rather than a universe of properties.

4. An appraiser is conducting a mass appraisal for ad valorem taxation. A property record card is produced for each property. Is each property record card considered a report under STANDARD 6?

No. The property record card is not the mass appraisal report; it is only a portion of the information and analysis supporting the mass appraisal.

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USPAP
FREQUENTLY ASKED QUESTIONS (FAQ)

2008-2009 EDITION

USPAP FREQUENTLY ASKED QUESTIONS

APPRAISAL STANDARDS BOARD

THE APPRAISAL FOUNDATION

Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications

USPAP FREQUENTLY ASKED QUESTIONS

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January 1, 2008 through December 31, 2009

APPRAISAL STANDARDS BOARD
THE APPRAISAL FOUNDATION
Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications

FOREWORD

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the *Uniform Standards of Professional Appraisal Practice* (USPAP) on behalf of appraisers and users of appraisal services. **The 2008-2009 Edition of USPAP (2008-2009 USPAP) is effective January 1, 2008 through December 31, 2009.** It is important that individuals understand and adhere to changes in each edition of USPAP. State and federal authorities enforce the content of the current or applicable edition of USPAP.

USPAP Frequently Asked Questions ("USPAP FAQ") is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The advice presented may not represent the only possible solution to the issues discussed and the advice provided may not be applied equally to seemingly similar situations. USPAP FAQ does not establish new standards or interpret existing standards. USPAP FAQ is not part of USPAP and is approved by the ASB without public exposure and comment.

Each month the ASB issues the USPAP Q&A, which is posted on The Appraisal Foundation website (www.appraisalfoundation.org). The USPAP Q&A is issued to inform appraisers, enforcement officials, and users of appraisal services of the ASB responses to questions received by the public.

The ASB compiles the monthly USPAP Q&A into the USPAP FAQ for publication with each edition of USPAP. In addition to incorporating the most recent questions and responses issued by the ASB, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB.

Contacting the Appraisal Standards Board

The ASB invites questions about USPAP and commentary on USPAP and proposed changes to USPAP from all interested parties, including appraisers, state enforcement agencies, users of appraisal services, and the public.

If you have any comments, questions, or suggestions regarding USPAP, please contact the ASB.

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USPAP COMPOSITION, STRUCTURE AND COMPLIANCE

1. ADVISORY OPINIONS NOT PART OF USPAP

Question: **Is it true that the Advisory Opinions are not part of USPAP?**

Response: Yes. The Advisory Opinions, which are published in the same document as the Standards and Statements, are a form of "other communications" issued by the Appraisal Standards Board (ASB). Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

2. VALUATION SERVICE DEFINED

Question: **What is a valuation service?**

Response: Valuation services pertain to all aspects of property value and include services performed by both appraisers and by others. Valuation services can be performed by appraisers and any number of other professionals such as attorneys, accountants, insurance estimators, auctioneers, or brokers.

See Advisory Opinion 21, *USPAP Compliance* for further details.

3. RETIRING A PORTION OF USPAP

Question: **What does it mean when the ASB retires a portion of USPAP?**

Response: To "retire" a portion of USPAP means to withdraw it so it is no longer of force. The ASB is responsible for promulgating, developing, interpreting, and amending the *Uniform Standards of Professional Appraisal Practice*. As such, it can decide to retire any portion of USPAP if it does not reflect current practice, is no longer necessary or applicable, or is otherwise deficient.

It should be noted that the acronym "USPAP" is used by many to refer to a publication of The Appraisal Foundation, which includes more than the *Uniform Standards of Professional Appraisal Practice*. For example, the Advisory Opinions are not actually part of *the Uniform Standards of Professional Appraisal Practice*, even though they are bound within the same publication.

Since not all portions of the USPAP publication constitute appraisal standards or have the weight of an appraisal standard, not all parts of the document are subject to the same process of retirement. Retirement of those portions of USPAP that constitute appraisal standards (or that have the same weight as standards) must be exposed for a minimum of 30 days prior to any action by the ASB. This includes the DEFINITIONS, PREAMBLE, RULES, Standards Rules, and Statements. The Advisory Opinions can be adopted, removed, or modified by the ASB without prior notice.

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4. THE PRIMARY INTENT OF USPAP

Question: **What is the primary intent of USPAP?**

Response: The intent of USPAP is to promote and maintain a high level of public trust in professional appraisal practice. This concept is emphasized at the very beginning of the PREAMBLE:

> *The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers.*

The development of "trust" between the general public and the professional appraiser is not unique to the appraisal profession – it is also inherent in other professions such as medical practice and accountancy.

Contained within this notion of "trust" is a relationship that requires the professional to provide more than their skill or expertise. There is a distinct ethical obligation to act in the behalf of the public's interest, not out of self-interest. Because of the public interest aspect of the service the public must be able to trust that a professional will act in an ethical and competent manner.

5. MAIN FUNCTION OF USPAP

Question: **Is the main function of USPAP to protect appraisers?**

Response: No. The first paragraph of the PREAMBLE states:

> *The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to* ***promote and maintain a high level of public trust*** *in appraisal practice by establishing requirements for appraisers.* (Bold added for emphasis)

Although the main purpose is not to protect appraisers, appraisers do receive significant benefits and protection from USPAP. It establishes requirements for impartiality, independence, objectivity, and competent performance. Because of these standards, appraisers who comply with USPAP are viewed as unbiased professionals whose work is worthy of public trust.

6. COMPLYING WITH USPAP BY CHOICE

Question: **A client has asked me to develop an appraisal. I am not under any obligation by law, regulation, or by agreement with the client, to comply with USPAP for this particular assignment, but I would like to do so. Is this possible?**

Response: Yes, you can voluntarily choose to perform an assignment under USPAP. The PREAMBLE states:

> *Compliance with USPAP is required when either the service or the appraiser is obligated to comply by law or regulation, or by agreement with the client or intended users. When not obligated, individuals may still* ***choose*** *to comply.* (Bold added for emphasis)

Refer to Advisory Opinion 21, *USPAP Compliance* for further guidance.

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7. *COMPLIANCE WITH USPAP: PERSONAL PROPERTY, BUSINESS VALUATION AND INTANGIBLE ASSET APPRAISERS*

Question: **Are personal property, business valuation and intangible asset appraisers required to comply with USPAP?**

Response: The PREAMBLE describes the obligation of all appraisers to act ethically:

> *The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity. USPAP reflects the current standards of the appraisal profession.*

The PREAMBLE further states:

> *USPAP does not establish who or which assignments must comply…Compliance with USPAP is required when either the service or the appraiser is obligated to comply by law or regulation, or by agreement with the client or intended users.* ***When not obligated, individuals may still choose to comply.*** (Bold added for emphasis)

Real property appraisers are often legally bound to comply with USPAP by applicable laws. There are no such laws binding non-real property appraisers to comply with USPAP. However, many non-real property appraisers either choose or agree to comply with USPAP in their assignments. The decision to comply may be prompted by affiliation with a professional appraisal organization or the preference of the client.

8. USPAP COMPLIANCE AS AN INSTRUCTOR

Question: **In addition to my job as an appraiser, I spend a significant amount of my professional time as an instructor of appraisal courses and seminars. One of the prerequisites for my teaching position is that I must also be a practicing appraiser. Am I subject to USPAP when I am teaching appraisal courses?**

Response: Yes you are. Since you are acting in the role of an appraiser in these teaching assignments, you are engaged in "Appraisal Practice," which is defined in USPAP as:

> *Valuation services performed by an individual acting as an appraiser, including,* ***but not limited to****, appraisal, appraisal review, or appraisal consulting.* (Bold added for emphasis)

While USPAP does not include Standards Rules for teaching assignments, you must observe applicable requirements in the PREAMBLE, ETHICS RULE, COMPETENCY RULE and JURISDICTIONAL EXCEPTION RULE.

See Advisory Opinion 21, *USPAP Compliance* for discussion of the application of USPAP in valuation services.

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9. *PERSONAL PROPERTY APPRAISAL REQUIREMENTS*

Question: **I'm a personal property appraiser and I've been asked to donate my professional services to help raise funds for a charitable organization. The charity wants to hold an event where anyone can bring in their personal property items and, for a nominal fee (paid to the charity), receive my opinion as to the value of their item(s). This appears to be similar to television shows where people bring in their personal items to be valued. If I decide to participate, would my opinions be considered appraisals and if so, how could I comply with USPAP in performing these assignments?**

Response: USPAP defines "appraisal" as:

> *the act or process of developing an opinion of value; an opinion of value.*

Therefore, the opinions you describe would be appraisals.

To comply with USPAP, a personal property appraiser would have to comply with the requirements of STANDARD 7 and STANDARD 8, in addition to the applicable rules (e.g. ETHICS RULE, COMPETENCY RULE). This means the appraiser would have to perform the level of research and analyses required to produce credible assignment results (given the intended use). Since the appraiser would be communicating the appraisal as an oral report, the report must address (to the extent that it is both possible and appropriate) the substantive matters of a Summary Appraisal Report. In addition, the appraiser would have to prepare a workfile as required by the Record Keeping section of the ETHICS RULE.

These television shows may make it appear that the appraiser is providing his or her appraisal "off the cuff" and not in compliance with USPAP. However, it is more likely the appraiser has been provided with the personal property item to be appraised prior to the actual taping of the show. The appraiser may also be providing the property owner with a written appraisal report; although it may not be discussed during the television show. Therefore, it is possible the appraiser is rendering a USPAP-compliant appraisal and report, even if it does not appear that way during the airing of the show.

See Advisory Opinion 21, *USPAP Compliance* for further guidance.

10. USPAP COMPLIANCE WITH OTHER VALUATION STANDARDS

Question: **I have been asked to perform an appraisal that complies with USPAP and with valuation standards from an international appraisal organization. If my appraisal complies with USPAP, will it "automatically" comply with other valuation standards as well?**

Response: No. Although there are similarities between all major appraisal standards, it is impossible to say that compliance with USPAP ensures compliance with any other standards. It would be necessary to review the actual content of the valuation standards in question to determine whether different actions would be necessary to comply with those standards.

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ETHICS RULE - CONDUCT

11. *DON'T ACCEPT UNLESS YOU CAN APPRAISE FOR…*

Question: **I received an appraisal order that says: "If you can't appraise the property for $XXX,000, you must not accept the appraisal assignment." How should I respond to this appraisal order?**

Response: Accepting such an assignment would violate the Management section of the ETHICS RULE, which states, in part:

> *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:*
>
> 1. ***the reporting of a predetermined result (e.g., opinion of value);***
> 2. *a direction in assignment results that favors the cause of the client;*
> 3. *the amount of a value opinion;*
> 4. *the attainment of a stipulated result; or*
> 5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.* (Bold added for emphasis)

You could respond to this request with the following statement: "I cannot accept the assignment with this condition because it violates professional ethics. You should be aware that I must develop the appraisal before I will know the results. I can only accept the assignment if you remove the predetermined value requirement."

Please refer to Advisory Opinion 19 *Unacceptable Assignment Conditions in Real Property Appraisal Assignments* for additional guidance on appraisal requests with conditions.

12. PLAGIARISM

Question: **Is plagiarism considered unethical or improper?**

Response: Yes. Plagiarism is unethical. The Conduct section of the ETHICS RULE states that an appraiser must not use or communicate a misleading or fraudulent appraisal report. Presenting an appraisal report as yours when all or part is the work of someone else is clearly misleading.

13. SUBJECTIVE TERMS

Question: **Does USPAP permit appraisers to use terms that reflect a scale, such as "high," "low," "good," or the like?**

Response: Yes. USPAP does not prohibit the use of subjective phrases in an appraisal report. However, the Conduct section of the ETHICS RULE states:

> *An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age,*

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receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.

Appraisers should exercise care to avoid comments in a report that may be perceived as illegally biased or discriminatory. Factual descriptions, rather than subjective phrases, allow the user of a report to draw his or her own conclusions. The use of terms that reflect a scale such as "high," "low," "good," "fair," "poor," "strong," "weak," "rapid," "slow," "average" or the like should also provide contextual information that properly explains the frame of reference and relative position of the subject property on the scale.

For example, if absorption is stated as "rapid," the context of the rating should also be cited ("rapid" relative to what?). Additional guidance is provided in Advisory Opinion 16, *Fair Housing Laws and Appraisal Report Content*.

14. CONFLICTS OF INTEREST

Question: **The principals of a local mortgage company propose to acquire an appraisal firm and have the appraisal firm complete assignments for the mortgage company. Is this a conflict of interest for the appraisers completing assignments for the mortgage company?**

Response: An appraiser should review the ETHICS RULE and Standards Rule 2-3 when completing appraisal assignments in situations where the appraisal company that engages (by employment or contract) the appraiser is owned by the client.

It is important to note that USPAP does not prohibit the acceptance of an assignment in this specific situation. In an appraisal assignment developed under STANDARD 1 and reported under STANDARD 2, an appraiser must specify the particulars in a situation where he or she has any present or prospective interest with respect to the parties involved in the property that is the subject of the report.

The engagement of an appraiser by an appraisal company that is owned by the client or by owners of the client does not, in and of itself, mean that the appraiser has an interest or bias with respect to the property or properties involved. If the appraiser has an interest but could provide the service in an ethical, unbiased manner then the appraiser could accept the assignment as long as the appraiser was competent and properly disclosed the interest in accordance with Standards Rule 2-3.

If the appraiser's interest in the property or the parties involved in the assignment prevented the appraiser from providing an unbiased service, then the appraiser should not accept the assignment for it would be in violation of the ETHICS RULE and parts of the appraiser's certification in Standards Rule 2-3.

15. USING A FLAWED APPRAISAL REPORT

Question: **A client engages an appraiser (Appraiser A) to appraise a property. Appraiser A is provided with a copy of an appraisal report prepared by another appraiser (Appraiser B) retained by the property's owner. Appraiser A finds significant errors in Appraiser B's appraisal report. What should Appraiser A do?**

Response: State laws vary concerning appraisers' duties in reporting other appraisers' potential violations of USPAP. Though USPAP does not specifically address appraisers' responsibilities when confronted by other appraisers' USPAP violations, it does address the ethical aspects of using

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misleading or fraudulent reports. While it is not unethical for Appraiser A to read Appraiser B's appraisal report, it is unethical to use it. The Conduct section of the ETHICS RULE states:

> *An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*

Appraiser A fulfills the first part of this requirement by not using Appraiser B's appraisal in his own appraisal of the property. He fulfills the second part of the requirement by pointing out to his client the misleading or fraudulent aspects of Appraiser B's appraisal and advising the client against relying on that appraisal. Appraiser A's responsibilities beyond these actions are not a matter of USPAP.

16. VALUE OPINIONS THAT EQUAL CONTRACT PRICES

Question: **I know appraisers who consistently conclude that the market value of any property they appraise is equal to the contract sales price. In doing so, they facilitate sales and financing of sales, which is apparently what keeps their clients happy. Is this a violation of USPAP?**

Response: A contract sale price can be a good indicator of a property's market value, and it may be logical and reasonable for the appraiser to conclude that they are the same. However, this is not always the case. In some situations, a contract price will exceed what is typical in a market. In other situations, a contract price will be less than what is typical. A contract sale price, while a significant piece of market data, must not become a target in an appraisal assignment. Rather, competent analysis of relevant and credible market data must be the appraiser's basis for a market value conclusion.

If an appraiser consistently concludes that the contract sale price of any property they appraise equals market value, particularly when a competent analysis of credible market data indicates otherwise, the appraiser's impartiality, objectivity and independence appear to have been compromised. The ETHICS RULE clearly prohibits such a practice. The Conduct section of the ETHICS RULE states, in part:

> *An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.*
>
> *An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.*
>
> *An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*

An appraiser must develop an opinion of market value impartially and objectively. An appraiser who selects only data that complements a contract sale price or analyzes data in a manner to purposefully support a contract sale price violates the ETHICS RULE.

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17. PROPERTY FLIPPING

Question: **What is property flipping?**

Response: The phrase "property flipping" or "a flip" is commonly used to describe the transfer of property where fraud is used to obtain inflated prices and loans.

It is important to note that "property flipping" is distinctly different from the usual activity of buying and selling property at a profit. The market for real estate is imperfect. Knowledgeable and honest parties seek opportunities to acquire a given property at a favorable price with the objective of reselling that property at a profit. Such activity does not constitute flipping as there is no intent to mislead or defraud.

USPAP does not describe property flipping itself, but it does prohibit appraisers from communicating assignment results in a fraudulent or misleading manner. The ETHICS RULE is explicit about any kind of activity designed to mislead or defraud, as specified in the Conduct section of the ETHICS RULE:

> *An appraiser must perform assignments ethically and competently, in accordance with USPAP*
>
> *An appraiser must not engage in criminal conduct.*
>
> *An appraiser must not communicate assignment results in a misleading or fraudulent manner.*
>
> *An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*

18. ARE CONDITION AND MARKETABILITY REPORTS COVERED BY USPAP

Question: **I am a state certified appraiser and was recently asked by a client to perform a "condition and marketability report." A value conclusion is not requested as part of the assignment; however, I must sign the report as an appraiser. Is this assignment covered by USPAP?**

Response: Yes. Since the condition and marketability of a property directly pertains to its value, this is a valuation service. Furthermore, because you are being asked to perform the service as an appraiser, the assignment involves appraisal practice. USPAP defines appraisal practice as:

> *valuation services performed by an individual acting* ***as an appraiser****, including but not limited to appraisal, appraisal review, or appraisal consulting.*
>
> *Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal, appraisal review, and appraisal consulting are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review and is required as a component of the analysis in an appraisal consulting assignment. The use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the Uniform Standards of Professional Appraisal Practice.* (Bold added for emphasis)

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Appraisers who provide appraisal practice services for which there are no specific performance standards should comply with the portions of USPAP that still apply generally to appraisal practice. These include the PREAMBLE; the Conduct, Management, and Confidentiality sections of the ETHICS RULE; the COMPETENCY RULE; and the JURISDICTIONAL EXCEPTION RULE (See Advisory Opinion 21, *USPAP Compliance* for further advice.)

19. SUPPORTED AND UNSUPPORTED CONCLUSIONS

Question: **The Conduct section of the ETHICS RULE states, in part:**

> ***An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.***

Does this imply that relying on *supported conclusions relating to characteristics such as race, color, religion…*is acceptable?

Response: No. One cannot infer by logical extension that using **supported** conclusions *relating to characteristics such as race, color, religion, national origin, gender, marital status, age…* is appropriate or acceptable. Additionally, USPAP recognizes that there may be laws and/or regulations that apply to this issue. In such cases, Advisory Opinion 16 (AO-16), *Fair Housing Laws and Appraisal Report Content*, makes it clear that an appraiser must be aware of, and must abide by, applicable laws. Specifically, AO-16 states, in part:

> *In some cases, even supported conclusions in assignments relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or group homogeneity cannot be used because they are precluded by applicable law…*
>
> *An appraiser must ensure that his or her appraisal, appraisal review, or appraisal consulting opinions and conclusions are impartial and objective and do not illegally discriminate or contribute to illegal discrimination through subjective or stereotypical assumptions.*

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20. UNACCEPTABLE ASSIGNMENT CONDITIONS – NONDISCLOSURE OF FACTS

Question: **I have an assignment that involves a tract of land that is improved with two structures. However, the client has requested that I appraise the underlying land and only one of the two structures, without mentioning the other structure. Is it ethical to not disclose the presence of the second structure?**

Response: No. The Conduct section of the ETHICS RULE states:

> *An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*

In the situation described, performing an appraisal without disclosing the existence of both structures in the report would be misleading.

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ETHICS RULE - MANAGEMENT

21. THINGS OF VALUE RECEIVED FOR PROCUREMENT OF AN ASSIGNMENT

Question: **Are appraisers required by USPAP to disclose the payment of cash or other things of value to clients in order to obtain assignments?**

Response: Yes. The Comment to the Management section of the ETHICS RULE states that:

> *Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.*

22. COUPONS FOR PRICE DISCOUNTS

Question: **Is it a violation of USPAP to offer as a marketing tool for my services a coupon for a 10% discount off the cost of an appraisal to potential clients such as mortgage lenders and the general public?**

Response: No. The use of a coupon as a marketing tool would not be a violation of the ETHICS RULE. However, a coupon for a reduced fee would be a thing of value connected to the procurement of an assignment. Therefore, proper disclosure must be made in the certification of the report and in any transmittal letter in which value conclusions are stated.

The Management section of the ETHICS RULE states:

> *The payment of **undisclosed fees**, commissions, or things of value in connection with the procurement of an assignment is unethical.* (Bold added for emphasis)
>
> *Comment: Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.*

23. PAYMENT OF FEES TO BE INCLUDED ON APPROVED APPRAISERS LIST

Question: **Is it ethical for an appraiser to pay a fee to be included on a lender's "approved appraiser" list?**

Response: Yes. It is ethical for appraisers to pay a fee to be included on a lender's approved appraiser list **provided the appraiser discloses payment of a fee in his or her appraisal reports**. The Management section of the ETHICS RULE states that:

> *The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.*

The Comment further states that:

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Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.

24. CONDUCTING DRAWINGS TO PROCURE APPRAISAL ASSIGNMENTS

Question: **Is it a violation of USPAP for an appraisal firm to conduct a random drawing with prizes and allow clients a certain number of entries in the drawing that is based on the number of appraisals ordered within a certain period of time?**

Response: This is not a violation if proper disclosure is made. The payment of **undisclosed** fees, commissions or things of value in the procurement of appraisal assignments is unethical, as stated in the Management section of the ETHICS RULE:

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.

Entries into a drawing would be considered "things of value." The Comment further states that:

Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.

In other words, the report of any assignment procured with the promise of drawing entries must explicitly describe in the certification the "thing of value" offered to the client.

25. REDUCING APPRAISAL FEES WHEN TRANSACTIONS FAIL TO CLOSE

Question: **Is it ethical for an appraiser to offer a client a reduced fee on an appraisal if the client's loan does not close?**

Would the result be different if the client agreed to pay extra for other assignments?

Response: Neither practice would be ethical. Offering a client a reduced fee on an appraisal if the client's loan does not close is a violation of the ETHICS RULE. The Management section of the ETHICS RULE states:

It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:

1. *the reporting of a predetermined result (e.g., opinion of value);*
2. *a direction in assignment results that favors the cause of the client;*
3. *the amount of a value opinion;*
4. *the attainment of a stipulated result; or*
5. ***the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose***. (Bold added for emphasis)

Standards Rule 2-3, 3-3, 5-3, 6-9, 8-3, or 10-3, as applicable, also requires an appraiser to state that their compensation for completing the assignment is not contingent upon a subsequent event. Being paid "extra" for other assignments does not change this result.

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26. APPRAISAL FEES AS PERCENTAGES OF VALUE CONCLUSIONS

Question: **Is it acceptable for an appraisal fee to be based on a percentage of the value conclusion?**

Response: No, the Management section of the ETHICS RULE states:

> *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent upon any of the following:*
>
> 1. *the reporting of a predetermined result (e.g., opinion of value);*
> 2. *a direction in assignment results that favors the cause of the client;*
> 3. ***the amount of a value opinion****;*
> 4. *the attainment of a stipulated result; or*
> 5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.* (Bold added for emphasis)

This is reiterated in the signed certification (Standards Rule 2-3, 3-3, 5-3, 6-9, 8-3, and 10-3) that must be included in each appraisal, appraisal review, or appraisal consulting report.

27. APPRAISAL FEE IS CONTINGENT ON THE APPRAISED VALUE

Question: **A potential client has asked me to complete a form indicating what my appraisal fees would be for different assignments. The form asks me to indicate my appraisal fees according to appraised value, e.g., to list the fee for assignments with appraised values between $100,000 and $299,000, $300,000 to $499,000, etc. Is it a violation of USPAP to quote fees in this manner?**

Response: Yes. This is in violation of USPAP. Completing and submitting such a form to a potential client establishes a compensation arrangement for assignments that is contingent on the amount of the value opinion. This is prohibited by the Management section of the ETHICS RULE, which states, in part:

> *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:*
>
> 1. *the reporting of a predetermined result (e.g., opinion of value);*
> 2. *a direction in assignment results that favors the cause of the client;*
> 3. ***the amount of a value opinion;***
> 4. *the attainment of a stipulated result; or*
> 5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.* (Bold added for emphasis)

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28. *APPRAISER'S FEES BASED ON PENDING SALE PRICE*

Question: **I'm aware that an appraiser's fee cannot be based on the amount of the appraiser's value conclusion. However, does USPAP allow an appraiser's fee to be based on the amount of the owner's estimate or a pending sale price of the subject property?**

Response: USPAP does not prohibit an appraiser's fee from being based on an owner's estimate, a pending sale price of the subject property, loan amount, or any other factor outside the appraiser's control.

This is in contrast to a fee based on the amount of the appraiser's opinion of value, which is within the appraiser's control. A fee arrangement based on the appraiser's opinion of value violates the ETHICS RULE.

29. PAYING FEES FOR PROCURING APPRAISAL ASSIGNMENTS

Question: **It has come to my attention that a local appraiser is paying a home inspection firm a $25.00 referral fee for each appraisal assignment the home inspector refers to the appraiser. Is it unethical to accept an assignment if the appraiser paid a fee for the assignment?**

Response: No, but accepting such a fee requires specific disclosures. The Management section of the ETHICS RULE states:

> *The payment of **undisclosed** fees, commissions, or things of value in connection with the procurement of an assignment is unethical.* (Bold added for emphasis)

The Comment to the Management section goes on to say:

> *Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.*

Therefore, payment of the referral fee to the home inspection company is acceptable as long as this relationship is disclosed in the appraisal certification and any transmittal letter where conclusions are stated.

30. *"DISCOUNTED" APPRAISAL FEES*

Question: **Is it a violation of USPAP to offer reduced appraisal fees for clients that send me a large volume of business? Could I also offer a discount for the method of payment, such as collecting the fee from the borrower at the time of inspection?**

Response: An appraiser may establish his or her fees based on a number of factors, including the amount of business received, business relationships, method of payment, client-specific requirements, etc. However, appraisers must ensure that they comply with the Management section of the ETHICS RULE.

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31. DISCLOSURE OF REFERRAL FEES

Question: **The Management section of the ETHICS RULE requires an appraiser to disclose …*fees, commissions, or things of value*… paid in connection with the procurement of an assignment. If a referral fee was paid in conjunction with an assignment, must the amount of the fee be disclosed, or is it sufficient to simply disclose that a fee was paid?**

Response: Disclosing the fact that a payment was made in the appraisal certification and any transmittal letter where the conclusions are stated is sufficient to meet the requirement. However, this is a minimum requirement and does not prohibit full disclosure of the amount of the fee.

32. RECIPROCAL BUSINESS ARRANGEMENTS

Question: **A new bank client recently sent me a letter acknowledging that my firm is approved to conduct appraisal assignments for their company. It goes on to state that we are now "preferred providers" and expresses the bank's desire to embark on a mutually beneficial long-term relationship. The letter ends with a solicitation for my firm's banking business as part of this mutually beneficial relationship. I would like to make them happy because they could provide my firm a great deal of business. If I bring my banking business to this company, while I'm engaged as an appraiser, would I be violating USPAP?**

Response: The answer to this question depends on whether the bank's approval of your firm as a "preferred provider" is conditional on your moving your banking business to that bank. The Management section of the ETHICS RULE states:

> *The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical.*
>
> *Comment: Disclosure of fees, commissions or things of value connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development are not considered to be unethical. Competency, rather than financial incentives, should be the primary basis for awarding an assignment.*

If the lender has stated that your firm can only have their appraisal business if you bank with them, this relationship must be disclosed as described in the ETHICS RULE.

However, if the client is merely soliciting your business as it would any other potential customer, and you subsequently moved your banking business to that bank, there is no requirement in USPAP to disclose your banking relationships.

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33. DOES USPAP APPLY IF THERE IS NO ASSIGNMENT FEE

Question: **I am an appraiser performing an appraisal, appraisal review, or appraisal consulting assignment. I am required by law, regulation, agreement, or choice to follow USPAP. Is this still true if I do not charge a fee for my service?**

Response: Yes. The applicability of USPAP is not affected by the amount of the fee, or lack of a fee.

34. *APPRAISAL FEE PAID AT CLOSE OF FINANCING TRANSACTION*

Question: **I have a potential lending client that wants to arrange for my appraisal fees to be paid at the closing of each financing transaction. Does USPAP permit this fee arrangement?**

Response: USPAP does not address the time frame for payment of fees. In the situation described there must be a clear agreement that the fee cannot depend on the closing of the financing transaction. Accepting an assignment where the appraisal fee is paid only upon successful closing of the transaction is a violation of the Management section of the ETHICS RULE:

> *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:*
>
> 1. *the reporting of a predetermined result (e.g., opinion of value);*
> 2. *a direction in assignment results that favors the cause of the client;*
> 3. *the amount of a value opinion;*
> 4. *the attainment of a stipulated result; or*
> 5. ***the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose***. (Bold added for emphasis)

One way appraisers can avoid any ambiguity is by having a written agreement with the client detailing the manner in which the appraisal fee will be paid if the transaction does not close.

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ETHICS RULE - CONFIDENTIALITY

35. REPORTING OF ADVERSE CONDITIONS

Question: **I just inspected a property and found an adverse condition. I informed my client (a bank), and was told not to proceed because the client cannot lend on such property. Under USPAP, am I obligated to inform any other party, such as the city or county health department?**

Response: No.

36. DISCLOSING RESULTS OF APPRAISAL ASSIGNMENTS

Question: **I have been asked by my client's business associate for information relating to an appraisal report I prepared for my client. Can I disclose the results of an appraisal assignment to parties other than the client?**

Response: You can, but only if you receive authorization from the client before sharing confidential information with the client's associate. The Confidentiality section of the ETHICS RULE states, in part:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*

Appraisers may disclose information relating to an assignment to:

> *…the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*

37. DISCLOSURE OF A PRIOR ASSIGNMENT

Question: **As a condition of engagement, a financial institution requires that I disclose any prior appraisals I have completed on the subject property. If I disclose that I have previously appraised the subject property, am I violating USPAP?**

Response: Except as noted below, USPAP does not specifically prohibit the disclosure of the fact that a prior appraisal has been performed.

Disclosing the fact that you have previously appraised the property is permitted except in the case when an appraiser has agreed to keep the mere occurrence of a prior assignment confidential.

There are some cases in which the appraiser is asked by the client not to reveal that he or she has appraised that particular property. In such cases, the fact that the appraiser previously appraised the property is confidential information.

If the occurrence of a prior appraisal is confidential, and disclosure of prior appraisals is a condition of a potential new assignment, the appraiser must turn down the new assignment because the appraiser could not make the requested disclosure.

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38. DISCLOSURE OF THE CLIENT IN A PRIOR ASSIGNMENT

Question: **As a condition of engagement, I have been asked to disclose the name of the client for any prior appraisals I have completed on the subject property. Is making this disclosure a violation of USPAP?**

Response: A definitive answer cannot be provided without examining the circumstances.

The Confidentiality section of the ETHICS RULE states, in part:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*

There are some situations in which the appraiser cannot disclose the name of a prior client and still protect the confidential nature of the appraiser-client relationship:

- A client may tell the appraiser to not disclose the fact that he or she appraised a particular property for that client. In that case, the name of the client becomes confidential information (as defined in USPAP) and it is clear that the appraiser cannot comply with the request for disclosure of the client's name.

- There are other cases that simply require judgment on the part of the appraiser to determine whether disclosing the prior client's name would or would not *protect the confidential nature of the appraiser-client relationship*.

An appraiser who is asked to identify the client in a prior assignment may be able to protect the confidential nature of the appraiser-client relationship by identifying the client by type rather than name. Identifying the client by type describes the client with a generalization (for example: financial institution or accountant). However, there may be circumstances in which disclosing the identity of the client by type would actually disclose the name of the client (for example: property owner, trustee). In such a case, naming the client "by type" would not be a solution.

If disclosure of the client's identity is a condition of a potential new assignment, and the appraiser cannot disclose the client's identity and still protect the confidential nature of the appraiser-client relationship, then the appraiser must turn down the new assignment.

An appraiser must consider the circumstances when forming a response to a request to disclose the name of the client from a prior assignment.

39. SAMPLE APPRAISALS AND THE ETHICS RULE

Question: **I am a fee appraiser currently seeking to get on the approved list for a local mortgage company. In order to be considered for approval, this lender requires appraisers to provide sample appraisal reports performed within the past year. Is there a way that I can accomplish this without violating USPAP?**

Response: In order to provide this information an appraiser must satisfy the Confidentiality section of the ETHICS RULE. This section states:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*
>
> *An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.*

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> *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*
>
> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*

The Comment further explains that if all essential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

The appraiser in this case has three options:

1. Turn down the request to provide the information, or
2. Secure a release from the client of each sample appraisal report, or
3. Provide sample reports, but redact all information that should not be provided to anyone other than the client, such as confidential information or assignment results.

40. CONFIDENTIALITY AND SAMPLE APPRAISAL REPORTS

Question: **I have been looking for new clients and found that many request sample appraisals for review, but I'm concerned that I would be in violation of appraiser-client confidentiality by providing them. To alleviate this problem, I'm considering including the following disclaimer in the "fine print" of my reports:**

> **"The appraiser reserves the right to utilize this report in its entirety as sample work for the purpose of soliciting prospective clients unless written refusal is received from the client."**

Does USPAP allow me to do this?

Response: No. The client, not the appraiser, determines who may receive the appraisal report. The Confidentiality section of the ETHICS RULE states, in part:

> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client…*

Including a statement indicating that the report may be used as a sample does not constitute client authorization to distribute copies of the report.
One solution is to obtain client authorization to use each report as a work sample. An alternative solution may be to redact all confidential information from the report before providing it as a sample. The Comment to the Rule states:

> *When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.*

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41. DELIVERING A REPORT BY EMAIL TO A CLIENT

Question: **I have been told that since email is not secure, delivering reports to my clients by email violates the confidentiality requirements of USPAP. Does emailing a report violate USPAP?**

Response: No. It is the opinion of the Appraisal Standards Board that sending reports via email does not violate the confidentiality requirements in USPAP.

In all assignments the appraiser and the client should agree to a delivery method, and should understand any security risks associated with the delivery method. Whether a report is sent by government mail service, private mail service, email, courier or some other mechanism, there is always some risk that the security of the original document may be compromised.

42. DISCLOSURE OF ASSIGNMENT RESULTS TO STATE APPRAISER BOARD

Question: **A new state law requires all real estate appraisers in my area to regularly submit a log to the State Appraiser Board reporting the address of properties appraised along with the value opinion. Does this violate the confidentiality requirements in USPAP?**

Response: No. This does not violate USPAP.

The Confidentiality section of the ETHICS RULE states, in part:

> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client;* ***state enforcement agencies and such third parties as may be authorized by due process of law****…* (Bold added for emphasis)

Disclosure of assignment results to the state board, or to any other entity required by law, is specifically permitted.

43. CONFIDENTIALITY AND PEER REVIEW COMMITTEES

Question: **Is it ethical to disclose confidential information to a duly authorized professional peer review committee?**

Response: Yes. However, the appraiser must be aware of and comply with applicable laws or regulations that would pertain to such disclosure. The Confidentiality section of the ETHICS RULE states, in part:

> *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*
>
> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law;* ***and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation****. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee.* (Bold added for emphasis)

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Comment: When all confidential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

44. CONFIDENTIALITY AND PRIVACY REGULATIONS

Question: **Does USPAP address the Federal privacy laws? And, if it does, where does it address them?**

Response: Yes, it does. Due to federal regulatory activity, most notably the Federal Trade Commission's Final Rule on Privacy of Consumer Financial Information, 16 CFR Part 313, that took effect on July 1, 2001, the ASB edited USPAP to incorporate these laws.

1. The Confidentiality section of the ETHICS RULE illustrates that, *an appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment*. Additionally, text indicates that disclosure of confidential information is permissible to professional peer review committees, *except when such disclosure to a committee would violate applicable law or regulation.*

   A notice regarding the adoption of federal privacy regulations is also included in this section.

2. The definition of "Confidential Information" reads:

   information that is either:

   - *identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
   - *classified as confidential or private by applicable law or regulation.*

   A notice regarding the adoption of federal privacy regulations is also included in this definition.

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45. SELLING AN APPRAISAL FIRM AND ETHICAL OBLIGATIONS

Question: **I am considering the sale of my appraisal practice. What are my USPAP obligations regarding confidentiality and record keeping?**

Response: In the sale of an appraisal practice, the selling appraiser must comply with the Confidentiality and Record Keeping sections of the ETHICS RULE.

The Confidentiality section of the ETHICS RULE states:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*
>
> *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*
>
> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client…*

The Record Keeping section of the ETHICS RULE states:

> *An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.*

The selling appraiser can retain possession of the workfiles to satisfy confidentiality and record keeping obligations. This would also satisfy any client-confidentiality agreements and applicable privacy laws and regulations.

The selling appraiser must adhere to the requirement to (1) protect the appraiser-client relationship and (2) not disclose assignment results and confidential information to anyone other than the client and persons specifically authorized by the client. This can be accomplished by seeking client authorization to disclose assignment results and confidential information that would be part of the workfile. Providing the acquiring appraiser with access to the selling appraiser's workfiles without client authorization is a violation of the Confidentiality section of the ETHICS RULE.

With client authorization, the selling appraiser can provide the acquiring appraiser with access to the selling appraiser's workfiles. However, the selling appraiser should also consider the impact of applicable privacy laws and regulations.

To comply with the Record Keeping section of the ETHICS RULE, the selling appraiser should make appropriate workfile retention, access, and retrieval arrangements as part of the sale terms.

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46. PURCHASING AN APPRAISAL FIRM AND ETHICAL OBLIGATIONS

Question: **I am considering the purchase of another appraiser's appraisal practice. What are my USPAP obligations regarding record keeping and confidentiality?**

Response: The acquiring appraiser has general USPAP obligations to protect public trust in appraisal practice. The PREAMBLE states:

> *The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity.*

The ETHICS RULE states:

> *To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics.*

In the sale of an appraisal practice, the acquiring appraiser should respect the selling appraiser's obligations under the Confidentiality and Record Keeping sections of the ETHICS RULE.

The acquiring appraiser does not have an appraiser-client relationship with the clients of the selling appraiser, but the acquiring appraiser's obligation to protect public trust creates a responsibility when access is provided to another appraiser's workfile. The acquiring appraiser should treat the acquired assignment results and confidential information in the workfiles in compliance with USPAP.

The acquiring appraiser should honor the workfile retention, access, and retrieval arrangements made by the selling appraiser in compliance with the Record Keeping section of the ETHICS RULE.

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ETHICS RULE – RECORD KEEPING

47. CONTENTS OF A WORKFILE

Question: **What information must be retained in an appraiser's workfile?**

Response: An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The Record Keeping section of the ETHICS RULE states:

> *The workfile must include:*
> - *the name of the client and the identity, by name or type, of any other intended users;*
> - *true copies of any written reports, documented on any type of media;*
> - *summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and*
> - *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.*

The appraiser's assignment workfile serves several purposes. As in many other professions, the discipline of enforcement by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a workfile aids the appraiser in handling questions from the client or an intended user subsequent to the date of the report.

An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.

48. TIME PERIOD TO RETAIN WORKFILES

Question: **How long do I have to retain a workfile for an assignment?**

Response: The Record Keeping section of the ETHICS RULE states:

> *An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.*

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49. PHOTOCOPIES OF APPRAISAL REPORTS IN WORKFILES

Question: **In order to satisfy the Record Keeping section of the ETHICS RULE, must an appraiser retain a complete photocopy of the finished appraisal report that was sent to the client?**

Response: The workfile must contain a "true copy" of the report. A photocopy or an electronic copy of the entire signed appraisal report that was sent or delivered to a client satisfies the USPAP requirement of a true copy.

50. WORKFILES FOR APPRAISAL REVIEW ASSIGNMENTS

Question: **I am a manager for an Appraisal Management Company that performs commercial and residential appraisals in various parts of the country. Our company acts as the agent for our clients who consist of numerous regional and national lenders. In that capacity, we take in appraisal orders from our clients and order those appraisals from fee appraisers on our approved list of appraisers. We also perform STANDARD 3 compliant reviews on those appraisals. We forward the appraisal and appraisal review reports to our client. Are we required to keep a file of the appraisal reviews?**

Response: Yes. The Record Keeping section of the ETHICS RULE requires, in part:

> *An appraiser must prepare a workfile for each appraisal, **appraisal review**, or appraisal consulting assignment. The workfile must include:*
>
> - *the name of the client and identity, by name or type, of any other intended users;*
> - *true copies of any written reports…* (Bold added for emphasis)

Further, it is important to note that the requirement under USPAP is for the **appraiser** to retain a copy of:

> *the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.*

Therefore, it is incumbent upon the appraiser, not his or her employer, to ensure that a copy of the workfile is available for the time periods stipulated.

51. PURGING WORKFILES AT A CLIENT'S REQUEST

Question: **If requested by a client, can I purge my appraisal files and records of an appraisal that was not utilized in loan underwriting or in any other manner by the client?**

Response: No. USPAP does not permit appraisers to destroy records prior to five years after preparation **for any reason**, including a client's request to do so or the fact that an appraisal is not utilized by the client. The Record Keeping section of the ETHICS RULE states, in part:

> *An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.*
>
> *An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in*

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which the appraiser provided testimony related to the assignment, whichever period expires last.

52. *WORKFILE RETENTION WITH MORE THAN ONE APPRAISER*

Question: **If two appraisers sign an appraisal report, what are the obligations related to record keeping? Specifically, must both appraisers keep a copy of the workfile?**

Response: No, it is not necessary for both appraisers to have a copy of the workfile.

The Record Keeping section of the ETHICS RULE states, in part:

> *An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.*

Neither appraiser is required to have custody of the workfile. However, an appraiser who does not have custody must make appropriate arrangements for retention, access, and retrieval.

See Advisory Opinion 31, *Assignments Involving More than One Appraiser* for further guidance.

53. RESPONSIBILITY FOR WORKFILE RETENTION

Questions: **a) Jim, an independent contractor, works for my appraisal company on a regular basis. I have always kept all appraisal file documentation (including hard copies of appraisal reports, field notes, drawings, etc.) at my office. Now Jim wants to keep the files relating to his work in his own possession. Under USPAP, which appraiser should keep the workfile?**

b) Is the Record Keeping section of the ETHICS RULE upheld if an institutionally employed appraiser ensures that his organization retains copies of his appraisal work for five years? Or, must the appraiser also maintain a personal file of all work performed?

c) A client's attorney requested that I supply all of my files/records regarding an assignment. Can I do this and still be in compliance with the record keeping requirements for USPAP? Also, what must I retain in my files as proof that the files are now the responsibility of the attorney? Will a simple letter from the client be sufficient?

Response: According to USPAP, the **appraiser**, not the appraiser's employer or client, is ultimately responsible for the retention of the workfile for the prescribed period. (See Record Keeping section of the ETHICS RULE.)

An appraiser who is employed by, or works in conjunction with, another party must make arrangements with that party to protect and preserve the workfile, and to allow the appraiser to make the workfile available to other parties (e.g., State Appraisal Boards and such representatives) when required by due process of law.

There are a number of ways an appraiser who works for or with another party can ensure that files are retained so that the appraiser can have access to the files to meet the requirements of the ETHICS RULE. For example, an appraiser and his employer or colleague may agree that the files will remain in the employer's or colleague's custody for the duration of the requisite retention period and that the appraiser will have access to those files, if needed.

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USPAP does not dictate the form or format of workfile documentation. It is not necessary to include original documents in the file; photocopies and electronic files are acceptable as "true copies." Because there have been cases where employers and others have denied appraisers access to workfiles, an appraiser may wish to make and retain copies of workfiles. However, USPAP does not address any specific manner by which an employer or contractor and appraiser should handle record retention. This is a business matter, which should be arranged in the context of the employer- or contractor-appraiser relationship.

By the same token, providing the workfile to a duly authorized party, such as a client's attorney, is permitted by USPAP. However, this does not relieve the appraiser of the responsibility for that workfile. At no time may an appraiser abdicate his or her responsibility for a workfile. Therefore, when an appraiser relinquishes possession of a file to a client or the client's representative, the appraiser should retain either a copy of the workfile or a written reference to an agreement with the client that the appraiser will have access to the workfile, if the need arises.

54. *TRAINEE ACCESS TO WORKFILES*

Question: **I am a trainee appraiser and have been working with the same supervising appraiser for some time. Recently, my supervising appraiser told me that since I was only a trainee, I had no right to access workfiles on appraisals where I provided significant professional assistance. Is my supervising appraiser correct? Do trainees have no rights regarding access to workfiles?**

Response: As background, USPAP places workfile retention requirements on the appraiser. In assignments where more than one appraiser is involved (e.g. a trainee appraiser and a supervising appraiser) each appraiser shares responsibility for complying with the Record Keeping section of the ETHICS RULE.

Supervising appraisers should be aware that all appraisers, including "trainee appraisers," must maintain access to workfiles for a minimum of five years. A supervising appraiser must not impede a trainee appraiser's ability to access workfiles. Denying access to workfiles is a violation of the ETHICS RULE.

> *This Rule specifies the personal obligations and responsibilities of the individual appraiser. However, it should also be noted that groups and organizations engaged in appraisal practice share the same ethical obligations.*

See Advisory Opinion 31, *Assignments Involving More than One Appraiser* for further guidance.

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55. SIGNED CERTIFICATION IN TRUE COPIES

Question: **The Record Keeping section of the ETHICS RULE states, in part:**

> ***The workfile must include…true copies of any written reports…***

Does a true copy have to include a signature on the certification?

Response: Yes, a true copy is a replica of the report sent to the client. Any signatures that were affixed to the original report must also exist on the copy for the workfile.

56. CREATING A WORKFILE AFTER REPORT DELIVERY

Question: **I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?**

Response: No. The Record Keeping section of the ETHICS RULE states:

> *A workfile must be in existence* ***prior to and contemporaneous with*** *the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.* (Bold added for emphasis)

It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.

57. *ELECTRONIC WORKFILE STORAGE*

Question: **Recently I have considered maintaining only electronic workfiles (i.e., saving only electronic versions of my reports and supporting data, and scanning any paper documents used so that copies may be stored on electronic media). Is this prohibited by USPAP?**

Response: No. There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of workfiles.

The Record Keeping section of the ETHICS RULE states, in part:

> *The workfile must include:*
> - *the name of the client and the identity, by name or type, of any other intended users;*
> - *true copies of any written reports, documented on any type of media;*
> - *summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and*
> - *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.*

As long as an electronic workfile contained these items, it would be sufficient.

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An appraiser must also be mindful of the requirement to have access to the workfile for the applicable required time period. The appraiser must ensure that the proper software is maintained to allow access to the electronic files

58. PAPER COPIES OF ELECTRONICALLY TRANSMITTED REPORTS

Question: **Are appraisers required by USPAP to retain a paper copy of electronically transmitted appraisal reports?**

Response: No. The Record Keeping section of the ETHICS RULE requires appraisers to prepare and retain written records of appraisal, appraisal review, and appraisal consulting assignments. However, the Comment states:

> *A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy.*

Therefore, a paper copy is not required.

59. *JURISDICTIONAL EXCEPTION AND WORKFILE RETENTION*

Question: **My state law requires an appraiser to retain workfiles for three years after the valuation date. Is this an example of a jurisdictional exception?**

Response: No. Jurisdictional exception is defined as

> *an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.*

In the scenario described, complying with the Record Keeping section of the ETHICS RULE would exceed the requirements of the law, but it would not be contrary to the law.

By retaining access to workfiles for the longer period required by USPAP, the appraiser would also be in compliance with the law. Therefore, this would not be a jurisdictional exception.

60. MINIMUM WORKFILE RETENTION

Question: **My state appraisal board is asking me to send a copy of the workfile for an appraisal I performed eight years ago. Since I provided no testimony in the assignment, I was only required to maintain access to the workfile for five years. Given that this time period has expired, can the state board still take action in this case?**

Response: Yes. The time frames referenced in the Record Keeping section of the ETHICS RULE are only minimums. Nothing in USPAP would prevent an enforcement proceeding from taking place after the applicable time period had expired.

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COMPETENCY RULE

61. ACQUIRING KNOWLEDGE & EXPERTISE TO COMPLY WITH THE COMPETENCY RULE

Question: **How does an appraiser gain the knowledge and expertise required by the COMPETENCY RULE if he or she lacks the knowledge and experience to complete an assignment competently?**

Response: The COMPETENCY RULE requires an appraiser who lacks the knowledge and experience to complete an assignment competently to disclose the lack of knowledge and/or expertise to the client before accepting the assignment. The appraiser must then take all steps necessary to appropriately complete the assignment competently and document the steps in the appraisal report. An appraiser may gain the knowledge and expertise required through any or all of the following: personal study by the appraiser; association with an appraiser reasonably believed to have the necessary knowledge or experience; or, retention of others who possess the required knowledge or experience. Refer to the COMPETENCY RULE for further guidance.

62. CONTINUING EDUCATION COURSES

Question: **Does USPAP require appraisers to take continuing education courses?**

Response: Not directly. However, Standards Rule 1-1(a), states:

> *In developing a real property appraisal, an appraiser must:*
>
> *(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;*
>
> *Comment: This Standards Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances.* ***For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in real property appraisal****.* (Bold added for emphasis)

The last sentence of the Comment to SR 1-1(a) clearly indicates that appraisers must continuously improve their knowledge and skills. Therefore, some form of continuing education is required, although not explicitly stated in the USPAP document.

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JURISDICTIONAL EXCEPTION RULE

63. APPLICATION OF THE JURISDICTIONAL EXCEPTION RULE

Question: **When does the JURISDICTIONAL EXCEPTION RULE apply in an assignment?**

Response: The JURISDICTIONAL EXCEPTION RULE exempts appraisers from the part or parts of USPAP that are contrary to the law or public policy of a particular jurisdiction. The Rule applies anytime there is a conflict between the requirements of USPAP and the applicable law or public policy requirements of a jurisdiction. Appraisers using the JURISDICTIONAL EXCEPTION RULE must properly disclose the legal authority justifying the exemption of part or parts of USPAP that are contrary to law.

The JURISDICTIONAL EXCEPTION RULE includes language that helps appraisers recognize "law," "public policy," and "jurisdiction." However, in every case, it is ultimately the responsibility of the appraiser, and not the client or other intended users, to determine whether the use of the JURISDICTIONAL EXCEPTION RULE is appropriate.

64. USPAP COMPLIANCE AND JURISDICTIONAL EXCEPTION

Question: **I am a real property appraiser and a government employee. The agency I work for wants me to provide a "preliminary estimate of value." The agency policy states that this work is not an appraisal and is not covered by USPAP because of a Jurisdictional Exception. Should I comply with USPAP when I prepare a "preliminary estimate of value?"**

Response: This question raises a number of issues related to USPAP compliance and the application of the JURISDICTIONAL EXCEPTION RULE. .

Based on your identification as an appraiser, you should comply with USPAP. This is because an individual's public identification as an appraiser establishes an expectation that valuation services will be performed in compliance with USPAP. You must comply with USPAP when required by law, regulation, or agreement. Even if the agency policy does not require USPAP compliance, other applicable law or regulation might require compliance.

The JURISDICTIONAL EXCEPTION RULE cannot be used to resolve this type of USPAP compliance question because compliance is not required by USPAP. USPAP does not establish who or which assignments must comply; thus, the JURISDICTIONAL EXCEPTION RULE cannot be applied to the decision to comply with USPAP.

Another issue raised by this question relates to the USPAP requirements that apply to a "preliminary estimate of value." USPAP does not define "preliminary estimate of value." However, it is the nature of the service, not the label applied, that defines the service. An appraisal is defined as *the act or process of developing an opinion of value; an opinion of value*. If the service is an "appraisal" as defined in USPAP, then STANDARDS 1 and 2 apply to the "preliminary estimate of value."

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65. WHEN USPAP IS CONTRARY TO PUBLIC POLICY OR LAW

Question: **Can a jurisdictional exception take away from the requirements of USPAP?**

Response: Yes. The JURISDICTIONAL EXCEPTION RULE provides for the situation in which parts of USPAP may be contrary to public policy or law in certain jurisdictions. It states:

> *If any part of these Standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.*

As stated in the Comment to the JURISDICTIONAL EXCEPTION RULE:

> *It is misleading for an appraiser to disregard a part or parts of USPAP as void and of no force and effect in a particular assignment without identifying in the appraiser's report the part or parts disregarded and the legal authority justifying this action.*

The Comment to the JURISDICTIONAL EXCEPTION RULE includes language that helps appraisers recognize "law," "public policy," and "jurisdiction."

66. APPROPRIATE SOURCES FOR JURISDICTIONAL EXCEPTION

Question: **My client's attorney has told me to invoke the JURISDICTIONAL EXCEPTION RULE to avoid mentioning in my appraisal report an underground storage tank (UST) that I know exists in the property. The attorney did not provide any reference or citation of law or public policy justifying this action. Can I follow the instruction from this attorney, who is representing my client?**

Response: No. Use of the JURISDICTIONAL EXCEPTION RULE is triggered by a conflict between the requirements of USPAP and the law or public policy requirements of a jurisdiction, not by client discretion.

The JURISDICTIONAL EXCEPTION RULE states:

> *If any part of these Standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.*

This Rule is known as the "savings clause," available when a part or parts of USPAP are contrary to law or public policy. The first sentence of the Comment to the Rule states:

> *The purpose of the JURISDICTIONAL EXCEPTION RULE is strictly limited to providing a saving or severability clause intended to preserve the balance of USPAP if one or more of its parts are determined to be contrary to law or public policy of a jurisdiction.*

The second paragraph in the Comment also provides explicit descriptions of "law," "public policy," and "jurisdiction" that appraisers can use to determine whether a client's instruction to invoke a jurisdictional exception is acceptable. It is important to note that the parameters described in the Comment apply whether the assignment is an appraisal, appraisal review, or an appraisal consulting assignment, or the type and definition of value is market value (or some other value opinion), and for any intended use.

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An attorney's instruction, without specific citation of law or public policy, is not the equivalent of law or public policy. Attorneys may offer legal opinions, but legislative bodies and courts make law, and public bodies, such as regulators, make public policy. While an attorney is an expert in the practice of law, it is the court that decides if the facts in a matter support an attorney's representation of how established law applies to a specific set of facts.

Absent the citation of law or public policy, which should be identified in the report together with the part or parts of USPAP disregarded in the assignment, the attorney's instruction is not acceptable as a basis to disregard a part or parts of USPAP applicable in the assignment.

67. JURISDICTIONAL EXCEPTION AND CONFIDENTIALITY

Question: **I was recently hired to perform an appraisal assignment for a government agency. The agency has a regulation that requires me to provide the appraisal report to other government agencies if requested. Does this regulation create a jurisdictional exception to the Confidentiality section of the ETHICS RULE?**

Response: No. The Confidentiality section of the ETHICS RULE reads, in part:

> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law;…*

Since the Confidentiality section of the ETHICS RULE allows for the disclosure of confidential information to *persons specifically authorized by the client* and *such third parties as may be authorized by due process of law*, the JURISDICTIONAL EXCEPTION RULE would not apply.

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APPRAISAL DEVELOPMENT – CLIENT ISSUES

68. IDENTIFICATION OF THE CLIENT

Question: **Who is the appraiser's client?**

Response: The client is the party or parties who engage an appraiser (by employment or contract) in a specific assignment. It is engagement for an assignment, not payment for an assignment, that establishes the appraiser-client relationship.

69. PAYMENT BY A PARTY OTHER THAN THE CLIENT

Question: **I am a certified general appraiser whose practice includes both residential and commercial appraisal assignments. Recently it has become very common for my mortgage lending "clients" to require me to pick up the check for the appraisal fee from the borrower. This takes place in both residential and commercial assignments. Since I am being paid directly by the borrower, does the borrower become the client?**

Response: No. USPAP defines the client as:

> *The party or parties who engage an appraiser (by employment or contract) in a specific assignment.*
>
> *Comment: The client identified by the appraiser in an appraisal, appraisal review, or appraisal consulting assignment (or in the assignment workfile) is the party or parties with whom the appraiser has an appraiser-client relationship in the related assignment, and may be an individual, group, or entity.*

The act of the borrower or any other entity paying the appraiser does not make them the client under USPAP. However, state law could take precedence over USPAP in this situation. Therefore, you should contact the pertinent jurisdictions to ensure that there is not a conflict between applicable law and USPAP.

70. DIFFERENCE BETWEEN CLIENTS AND INTENDED USERS

Question: **What is the difference between a client and an intended user?**

Response: The term "Client" is defined in the DEFINITIONS section as:

> *the party or parties who engage an appraiser (by employment or contract) in a specific assignment.*

The term "Intended User" is defined as:

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment.*

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Eventual receipt of a copy of an appraisal, appraisal review, or appraisal consulting report does not make the recipient an intended user. To be an **intended user** the recipient must have been **identified** as such by the **appraiser**.

71. APPRAISAL MANAGEMENT COMPANY AS AUTHORIZED AGENT FOR A CLIENT

Question: **I accept assignments from an Appraisal Management Company (AMC) that has informed me they are an authorized agent for the lenders they represent. The AMC does not want me to list their name as the client, and asks that I only list the name of the lender they are representing. USPAP says the appraiser's client is the party who engages the appraiser. Is it ethical to omit the AMC's name as the client on my reports?**

Response: Yes. If the AMC is acting as a duly authorized agent for a lender, identifying only the lender as your client is acceptable.

72. CLIENT CANNOT BE IDENTIFIED

Question: **I was recently asked to perform an appraisal assignment but the individual that contacted my firm was not the client and indicated that the client could not be identified. Can I accept this assignment and comply with USPAP?**

Response: No. Standards Rule 1-2 states, in part:

> *In developing a real property appraisal, an appraiser must:*
>
> *(a) identify the client and other intended users;…*

This does not preclude a third party, acting as an agent for the client, from ordering the appraisal; however, the appraiser must be able to identify the client. Refer to STATEMENT No. 9, *Identification of Intended Use and Intended Users,* for further clarification.

73. SUBSEQUENT USER REQUESTS A "RELIANCE LETTER"

Question: **I delivered an appraisal report to my client. A week later, an entity other than one of the identified intended users contacted me and asked that I provide a "reliance letter," enabling them to rely on the appraisal report for their own investment use. My client says they have no problem with my doing that. Can I provide this entity with such a letter, even though I had not originally identified them as an intended user?**

Response: No. You cannot add what is in effect a new "intended user" after the completion of an assignment, no matter what terminology you use.

USPAP defines Intended User as:

> *The client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client* ***at the time of the assignment****.* (Bold added for emphasis)

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The proper way to handle this is to initiate a new assignment with this entity as the client and provide them an appraisal, being careful to develop an appropriate scope of work consistent with their own intended use.

This new assignment could be based on virtually the same data and analysis, and the value conclusion might be the same. However, in the new assignment you must consider the assignment elements most appropriate to the scope of work for that client and the assignment, which could well be different from those of your prior client.

74. *READDRESS OR TRANSFER*

Question: **Is it acceptable to readdress or transfer a completed appraisal report?**

Response: No. Once a report has been prepared for a named client or clients, the appraiser cannot 'readdress' (transfer) the report to another party. Simply changing the client name on the report cannot change or replace the original appraiser-client relationship. Therefore, this action is misleading.

However, you can consider the request as a new assignment. In so doing, you may establish a new appraiser-client relationship and appraise the property for this new client.

Additional information can be found in Advisory Opinion 26, *Readdressing (Transferring) a Report to Another Party*. Important considerations, such as the handling of confidential information and other factors, are addressed in Advisory Opinion 27, *Appraising the Same Property for a New Client.*

75. READDRESSING WITH LENDER RELEASE

Question: **I am aware of Advisory Opinions: AO-26, *Readdressing (Transferring) a Report to Another Party* and AO-27, *Appraising the Same Property for a New Client*. Does that guidance still apply if Lender A releases me to perform another assignment, or can I just readdress the report to Lender B since I have obtained a release?**

Response: It is never permissible to "readdress" a report by simply changing the client's name on a completed report, regardless of whether the first client gave a release. The request from Lender B must be treated as a new assignment.

Further guidance can be found in the Obtaining a Release section of Advisory Opinion 27.

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76. *IDENTIFICATION OF INTENDED USERS*

Questions: **I know that it is my responsibility to identify the intended users when I perform an assignment.**

USPAP defines "intended user" as ***the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client.***

However, I need clarification regarding whether certain parties should automatically be considered intended users in certain circumstances described below.

A. If I perform an appraisal for estate tax purposes and the client will provide my report to the IRS with her tax return, must the IRS be identified as an intended user in this situation?

B. I have been hired by an attorney representing a husband in a divorce to appraise certain assets held in the marital estate and to appear as an expert witness. I know my report will go to the court as well as to the parties on the other side of the litigation. Must the court and/or the parties on the other side of the litigation be identified as intended users?

C. I frequently perform appraisals for purposes of purchase price allocation. The corporation that is my client will use the values for financial reporting purposes. My reports are provided to the auditors of the corporations for their review as part of the audit process. In such cases, must the auditors be identified as intended users?

D. I am appraising a property for a regulated lender. I know that my appraisal will be reviewed by the bank's outside auditors and the OCC reviewers. Must the auditors and OCC reviewers be identified as intended users?

Response: No. Intended users are identified by the appraiser through communication with client and are not established based on who might receive or use the report.

The definition of "intended user" has a specific meaning in USPAP. In the context of the USPAP definition of intended user, the fact that the IRS, the court, an independent auditor, or the OCC in the above cases use your report for review, audit, or other purposes does not automatically make them intended users. These parties receive the report through established processes of disclosure or regulation.

One way to understand the concept is to think about what the *intended use* is for each party. The appraiser must identify both the intended users and the intended use of the appraisal, because these two factors affect many elements of the appraisal assignment, such as the appropriate scope of work and the appropriate type of report.
In each case, the use of the report by these other parties is different from the *intended use* the appraiser identified, which was related to the client's use. Such other parties may be evaluating the decision made by the appraiser's client to obtain an appraisal, as well as the appraisal results, and other matters of which the appraiser may not be aware. As an example, the client filing the estate tax return is using the appraisal as an indication of the amount to state on the tax form. However, the IRS may "use" the appraisal report to determine whether the value reported on the tax return is adequately supported, whether they agree with the value, and/or whether they should challenge the taxpayer because they disagree with the value.

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As indicated in Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended User*,

> *Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless they were specifically identified by the appraiser at the time of the assignment.*

77. ARE BORROWERS INTENDED USERS

Question: **Frequently, the borrower in a mortgage finance transaction is provided with a copy of the appraisal report; and in most cases, the appraiser knows that the borrower will be receiving a copy of the appraisal report. When the appraiser is aware that the borrower or any other third party will receive a copy of the appraisal, does this make that third party an intended user?**

Response: No, the fact that a borrower or anyone else receives a copy of the appraisal report does not make them an intended user. The concept of an "intended user" in USPAP is framed within the context of the appraiser-client relationship. An "intended user" is defined in USPAP as:

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.*

There are several things to note in this definition. First, intended users of the appraisal report must be identified by the appraiser. Secondly, this identification is made at the time of the engagement process so the appraiser can make a prudent judgment about the scope of work to apply in the assignment and the level of detail to include in the report.

It is also worth noting that the concept of "intended use" and "intended users" are related to the type and definition of value in an assignment. Appraisal reports for loan transactions are typically used to substantiate the real property's market value as underlying collateral for a particular loan. The fact that the lending institution is required by law or regulation to make certain disclosures to the borrower about the loan and the basis for the loan decision does not alter the intended use, intended users, or type and definition of value in the appraisal assignment.

STATEMENT No. 9, *Identification of Intended Use and Intended User* further clarifies this issue by stating:

> *A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship.*

Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless they were specifically identified by the appraiser at the time of the assignment.

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78. IDENTIFYING INTENDED USERS BY TYPE

Question: **I recently received a request for an appraisal assignment. The potential client has indicated that there will be other intended users, but has not identified the intended users specifically. Is it acceptable to identify the intended users by type?**

Response: Yes. STATEMENT No. 9, *Identification of Intended Use and Intended Users* states:

> *Neither the client nor the appraiser is obligated to identify an intended user by name. If identification by name is not appropriate or practical, an appraiser's client and* ***the appraiser may identify an intended user by type****.* (Bold added for emphasis)

Therefore, in this situation the appraiser should identify the type of intended users applicable to the assignment, (e.g., wholesale loan purchasers).

79. *ENGAGED DIRECTLY BY THE HOMEOWNER*

Question: **I was contacted by homeowners who want me to perform an appraisal of their home to be used for a loan at a federally regulated financial institution. What are my responsibilities in this potential assignment?**

Response: It is an appraiser's responsibility to disclose to the homeowners that a lender or its agent is required by Title XI of FIRREA to directly engage the services of an appraiser in a federally related transaction. If the homeowners still want to engage you, your disclosure allows you to accept the assignment.

Additional information can be found in Advisory Opinion 25, *Clarification of the Client in a Federally Related Transaction*.

80. *CLIENT APPROVAL FOR FUTURE ASSIGNMENTS*

Question: **Some of my clients include a condition in engagement correspondence that addresses future assignments for the same subject property. Specifically, my acceptance of the assignment requires that I agree to obtain client approval before I accept future assignments related to the subject from another party. Advisory Opinion 27, *Appraising the Same Property for a New Client* states that USPAP does not require a release to accept the new assignment. Can I accept assignments where the client requires a release for future assignments related to the subject?**

Response: Yes. Appraisers are often subject to agreements that exceed the requirements of USPAP. These additional client requirements are permissible so long as they do not conflict with the requirements of USPAP. Although USPAP does not require obtaining approval from a prior client before accepting an assignment to appraise the same property for a new client, a client can establish such a requirement.

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APPRAISAL DEVELOPMENT – APPRAISAL DATES

81. EFFECTIVE DATE OF THE APPRAISAL

Question: **The Standards Rules require all appraisal reports to disclose the effective date of the appraisal. Must the date be reported as a specific day, month, and year, or is it sufficient to simply provide the month and year?**

Response: The effective date of an appraisal is determined by the intended use and the intended user. In most cases the intended use and/or the intended user dictates that the date provided is a specific day, month, and year. However, in some circumstances it may be acceptable to be less specific, (e.g., in a prospective appraisal assignment).

82. DATE OF APPRAISAL

Question: **What is the date of appraisal?**

Response: The date of the appraisal is an ambiguous term. The appropriate terminology is either the effective date of the appraisal or the date of the report.

83. DATE OF VALUE

Question: **Is the effective date of the appraisal the same as the date of value?**

Response: Yes.

84. CURRENT VALUE OPINIONS FOR PROPOSED IMPROVEMENTS

Question: **Does USPAP address the performance of a current appraisal for real property with proposed improvements?**

Response: Yes. Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*, offers advice from the ASB regarding a current real property appraisal based on the assumption of completion of improvements.

85. PROPOSED IMPROVEMENTS – CURRENT AND PROSPECTIVE VALUE OPINIONS

Questions: **The real property that I am appraising involves proposed improvements, and the client needs to know my opinion of market value as if the proposed improvements were complete, both as of the current date and as of a future date. I have two questions:**

A. When the Date of Value is a current date, is my opinion developed on the basis of a hypothetical condition or an extraordinary assumption?

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B. When the Date of Value is a <u>future date</u>, when the proposed improvements will be complete, is my opinion developed on the basis of a hypothetical condition or an extraordinary assumption?

Responses: A. When the date of value is a current date, and the appraisal is of a property with proposed improvements as if those improvements were complete on a current date of value, the value opinion is developed on the basis of a hypothetical condition.

This is because the appraiser knows the proposed improvements do not, in fact, exist on that current date of value. Completing an analysis on the condition that something the appraiser knows to be contrary to what exists, but is supposed for purposes of reasonable analysis, is using a hypothetical condition in that analysis. (See Standards Rule 1-2(g))

B. When the date of value is a future date and the appraisal is of a property with proposed improvements that are expected to be complete on or before that future date, the value opinion is developed on the basis of an extraordinary assumption.

This is because the appraiser presumes the proposed improvements will, in fact, exist as of that future date of value. Completing the analysis on the condition that something the appraiser reasonably believes will exist as of a future date is using an extraordinary assumption in that analysis. (See Standards Rule 1-2(f))

86. <u>COMPETENCY AS OF EFFECTIVE DATE OF THE APPRAISAL</u>

Question: **Can an appraiser prepare a retrospective appraisal, with an effective date of value as of five years ago, if that appraiser wasn't even an appraiser five years ago?**

Response: Yes. The appraiser must comply with the COMPETENCY RULE at the time the appraiser develops the appraisal, regardless of the effective date of value. If the appraiser is to develop a retrospective (or prospective) value opinion, the appraiser must be able – at the time he or she is performing the assignment – to deal with the nuances of such an assignment, (e.g., to research data associated with the retrospective or prospective date and to analyze the data in light of market conditions as of that date). It is not necessary for the appraiser to be, or to have been, a competent appraiser as of the effective date of value.

An appraiser could develop a retrospective appraisal with an effective date of value that is prior to the appraiser's own date of birth. Likewise, an appraiser could develop a prospective appraisal with an effective date of value that occurs after the date of his or her own death. These would be legitimate assignments that could be completed according to USPAP. In such cases the appraiser could not be considered to be a competent appraiser as of those effective dates of value.

87. <u>CURRENT AND RETROSPECTIVE VALUE OPINION WITHIN ONE REPORT</u>

Question: **I have been asked to perform an appraisal assignment that includes providing a retrospective value as well as a current value. Can I report both value opinions within one appraisal report?**

Response: Yes, you can communicate both within one appraisal report. Since two opinions of value (appraisals) are included in the report, both opinions must be developed in conformance with the appropriate STANDARD (1, 6, 7, or 9).

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88. POST-VALUE DATE INFORMATION IN RETROSPECTIVE APPRAISALS

Question: **The real property that I am appraising is in a market that was impacted by the major regional employer's closing of its facility three years ago. My client needs an opinion of value as of a date that preceded any knowledge of the facility being closed. Is it appropriate to include the fact that the facility closed in my retrospective appraisal?**

Response: A thorough review of STATEMENT No. 3 (SMT-3), *Retrospective Value Opinions* is necessary to properly deal with the problem the appraiser faces in this question. The most relevant information in SMT-3 states:

> *A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the effective date of the appraisal. Data subsequent to the effective date may be considered in developing a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date. The appraiser should determine a logical cut-off because at some point distant from the effective date, the subsequent data will not reflect the relevant market. This is a difficult determination to make. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where he or she should make this cut-off. In the absence of evidence in the market that data subsequent to the effective date were consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date for data considered by the appraiser.*

The appraiser cannot include in the analyses the fact that an event subsequent to the date of value in a retrospective appraisal changed the market conditions that existed as of the date of value. Using such information is not consistent with the intended use of the appraisal because buyers and sellers had no knowledge or expectation of that subsequent event as of the date of value.

However, an appraiser may disclose facts in an appraisal report about events that occurred subsequent to the date of value in an appraisal. Such a disclosure is particularly appropriate when the appraiser has reason to believe the intended users of the report could be misled by not knowing those facts in the current time frame, when the appraisal is being used.

89. APPRAISAL BASED ON CURRENT AND PROSPECTIVE DATE OF VALUE

Question: **My client, a federally regulated lender, has requested a market value appraisal for use in financing a commercial property development project. The client's stated loan conditions include a requirement that the property be leased before the onset of its development. The client stated they need (1) an opinion of market value for the property that actually exists as of a current date, which is the site with its entitlements and under the zoning in effect as of the current date, and (2) an opinion of value as of the future date (a prospective value opinion) when the property will be physically completed and occupied under the pre-leasing terms and conditions. Must I develop both of these opinions of value and, if so, why?**

Response: Yes. The client needs both opinions to aid in identifying its project development loan risk and respond to regulatory requirements and guidelines.

The client's project development loan decision would typically be based, in part, on your analysis of highest and best use (See SR 1-3(b)) and the feasibility of the development project (See SR 1-2(e), Comment on (i)-(v)).

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The value of the site, with its entitlements and under the zoning in effect as of a current date (i.e., without use of a hypothetical condition), is an important component in your analysis and it provides the client with information necessary to identify development risk and determine appropriate loan terms and conditions. Absent other factors, this value opinion could be developed without use of either an extraordinary assumption or a hypothetical condition. The "subject" in this appraisal is the property, in this case the site that actually exists as of a current date of value, with the zoning (including any entitlements) in effect as of that date.

The value of the property as of the future date, when it has been physically completed and leased under the pre-leasing terms and conditions, is also significant information the client would typically use in making its project development loan decision. Developing this value opinion typically requires the use of an extraordinary assumption because the "subject" in this appraisal is the property as it is expected to exist as of that future date when physical development is complete and the property is leased in accordance with the lease terms and conditions.

90. USPAP COMPLIANCE IN RETROSPECTIVE APPRAISALS

Question: **When preparing an assignment with a retrospective date of value, should the appraiser comply with the standards in effect as of the date of valuation or as of the date of report?**

Response: Appraisers must comply with the standards in effect as of the date of the report. Only the data and the analyses of that data should be considered on a retrospective basis, not the standards under which the assignment is performed.

91. RETROSPECTIVE APPRAISAL ASSIGNMENTS

Question: **I was recently asked to complete a retrospective market value appraisal for which the effective date of the appraisal is two years prior to the date of the report. In researching this assignment I discovered several comparable sales that were listed, placed under contract, and sold well after the effective date of the appraisal. Would it be appropriate to use only these sales in my sales comparison approach to value?**

Response: No. In a retrospective appraisal the analysis should reflect the market conditions that existed on the effective date of the appraisal. Only using comparable sales information that was **not** available to the market place, or did not exist as of the effective date of the appraisal would be misleading because it would not reflect information available to the marketplace during that time period.

Consult SMT-3, *Retrospective Value Opinions* for additional information

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APPRAISAL DEVELOPMENT – SCOPE OF WORK ISSUES

92. *WHAT IS SCOPE OF WORK?*

Question: **What is scope of work?**

Response: In basic terms, the scope of work is the work an appraiser performs to develop assignment results. USPAP defines "scope of work" as *the type and extent of research and analyses in an assignment.* Note that this definition excludes reporting.

93. *APPLICABILITY OF SCOPE OF WORK RULE*

Question: **In my role as an appraiser, I perform many assignments that are not appraisal, appraisal review, or appraisal consulting services. Does the SCOPE OF WORK RULE apply to these assignments?**

Response: No. The SCOPE OF WORK RULE applies only to appraisal, appraisal review, and appraisal consulting assignments. These are the same assignments that STANDARDS 1 through 10 address.

Assignments where STANDARDS 1 though 10 do not apply (for example, teaching appraisal courses, providing sales data, collecting market data, analyzing reproduction costs, developing educational texts) still require an appraiser to comply with those portions of USPAP that apply to appraisal practice. These include the DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE and the JURISDICTIONAL EXCEPTION RULE.

94. *RESPONSIBILITY FOR THE SCOPE OF WORK DECISION*

Question: **Who determines the scope of work?**

Response: It is the appraiser's responsibility to determine and perform the appropriate scope of work.

95. *CLIENT SPECIFIES SCOPE OF WORK*

Question: **Is a scope of work specified by the client acceptable?**

Response: It is if that scope of work allows the appraiser to develop credible assignment results. If the scope of work specified by the client does not allow the development of credible assignment results, the appraiser needs to discuss changing the scope of work or withdraw from the assignment.

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96. *HOW "CREDIBLE" RESULTS ARE MEASURED*

Question: **What's important to know about "credible"?**

Response: Whether or not assignment results are credible is always measured in the context of the intended use of the assignment. This means that credibility is relative, not absolute. Assignment results that are credible for one intended use may not be credible for another intended use.

97. STANDARDS, STANDARDS RULES, AND DEVELOPING AN APPRAISAL

Question: **Which Standards and Standards Rules apply to developing an appraisal?**

Response: "Developing an appraisal" is one part of the development and reporting steps. STANDARD 1 and Standards Rules 1-1 through 1-6 apply to developing a real property appraisal. STANDARD 6 and Standards Rules 6-1 through 6-7 apply to developing a mass appraisal. STANDARD 7 and Standards Rules 7-1 through 7-6 apply to developing a personal property appraisal. STANDARD 9 and Standards Rules 9-1 through 9-5 apply to developing a business appraisal.

98. *JUDGING AN "APPRAISER'S PEERS ACTIONS"*

Question: **In the SCOPE OF WORK RULE, one of the two tests regarding the acceptability of an appraiser's scope of work is what the appraiser's peers would do. There are many appraisers that do things differently, so how would I know what they would do in an assignment?**

Response: The SCOPE OF WORK RULE states that the acceptability of an appraiser's work is judged based on two tests:

- the expectations of parties who are regularly intended users for similar assignments; and
- what an appraiser's peers' actions would be in performing the same or a similar assignment.

The first step in knowing what your peers would do is to identify your peers. In USPAP, "appraiser's peers" has a specific meaning. It is defined as:

other appraisers who have expertise and competency in a similar type of assignment.

This definition illustrates that an appraiser's peers are assignment specific and may change from assignment to assignment. This is because appraisers have varying levels of expertise and competency in specific property types, geographic locations, etc. For more information on appraiser's peers, please see Advisory Opinion 29, *An Acceptable Scope of Work.*

Knowledge about what an appraiser's peers would do in a similar assignment comes through being a participant in the profession. Typical forums that allow appraisal professionals to share information about practice include appraisal journals and publications, professional meetings and conferences, education though courses and seminars, and appraisal discussion groups (both in-person and through the web).

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99. TYPE AND DEFINITION OF VALUE, AND CITATION OF SOURCE

Question: **USPAP requires appraisal reports to identify the type and definition of value and cite the source of the definition. What is the "type of value?" Why is this no longer referred to as the "purpose" of the assignment? What sources can be used to comply with the requirement to cite the source of the definition of value?**

Response: STANDARDS 2, 6, 8 and 10 require that appraisal reports state the type and definition of value and cite the source of the definition. The exact wording varies by reporting option.

Previously, the term "purpose" in USPAP was used to refer to several different concepts, including the type and definition of value. For the 2005 edition of USPAP, this and other special meanings of this term were eliminated to increase clarity. Where it is now used in USPAP, "purpose" will only convey the standard dictionary meaning of the word.

The "type of value" is the general class or category of value. Examples include market value or fair value.

The "definition of value" provides a specific description of the characteristics and conditions of the type of value. Examples include definitions provided on a form report, in FIRREA, in U.S. accounting regulations, and U.S. tax regulations.

USPAP does not provide any specific definition of value or endorse any particular source. Sources could include, for example, a regulatory agency, a legal jurisdiction, an engagement letter, or a textbook.

100. USING THE DEFINITION OF VALUE PROVIDED

Question: **A client has asked me to use a definition of value included in an engagement letter for the assignment. Is this permitted?**

Response: Yes. As part of identifying the problem to be solved, the appraiser must identify the type and definition of value, but USPAP does not require the use of any specific type or definition of value. For example, in a real property appraisal assignment, Standards Rule 1-2(c) requires the appraiser to:

> *identify the type and definition of the value …*

In addition, Standards Rules 2-2 (a)(v) and 2-2 (b)(v) require that the report:

> *state the type and definition of value and cite the source of the definition;*
>
> *Comment: Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.*

The source of the definition of value could be as simple as "provided in the engagement letter."

The requirements for identifying and reporting the definition of value are similar for personal property and business and intangible asset appraisals.

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101. MEASURING SINGLE FAMILY RESIDENCES USING THE ANSI STANDARD

Question: **Are appraisers bound by USPAP required to comply with ANSI Z765, the *Standards Method for Measuring Square Footage in Detached and Attached Single Family Houses*?**

Response: No. Appraisers are not required by USPAP to comply with ANSI Z765, which is a voluntary Standard. However, use of the ANSI Standards may be an assignment condition in some assignments.

Although appraisers are not required by USPAP to adhere to a specific standard of square footage measurement, appraisers are required by Standards Rule 1-1(b) to *not commit a substantial error of omission or commission that significantly affects an appraisal*. This rule requires the appraiser to gather factual information in a manner that is sufficiently diligent. Standards Rule 1-1(c) requires appraisers to *not render appraisal services in a careless or negligent manner*. Appraisers must use due diligence and due care in performing appraisal services, including gathering factual data such as square footage.

Copies of the ANSI Standards may be obtained from the National Association of Home Builders Research Center, telephone (301) 249-4000.

102. EXPOSURE TIME AND MARKETING TIME

Question: **What is the difference between exposure time and marketing time?**

Response: As defined in STATEMENT No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions* exposure time is:

> *the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive and open market.*

In contrast, Advisory Opinion 7, *Marketing Time Opinions* defines marketing time as:

> *an opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value level during the period immediately after the effective date of an appraisal.*

In other words, exposure time exists **before** the effective date of the appraisal, whereas marketing time exists **after** the effective date. An estimate of exposure time is required by USPAP for market value appraisal assignments (see Standards Rules 1-2(c)(iv) and 7-2(c)(iv)), whereas an estimate of marketing time is not mandated by USPAP (but may be required by the client and so become assignment conditions in those assignments). For additional guidance, see SMT-6 and AO-7.

103. ANALYZING AND REPORTING OF EXPOSURE TIME

Question: **Why was language in STATEMENT No. 6 related to the reporting of exposure time deleted from USPAP?**

Response: The following passage,

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> *The discussion of reasonable exposure time should appear in an appropriate section of the appraisal report, one that presents the discussion and analysis of market conditions, and also be referenced at the statement of the value definition and at the value conclusion.*

was deleted from STATEMENT No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions* because:

- USPAP requires that each real property and personal property appraisal report contain sufficient information to enable the intended users of the appraisal to understand the report properly. Meeting this requirement does not require the reporting of exposure time in all assignments;

- The amount of detail in which exposure time is reported should be determined based on the intended user, the intended use and the type and definition of value. It should not be a "one-size-fits-all" reporting requirement for every appraisal assignment; and

- The reporting requirement for all comments related to the definition of value, including exposure time, is incorporated in the Comment to Standards Rules 2-2(a)(v), 2-2(b)(v), 8-2(a)(v), and 8-2(b)(v), which states:

> *Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.*

If disclosure of the exposure time is necessary for intended users to understand the report, this reporting requirement necessitates inclusion of an appropriate discussion.

Note: The deletion in SMT-6 related to the reporting of exposure time does not change the development requirement to analyze exposure time if the value opinion to be developed is market value, i.e., Standards Rules 1-2(c)(iv) and 7-2(c)(iv).

104. RANGE OF VALUE

Question: **Is a range of value considered an appraisal?**

Response: Yes. The Comment to the definition of "Appraisal" states:

> *An appraisal must be numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).*

105. MORE THAN ONE INTENDED USE

Question: **Can an appraisal, appraisal review, or appraisal consulting assignment include more than one intended use?**

Response: Yes. USPAP requires appraisers to *identify the intended use of the appraiser's opinions and conclusions*. There is no prohibition against having more than one intended use. However, when performing an appraisal, appraisal review, or appraisal consulting assignment with multiple

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intended uses, the appraiser must be very careful to clearly identify each of the intended uses in the report to limit the possibility of confusion.

Additionally, the appraiser must comply with all assignment conditions that are applicable to the intended uses. The appraiser must also recognize that the scope of work may need to be expanded in order to provide credible results for all of the intended uses.

106. VALUE IN USE REQUEST FROM FEDERALLY REGULATED LENDER

Question: **My client, a federally insured financial institution, has asked me to provide a "value in use" appraisal instead of a market value appraisal. May I do this?**

Response: USPAP does not dictate the use of any specific type or definition of value. The type and definition of value must be appropriate for the intended use and intended users.

For federally related transactions, federally insured financial institutions require an opinion of market value, as defined by regulations. Therefore, if you provide a value in use, you may also have to provide a market value, depending on the intended use.

107. DRIVE-BY AND DESKTOP APPRAISALS

Question: **Does USPAP permit real property appraisers to perform drive-by or desktop appraisal assignments?**

Response: The Comment to Standards Rule 1-2(e) states:

> *An appraiser may use any combination of a property inspection and documents to identify the relevant characteristics of the subject property.*

This is also discussed in Advisory Opinion 2, *Inspection of Subject Property*. It states:

> *An inspection is not required by USPAP, but one is often conducted.*
>
> *The extent of the inspection process is an aspect of the scope of work, and may vary based on assignment conditions and the intended use of the assignment results. It is the appraiser's responsibility to determine the appropriate scope of work, including the degree of inspection necessary to produce credible assignment results given the intended use.*

For further clarification, see AO-2, *Inspection of Subject Property*.

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108. INSPECTION OF SUBJECT PROPERTY

Question: **Have I violated USPAP if I don't inspect the interior of the subject property?**

Response: USPAP has no requirement to inspect a subject property's interior. Standards Rule 1-1(b) requires an appraiser to *not commit a substantial error of omission or commission that significantly affects an appraisal*. The Comment to that Standards Rule states, in part:

> *Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.*

Standards Rule 1-2(e)(i) requires that an appraiser identify a subject property's physical characteristics, and its legal and economic attributes. But, note that the required identification must be *relevant to the type and definition of value and intended use of the appraisal*. If an interior inspection is not relevant, it is not required. Determining whether an interior inspection is relevant is a scope of work decision; the SCOPE OF WORK RULE states:

> *An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.*

Advisory Opinion 2, *Inspection of the Subject Property* advises that if adequate information about the relevant characteristics of the subject property, such as an interior inspection, is not possible by personal inspection or from sources the appraiser believes are reliable, an appraiser must withdraw from the assignment unless the appraiser can:

- *modify the assignment conditions to expand the scope of work to include gathering the necessary information; or*
- *use an extraordinary assumption about such information, if credible assignment results can still be developed*

Additional guidance about inspecting properties can be found in AO-23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*, and AO-28, *Scope of Work Decision, Performance, and Disclosure.*

109. COST APPROACH NOT NECESSARY FOR APPRAISAL OF VACANT LAND

Question: **The property I am appraising is land without improvements, to be valued "as is" without foreseeable change in zoning or use. Does Standards Rule 1-4(b)(i) mean that I must complete a cost approach for my market value opinion to be credible?**

Response: No. In the assignment you describe, the land is the "subject" of the appraisal. Since there are no improvements and testing the economic feasibility of a change in use is not part of the appraisal problem, a cost approach is not necessary in this assignment. The methods and techniques that are necessary in solving the appraisal problem will depend on the type and definition of value and intended use of the appraisal, and on the relevant characteristics of the property.

As required by Standards Rule 1-1(a), *an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*

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An appraiser's decision about which methods and techniques are necessary to solve the appraisal problem is largely shaped by the information gathered in response to Standards Rule 1-2(e), which requires an appraiser to *identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal.*

If the value opinion to be developed is market value, and when necessary for credible assignment results, Standards Rule 1-3 requires an appraiser to identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends, and develop an opinion of the highest and best use of the real estate.

Having completed the actions required by Standards Rule 1-2 and, when applicable, Standards Rule 1-3, an appraiser can reasonably determine which methods and techniques are necessary in solving the appraisal problem. While there are exceptions, land without improvements is often appraised by using the sales comparison approach or income approach, or both.

110. *COST APPROACH AND FANNIE MAE FORM 1004*

Question: **The new Fannie Mae Form 1004 indicates that Fannie Mae does not require completion of the cost approach. Is it acceptable to simply omit the cost approach when using this appraisal report form?**

Response: The appraisal report form on which an appraisal is reported does not dictate the scope of work performed.

The appraiser must identify the appraisal problem and determine the proper scope of work.

If the cost approach is required for credible assignment results, then it must be developed and the results must be included in the appraisal report. If the cost approach is not required for credible assignment results, the appraiser may elect not to complete the cost approach. If it is omitted, the report must explain the omission.

Whether or not the cost approach is necessary is a decision that must be made by the appraiser based on the intended use, intended user, and other assignment elements.

111. APPRAISING IMPROVED LAND

Question: **I am appraising a property improved with an apartment complex, but have found that the land is zoned for commercial use. My research indicates that such commercial land would have a value different from that of apartment land, but still far less than the current total value of the apartment complex. According to USPAP, how should I value the land?**

Response: USPAP does not dictate the use of any particular theory or technique. You may apply any method, as long as it is recognized, applicable, and correctly employed. SR 1-1(a) only requires the appraiser to *correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*

The 2005 edition of USPAP eliminated language in the Standards Rules that appeared to require a particular theory.

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112. *IMPROVEMENT ONLY APPRAISAL*

Question: **In a real estate appraisal, is it permissible to appraise only the improvements?**

Response: Yes. Standards Rule 1-2(e)(v) states that the subject of an assignment may be a physical segment of a property.

The subject of a real property appraisal is not required to include all of the physical parts of an identified parcel or tract of real estate. The subject of a real property appraisal can be all or any part of an improved or unimproved parcel or tract of identified real estate. For example, the subject of a real property appraisal could be a part of the land, the improvements on or to the land, or some other configuration within a parcel or tract of identified real estate.

Use of a hypothetical condition or extraordinary assumption is not necessary in the specific case of appraising the building component of an improved property, although one or both may be necessary in other specific cases.

113. APPRAISING ONLY THE UNDERLYING LAND OF AN IMPROVED PROPERTY

Question: **I have been asked by a local bank to appraise just the underlying land of an existing shopping center. Can I perform such an assignment under USPAP? If so, would this require the use of a hypothetical condition?**

Response: Yes, you can perform this type of assignment in compliance with USPAP. Appraising the land component of an improved property does not necessitate the use of a hypothetical condition.

The subject of a real property appraisal is not limited to all of the physical parts of an identified parcel or tract of real estate. The subject of a real property appraisal can be a full or fractional ownership interest in all or any part of an improved or unimproved parcel or tract of identified real estate. For example, the subject of a real property appraisal could be a half-interest in the land, part of the land, the improvements on or to the land, or some other configuration within a parcel or tract of identified real estate.

Standards Rule 1-2(e) states, in part, the appraiser must:

> *identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
>
> …
>
> *(i) its location and physical, legal, and economic attributes;*
>
> …
>
> *(v) whether the subject property is a fractional interest, physical segment, or partial holding.*

In addition, the Comment to this Rule states, in part:

> *An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.*

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114. APPRAISING PHYSICAL SEGMENTS (5-ACRE PORTION)

Question: **A local lender has asked me to appraise only a 5-acre portion of a 62-acre parcel, stating that Fannie Mae will lend on no more than 5 acres. Am I permitted to comply with this request?**

Response: Standards Rule 1-2(e)(v) states that the subject of an assignment may be a physical segment of a property. However, appraisers must also comply with any laws, regulations, guidelines or other assignment conditions that might apply.

If the assignment requires compliance with assignment conditions published, for example, by Fannie Mae, the appraiser must be aware of the current guidelines (or regulations, if applicable). As stated in the Fannie Mae, *Handbook for Appraisers*:

> "Some appraisers report that they have been asked to appraise only a portion of a larger site: for example, the borrower owns a 30-acre site and you are asked to appraise only five acres and the property improvements. Fannie Mae considers this an unacceptable appraisal practice."

Failure to recognize this assignment condition would be a violation of the ETHICS RULE or COMPETENCY RULE.

115. PROPOSED IMPROVEMENTS – PLANS AND SPECIFICATIONS REQUIRED

Question: **I have been asked to perform an appraisal involving proposed improvements. The client has indicated that plans and specs have not been finalized. Does USPAP require me to review the plans and specifications prior to completing this assignment?**

Response: No. The Comment to the Standards Rule 1-2(e)(v) states, in part:

> *When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications,* ***or other documentation sufficient to identify the extent and character of the proposed improvements.*** (Bold added for emphasis)

Hence, the appraisal can be based on "other documentation" if that documentation provides sufficient information to properly identify the relevant characteristics of the subject property.

Additional guidance on appraising proposed improvements can be found in Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*.

116. APPRAISING LARGE GROUPS OF SIMILAR OR LIKE ITEMS

Question: **When an appraiser is asked to value a significantly large group of similar or like items does USPAP require that the appraiser follow STANDARD 6 for mass appraisals?**

Response: No, USPAP does not require that STANDARD 6 be followed in such cases. Mass appraisal, for which standards are addressed in STANDARD 6, is an appraisal method. USPAP does not dictate the use of any particular method or technique in any particular assignment or under any particular set of circumstances. While mass appraisal methods may be helpful in the appraisal of large numbers of similar assets, whether its use is appropriate in a particular assignment would depend

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on such things as assignment conditions, the intended use of the appraisal results, and, at times, agreement with the client.

117. BLOCKAGE DISCOUNT AND STANDARD 6

Question: **Is there any connection between the application of STANDARD 6 for mass appraisals and the application of a blockage discount?**

Response: No. There is no connection between the application of mass appraisal methods, as addressed in STANDARD 6, and the application of a blockage discount. A blockage discount may be applicable when the appraisal problem being addressed indicates an assumption that a large number of similar assets would be offered for sale on the market at once. Under some circumstances, this would create an oversupply, which would depress the value of the assets.

Whether the application of a blockage discount is appropriate depends on many factors, including the intended use of the appraisal, the type and definition of value, the conditions of the assignment, the relevant characteristics of the assets such as their nature, and the market for those assets.

118. CALCULATING BLOCKAGE DISCOUNT

Question: **Does USPAP offer guidance in how to calculate an appropriate blockage discount?**

Response: No. USPAP focuses on appraisal standards, not appraisal methodology or how to perform calculations. USPAP does require that an appraiser be competent (see the COMPETENCY RULE) and states, in Standards Rule 1-1(a) and the other development Standards, that an appraiser must:

> *be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.*

The concept of the compilation of the assets appraised is addressed, for example, in Standards Rule 1-4(e), which states:

> *When analyzing the assemblage of the various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.*

Standards Rule 6-2(g)(i) states that, in appraising real property or personal property, an appraiser must *identify the appropriate market area and time frame relative to the property being valued.* Standards Rule 6-2(g)(v) requires that the appraiser *identify and analyze whether an appraised fractional interest, physical segment, or partial holding contributes pro rata to the value of the whole.* Standards Rule 6-2(h) requires that an appraiser *analyze the relevant economic conditions at the time of the valuation, including market acceptability of the property and supply, demand, scarcity, or rarity*.

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119. *BUSINESS VALUATION USING ASSET-BASED (COST) APPROACH*

Question: **I am valuing a controlling interest in a business enterprise by use of an asset-based (cost) approach, and that business owns real property. Am I required to have an appraisal of the real property or may I use other indications of the real property value?**

Response: An appraisal of the real property would not always be required. Whether or not an appraisal is necessary is based on whether credible assignment results can be developed for the business interest without such an appraisal. And whether or not assignment results are credible is measured in the context of the intended use of those assignment results. The decision is part of the scope of work determination the business appraiser must make**.**

For some intended uses, the business appraiser may determine that an appraisal of the real property is required (to be performed by an appraiser competent to perform the appraisal and in compliance with USPAP). For other intended uses, the business appraiser may determine that an indication of the real property value other than a real property appraisal may be appropriate. Such indications could be a management estimate, a recent transaction of the property, or tax assessment values.

120. LEASED FEE INTEREST WHEN INTANGIBLE ASSETS EXIST

Question: **I am appraising a single tenant retail property that is being sold with financing by my client, which is a bank. The property was developed by XYZ Company and just completed last month for a total development cost (land and improvements) of $1,500,000. The developer is part of a large retail chain that will occupy the building at an above-market lease rate. The property is being sold to an investor on a sale-leaseback basis for over $2,000,000. This sale price is supported by several other sales that also have above-market leases that were also created by the same type of sale-leaseback arrangements.**

When I questioned the seller/tenant's representative, they said that *both parties recognized the lease rate was above-market* and that the price was well above replacement cost. They noted that the lease supported the sale price and that the credit strength of the XYZ Company warranted using the above-market lease rate for the valuation. Should I allocate the portion of above-market rent to the real estate or treat it as an intangible? My client insists that I attribute the entire rent to real property value. What does USPAP require in this situation?

Response: The subject of this appraisal is real property, not intangibles, specifically the leased fee estate; therefore, Standards Rule 1-2(e) applies. The characteristics of the lease must be identified in accordance with Standards Rule 1-2(e)(iv). In developing a real property appraisal, Standards Rule 1-2(e) states an appraiser must:

> *identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
>
> *(i) its location and physical, legal, and economic attributes;*
> *(ii)* ***the real property interest to be valued;***
> *(iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;*
> *(iv)* ***any known*** *easements, restrictions, encumbrances,* ***leases****, reservations, covenants****, contracts****, declarations, special assessments, ordinances, or other items of a similar nature; and*

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(v) whether the subject property is a fractional interest, physical segment, or partial holding. (Bold added for emphasis)

Further, the valuation in this assignment must address the effect of the lease on value in accordance with Standards Rule 1-4(d) that states:

When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

In this situation you are required to analyze the effect on value of the above-market lease. The result of the analyses must be reported in accordance with Standards Rule 2-2, for example 2-2(b)(viii) which states, in part:

summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions;…

121. PURCHASE CONTRACT IS NOT PROVIDED TO THE APPRAISER

Question: **I was recently engaged to conduct a market value appraisal of a one-to-four unit residential property. The intended use of this appraisal is to assist the client in analyzing the loan collateral associated with the property's purchase. I requested a copy of the purchase contract from the client, but they refused to provide it although they acknowledged that a contract for purchase of the property in fee simple exists. They did, however, provide a sale price orally. Can I continue this assignment, without the purchase contract, and comply with USPAP?**

Response: Yes, you can complete the assignment in compliance with USPAP. However, you will need to ensure compliance with Standards Rule 1-5(a) in developing the appraisal, and with Standards Rule 2-2(a)(viii), (b)(viii), or (c)(viii), as applicable to the type of appraisal report determined most appropriate, given the intended users, in reporting the assignment results.

Standards Rule 1-5(a) states*:*

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal;

The Comment to Standards Rule 1-5 states:

See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) for corresponding reporting requirements relating to the availability and relevance of information.

For example, the corresponding reporting requirements in Standards Rule 2-2(a)(viii), in the Comment, are, in part:

…If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required.

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Complying with these Standards Rules ensures that the existence and unavailability of the purchase contract is appropriately disclosed, and intended users will not be misled as to how this situation was handled in the analysis and report.

122. AVAILABILITY OF CURRENT AGREEMENT OF SALE

Question: **When developing a real property appraisal, what is an appraiser's responsibility under USPAP if a lender refuses to provide a copy of the current agreement of sale of the subject property?**

Response: Standards Rule 1-5(a) requires an appraiser developing a real property appraisal, if such information is available to the appraiser in the normal course of business, to:

> *analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal.*

The normal course of business for an appraiser when the property is known to be the subject of a pending transaction is to ask the client for the terms of the agreement. If this request is denied, then the appraiser should make reasonable attempts to obtain this information from other sources through legal means commonly available to and practiced by appraisers in the jurisdiction of the location of the property.

Standards Rule 2-2(a)(viii), (b)(viii), or (c)(viii) also includes the requirement that:

> *If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.*

Refer to Standards Rules 2-2(a)(viii), (b)(viii), or (c)(viii) for related reporting requirements, and to Advisory Opinion 1, *Sales History* for additional information.

123. RECONCILIATION OF THE APPROACHES TO VALUE

Question: **For a real property appraisal, I know that USPAP requires an appraiser to develop a reconciliation of the approaches to value that are used in an assignment. Does USPAP require the appraiser to reconcile the data utilized within each approach to value?**

Response: Yes. Standards Rule 1-6 states:

> *In developing a real property appraisal, an appraiser must:*
>
> *(a) reconcile the quality and quantity of the data available* ***and analyzed within the approaches used****; and*
>
> *(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).*
>
> (Bold added for emphasis)

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124. ADJUSTMENTS IN SALES COMPARISON APPROACH

Question: **Does USPAP place any limitation on the size of adjustments made to comparable sales in the sales comparison approach to value?**

Response: No. USPAP places no limitations on the size of adjustments made in the sales comparison approach. However, it should be noted that certain clients and other intended users may have assignment conditions addressing this.

125. *UPDATING A PRIOR ASSIGNMENT WITH A DIFFERENT SCOPE OF WORK*

Question: **Several months ago I appraised a property using only a sales comparison approach. My client is now asking that I perform an update of my prior appraisal, but they now want me to include a cost approach. Does USPAP allow me to do this?**

Response: Yes. "Update" is a business term; under USPAP, the second assignment from the same client is a new assignment with its own scope of work and the requirement to produce credible assignment results. Advisory Opinion 3, *Update of a Prior Appraisal* states, in part:

> *When developing an opinion regarding a property that was the subject of a previous assignment, the scope of work in the* ***new assignment*** *may be different from the scope of work in the prior one.* (Bold added for emphasis)

Therefore, the new assignment can be performed with a scope of work greater than that performed in the original assignment.

126. UPDATE OF AN APPRAISAL COMPLETED BY ANOTHER APPRAISER

Question: **I was recently asked to update an appraisal performed by another appraiser who works for a different appraisal company. Can I prepare an update if the original appraisal was performed by another appraiser?**

Response: Yes. Advisory Opinion 3, *Update to a Prior Appraisal* provides advice on how such an assignment can be performed in conformance with USPAP.

127. DOES A NEW ASSIGNMENT REQUIRE STARTING OVER?

Question: **AO-26 and AO-27 clarify that I cannot readdress an appraisal, and I must treat a subsequent request as a new assignment. Does that mean I must "start from scratch" since I would be performing a new assignment for a different client? Must I re-inspect the property?**

Response: A new assignment does not mean that you must "start from scratch." You must decide the appropriate scope of work for the new assignment. This would include a decision as to whether or not it was necessary to perform another inspection. The scope of work for the new assignment can be different from the scope of work completed in the earlier assignment.

As with any assignment, you might be able to use information and analyses developed for a previous assignment. Appraisers are often selected for subsequent assignments specifically because of experience and demonstrated competency in a prior assignment.

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One must be mindful of obligations relating to the use of confidential information. The Confidentiality section of the ETHICS RULE states:

> *An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client…*

128. *RECERTIFICATION OF VALUE*

Question: **I heard that recertifications of value are no longer permitted. Is this true?**

Response: No, that is not true. However, there is confusion surrounding this question because the term 'Recertification of Value' is often mistakenly used by some clients in place of the term 'Update.'

Appraisers may perform a 'Recertification of Value' to confirm whether or not the conditions of a prior appraisal have been met. However, if a client wants to know whether the *value* of a property has changed (or remained the same) since a prior appraisal, this is an 'Update.'

Regardless of the label used, an appraisal of a property that was the subject of a prior assignment is not an extension of the prior assignment – it is a new appraisal assignment. Information about an appraiser's obligations in this situation can be found in Advisory Opinion 3, *Update of a Prior Appraisal.*

129. RECERTIFICATION OF VALUE AND APPRAISAL UPDATE

Question: **The terms "recertification of value" and "appraisal update" are often used interchangeably. Do they have the same meaning?**

Response: No, these terms do not have the same meaning. The terms "Update" and "Recertification of Value" are discussed in Advisory Opinion 3, *Update of a Prior Appraisal*.

An "Update" is a new appraisal assignment involving a property that was previously appraised. An Update is subject to the same USPAP requirements as any other appraisal assignment.

A "Recertification of Value" is performed to confirm whether or not the conditions of a prior assignment have been met. One example of a "Recertification of Value" is a "Final Inspection." When an appraiser is asked to complete a "Final Inspection," the appraiser is confirming that conditions established in an assignment have, or have not, been met.

"Final Inspections" are commonly used in the case of proposed construction where an appraisal is completed subject to completion per plans and specifications.

Consult Advisory Opinion 3, *Update of a Prior Appraisal* for additional information.

130. *APPRAISERS "PROVIDING COMPS"*

Question: **I have a client that just wants me to "provide comps" from a neighborhood. Are there any USPAP requirements I must comply with to perform this task?**

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Response: To answer this question, it is important to identify exactly what the appraiser is being asked to do. If the appraiser is asked to "provide comps," that would typically mean the appraiser would be exercising his or her own judgment to determine which sales are most "comparable" to the subject property. The appraiser may choose to include only those sales that he or she deems are most similar to the subject in size, location, quality, etc., which could mean that certain sales may be omitted. In this case, the resulting data would have been "filtered" by the appraiser's judgment, which would have the net effect of providing a range of value to the client. This range of value is defined as an appraisal under USPAP; therefore, the appraiser would be obligated to comply with STANDARDS 1 and 2.

This should be contrasted to a request for an appraiser to simply provide data. For example, an appraiser asked by a client to provide "sales data of all homes located within a one mile radius" of a specific address could comply with the client's request without complying with STANDARDS 1 and 2, as the appraiser would just be providing sales data pursuant to the client's defined parameters. In this example, the appraiser must be careful not to communicate any opinions or conclusions regarding the data provided.

For related guidance on this topic, please refer to Advisory Opinion 19, *Unacceptable Assignment Conditions in Real Property Appraisal Assignments* and Illustration #4 "Appraisal and Market Information" in Advisory Opinion 21, *USPAP Compliance*.

131. *SUDDEN MARKET CHANGES RELATED TO CATASTROPHIC EVENTS*

Question: **I live and work just outside the area that was devastated by Hurricane Katrina. My market area experienced sudden changes in supply and demand, and real estate sales prices climbed rapidly for a period of time following the disaster. Does USPAP provide advice to real estate appraisers on how to handle sudden market changes brought about by such catastrophic events?**

Response: Although USPAP does not directly address the appraisal issues associated with catastrophic events, the following passages may be especially important in appraisals involving properties in markets that are changing rapidly, for any reason.

Standards Rule 1-2(e) requires an appraiser to identify economic attributes relevant to the subject property. Standards Rule 1-3(a) specifically requires analysis of supply and demand.

For Self-Contained and Summary Appraisal Reports, USPAP requires disclosure of "economic property characteristics relevant to the assignment." Market conditions (including sudden market changes related to catastrophic events) are "economic property characteristics," and so should be identified in the development of an appraisal and disclosed in the appraisal report.

Standards Rules 2-2(a)(v) and 2-2(b)(v) address the type and definition of value used in an assignment. The Comments to these Standards Rules state, in part:

> *Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.*

In cases of sudden market change, it would be necessary to specifically disclose such things as how the appraisal has addressed the motivation of buyers and sellers, supply and demand, the conditions of the sale (e.g. exposure in a competitive market), etc.

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As noted in STANDARD 2, the content of all real property appraisal reports, "*…must be consistent with the intended use of the appraisal…*" In the case of a rapidly changing market, the report must have enough information to allow intended users to understand the market conditions and to use that information in their decision making.

132. *CITING THE SOURCE OF THE VALUE DEFINITION AND FANNIE MAE FORM 1004*

Question: **USPAP requires an appraisal report to include a citation of the source of the value definition used for the appraisal. Is this information adequately addressed on the new Fannie Mae Form 1004?**

Response: Yes. On the new Fannie Mae Form 1004, the value definition is pre-printed on the form, and there are several references indicating that Fannie Mae is the source for the form. No additional citation is required.

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APPRAISAL DEVELOPMENT – EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

133. EXTRAORDINARY ASSUMPTIONS COMPARED TO HYPOTHETICAL CONDITIONS

Question: **How does an Extraordinary Assumption differ from a Hypothetical Condition? Can you give some examples of Extraordinary Assumptions that might apply in a real property appraisal?**

Response: An Extraordinary Assumption is defined as:

> *an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.*
>
> *Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.*

A Hypothetical Condition is defined as:

> *that which is contrary to what exists but is supposed for the purpose of analysis.*
>
> *Comment: Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.*

Appraisers may need to use extraordinary assumptions or hypothetical conditions in performing an assignment. When used in an assignment they become part of the "givens" in that assignment and have a significant effect on the appraiser's opinions and conclusions.

The difference between whether a condition is an extraordinary assumption or a hypothetical condition rests on what the appraiser knows about the condition in question.

If an appraiser cannot verify a certain condition that is critical to the valuation but which he has no reason to doubt is true, then the condition is an extraordinary assumption and the appraiser must comply with appropriate Standards having to do with both the development and reporting of the condition.

If, on the other hand, an appraiser is asked to use a condition he knows to be false but which is necessary for the analysis, a hypothetical condition can be used. Appraisers must clearly distinguish "false conditions" from those other assumptions or conditions that are believed or taken to be true. To properly distinguish these two, the false conditions are called hypothetical conditions. The best way to distinguish the two is to ask yourself whether the condition in question is known to be false. If, as of the date of value the condition in question is known to be false, then it is a hypothetical condition. If, as of the date of value, the fact of the condition is unknown and it is reasonable to believe that the condition is true, then the condition is an extraordinary assumption.

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The following assumptions would be extraordinary if their use had a significant effect on the appraiser's opinions and conclusions:

1) Appraising proposed improvements, such as new construction or additions, as of the date of completion (a prospective date of value).
2) Appraising a property as if it were free of environmental contamination when it is not known to be contaminated.
3) Appraising a site as if sewer were available when the fact is unknown and there is no apparent evidence that the sewer is not available.
4) Appraising a site under an assumed zoning when the zoning is not known and there is no evidence that the assumed zoning is not possible.
5) Appraising irrigated farmland on the premise that the water supply is adequate for irrigated crop production, absent any evidence that the supply is not adequate.

134. HYPOTHETICAL CONDITIONS DESCRIBED

Question: **What is a hypothetical condition? Can you give me some examples that might apply in a real property appraisal?**

Response: A hypothetical condition is defined as:

> *that which is contrary to what exists but is supposed for the purpose of analysis.*
>
> *Comment: Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.*

Examples of hypothetical conditions that might be necessary in a real property appraisal assignment include:

1) Appraising proposed improvements such as new construction or additions, as if they existed as of a current date, when they do not.
2) Appraising a property as if it were free of any contamination when it is known to be contaminated.
3) Appraising a site as if sewer were available when the sewer is not available.
4) Appraising a site as if the zoning were changed.
5) Appraising irrigated farmland on the premise that the water supply is adequate for irrigated crop production, knowing that the existing supply is not adequate.

135. WHEN A HYPOTHETICAL CONDITION MAY BE USED

Question: **May an appraiser use "any" type of hypothetical condition in developing an appraisal?**

Response: No. The Comment to Standards Rule 1-2(g) states:

> *A hypothetical condition may be used in an assignment **only if**:*
>
> - *use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;*
> - *use of the hypothetical condition results in a credible analysis; and*

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- *the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.* (Bold added for emphasis)

Standards Rules 6-2(i), 7-2(g) and 9-2(g) contain similar Comments.

136. REPORTING USE OF EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

Question: **What are the USPAP reporting requirements relating to the use of extraordinary assumptions and hypothetical conditions in an appraisal assignment?**

Response: The report must clearly disclose the use of extraordinary assumptions and hypothetical conditions and notify intended users that the extraordinary assumptions and hypothetical conditions might have affected the assignment results.

For example, Standards Rule 2-1(c) states that each written or oral real property appraisal report must:

> *clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions* ***used*** *in the assignment.* (Bold added for emphasis)

This requirement creates an obligation to disclose all extraordinary assumptions and hypothetical conditions used in the assignment.

For example, Standards Rule 2-2(a)(x) states that Self-Contained Appraisal Report must, at a minimum:

> ***clearly and conspicuously:***
>
> - ***state*** *all extraordinary assumptions and hypothetical conditions; and*
> - ***state*** *that their use might have affected the assignment results;* (Bold added for emphasis)

This requirement directs the appraiser to provide a clear and conspicuous statement of the extraordinary assumptions and hypothetical conditions. The form and location of the statement is left to the discretion of the appraiser, but it must be clear and conspicuous to intended users.

The requirement further directs the appraiser to provide notice to intended users that the use of the extraordinary assumptions and hypothetical conditions might have affected the assignment results. The appraiser is not required to report on the impact of the extraordinary assumptions and hypothetical conditions on assignment results.

Note: The requirements for other report types are similar.

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137. VALUE AS IF COMPLETED

Question: **My client, a federally regulated lender, has requested a market value appraisal as of the current date of a site that has all necessary approvals for development of a multi-family project with 30 units. My client intends to use the appraisal in underwriting the credit in a land acquisition loan. Must I develop an opinion of value for the completed project?**

Response: No. As long as the intended use is as you described, the appraisal assignment does not require a current value of the project with the hypothetical condition of it being completed. This is because the "subject" of your assignment is the site with the existing entitlement to develop the multi-family project, and presumes those entitlements are consistent with the highest and best use of the site.

Since your appraisal is as of a current date, and the property that is the subject of your appraisal is a property that actually exists under the zoning and entitlements in place as of that date, there is no need to use a hypothetical condition, or to develop an opinion of value of the property after, or as though, it had been developed.

138. APPRAISING A PROPERTY NOT IN "AS IS" CONDITION

Question: **Our local community public works department has declared a parcel of land surplus and asked me to appraise the real property at market value with a date of appraisal prior to its advertisement for sale. However, the Public Works Director said there will be a covenant placed on the land immediately prior to the sale that will restrict its use to open space or recreation and the value in my appraisal is to reflect that title condition. Currently, the property is in use by the public works department and does not have such a use limitation.**

Since I know the "as is" condition of the property title is not as the Director described it, can I do the appraisal as if the covenant was in place?

If so, would this covenant be an extraordinary assumption or a hypothetical condition in the appraisal?

Response:

a) Given the type and definition of value (market value with the title conditioned as the Director described), and intended use of the assignment results (provide the client with information for use in deciding an asking price), the appraisal must reflect an analysis as if the covenant were in place.

b) The appraisal of the property as though it had the covenant in place requires a hypothetical condition in the appraisal, because, as of the date of appraisal, the property did not have the covenant in place, (i.e., the covenant is *that which is contrary to what exists, but is supposed for purpose of analysis*).

If instead you did not know whether the covenant was or was not in place, but you based the appraisal on the covenant being in place, the appraisal would be based on an extraordinary assumption. This is because you would be presuming as fact otherwise uncertain information about the condition of title which, if found false, could alter your opinions or conclusions.

If, instead of saying there would be a covenant recorded after the date of appraisal, the Director provided a title document that said the covenant was already in place, the appraisal would not involve either a hypothetical condition or an extraordinary assumption about that land use

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limitation. This is because the title condition used in the appraisal would have been its actual condition on the date of appraisal.

139. ANALYZING THE LEASE WHEN APPRAISING FEE SIMPLE INTEREST

Question: **I am performing an appraisal of a single family dwelling that is in use as a rental property. The type of value to be developed is an opinion of market value for the fee simple interest. The current lease on the property is significantly below market and runs for another 24 months past the date of value in my appraisal. Furthermore the lease would survive a transfer of ownership.**

Does USPAP require that I analyze and reflect the presence of the lease in the valuation?

Response: No, because the subject of your assignment is the fee simple interest, not the leased fee interest. The appraisal report should provide adequate disclosures to any user of the appraisal that there is a lease in effect, and that the value of the leased fee interest in the property has not been reflected in the appraisal.

140. DEFINITION OF EXTRAORDINARY ASSUMPTION

Question: **I recently accepted an appraisal assignment for a property that had an affirmative surface easement granted in perpetuity. The client was also the property owner. She did not have a copy of the easement and stated that it had never been recorded. What are my development and reporting obligations under USPAP ?**

Response: First, you should do what research is possible to see if the easement was recorded and reflect the facts you discover in your analysis. If you cannot confirm the facts, you may use an extraordinary assumption in your analysis. The particulars of the use of the extraordinary assumption must be clearly and accurately disclosed.

The definition of an extraordinary assumption is:

> *an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.*
>
> *Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical,* ***legal****, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in the analysis.* (Bold added for emphasis)

Standards Rule 2-1(c) states, in part:

> *Each written or oral real property appraisal report must:*
>
> *(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.*

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APPRAISAL DEVELOPMENT – SUBJECT PROPERTY SALES HISTORY

141. USPAP REQUIREMENTS FOR ANALYZING PRIOR SALES OF SUBJECT PROPERTIES

Question: **Are appraisers required by USPAP to analyze prior sales of the real property being appraised?**

Response: Yes. Standards Rule 1-5(b) requires appraisers to:

> *analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.*

Refer to Standards Rule 2-2(a)(viii), (b)(viii), or (c)(viii) for related reporting requirements and to Advisory Opinion 1, *Sales History*, and Advisory Opinion 4, *Standards Rule 1-5(b)*, for additional information on sales history.

142. MULTIPLE SALES OR TRANSFERS OF THE SUBJECT PROPERTY

Question: **If a home has sold more than once in the past year, am I required to analyze all of the sales, or just the most recent sale? Also, what am I required to do if a transfer of ownership is due to a foreclosure, or is between family members or other related parties?**

Response: Standards Rule 1-5 states:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business;*
>
> *(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal; and*
>
> *(b) analyze all sales of the subject property that occurred within three (3) years prior to the effective date of the appraisal.*

The Comment to Standards Rules 2-2(a)(viii), (b)(viii), and (c)(viii) requires the written appraisal report to disclose the analysis of *the subject sales, options, and listings in accordance with Standards Rule 1-5*. It also states, *if such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.*

Therefore, you must report and analyze **all** of the sales, not just the most recent one. This would also include **any** type of sale, whether it was arm's length or not. If a sale was between family members, or otherwise related parties, or involved a foreclosure, the appraiser is still obligated to report it and analyze it.

In addition, if sales, listings, etc. from prior periods (i.e., beyond the three year period) are known and considered relevant to the appraisal of the subject property, they should also be reported and analyzed.

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Refer to Advisory Opinion 1, *Sales History* for further guidance.

143. OFFERS TO PURCHASE SUBJECT PROPERTY

Question: **Are offers to purchase the subject property, prior to the date of appraisal, pertinent information required to be considered under Standards Rule 1-5?**

Response: Standards Rule 1-5(a) states:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:*
>
> *analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal;…*

Standards Rule 1-5(a) does not require that an offer to purchase the subject property, prior to the date of the appraisal be considered and analyzed. Agreements of sale and options are generally significant to the appraisal problem in that they involve a "meeting of the minds," relating to the property's value, of the potential buyer and seller. A listing of the subject property is likewise significant in that it indicates the property's availability in the market. An offer, however, does not necessarily correlate to the property's value or even to the owner's desire to sell. Furthermore, information about an offer is often confidential and sometimes not available to the appraiser in the normal course of business.

Nevertheless, the appraiser is required by Standards Rule 1-1(b) to *not commit a substantial error of omission or commission that significantly affects an appraisal*. If information about an offer is available to the appraiser, even if not current, and that information is relevant to the appraisal problem, it must be considered. In some cases, an offer would be relevant to the appraisal problem only because it points to other information concerning the property or the market about which the appraiser should know. For example, if the appraiser learns of an offer that seems out of character with market trends, additional research might lead the appraiser to discover property or market characteristics that support that offering price.

144. PENDING SALES AS COMPARABLES

Question: **Can a pending sale be used as a comparable if the fact that the sale is pending is disclosed in the appraisal report?**

Response: Yes. USPAP does not require the use of a pending sale as a comparable, but USPAP also does not prohibit such use. If the pending sale is of the subject property, however, the appraiser is required by Standards Rule 1-5(a) to consider the pending sale of the subject property in the development of a real property appraisal. Standards Rule 1-1(b) requires that an appraiser:

> *not commit a substantial error of omission or commission that significantly affects an appraisal;*

Not considering a pending sale of a property highly similar to the subject property could constitute an omission that would significantly affect the appraisal. USPAP requires appraisers to be complete in their analysis and convey that analysis in a way that is not misleading. Details of

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pending sales information, by their very nature, are often confidential. The appraiser must take care not to disclose information that he or she knows is confidential.

145. SUBJECT PROPERTY SALES HISTORY AND PROPERTY FLIPPING

Question: **Since many flipping schemes rely on appraisals, what kinds of things should appraisers look for to avoid being inadvertently entangled in such schemes?**

Response: There are a number of actions appraisers can take to safeguard against inflated appraisals. Standards Rule 1-5 requires that appraisers analyze all current agreements of sale, options, or listings of the subject property, when such information is available in the normal course of business. Many lenders require that agreements of sale be provided to the appraiser for their review and analysis. Sometimes the second or third leg of a flip can be discovered when the seller in the sale agreement is not the owner of record. Verification of the terms of sale with brokers may also reveal multiple transactions on the same property.

Experienced appraisers can recognize anomalies in the market and will avoid relying on sales that do not reflect the prevailing market. If asked to value a property in an unfamiliar area, an appraiser should become familiar with the area and the market for the subject property. The Comment to the COMPETENCY RULE states:

> *In an assignment where geographic competency is necessary, an appraiser preparing an appraisal in an unfamiliar location must spend sufficient time to understand the nuances of the local market and the supply and demand factors relating to the specific property type and the location involved.*

Standards Rule 1-4 requires the appraiser, in developing a real property appraisal, *to collect, verify and analyze all information necessary for credible assignment results*. Knowing the conditions of sale, financing and motivations of the buyer helps the appraiser to adjust sales to the market and avoid the affects of inflated prices.

Standards Rule 1-2(e) requires that the appraiser *identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal including, its location and physical, legal, and economic attributes.* Knowledge of these attributes plays a critical role in the identification of the problem to be solved and the determination of an appropriate scope of work. Appraisers should exercise care in identifying these attributes noting any adverse condition that could impact the property's value.

146. SUBJECT PROPERTY AS A COMPARABLE SALE

Question: **Is it a violation of USPAP to use a recent sale of the subject property as a comparable in the sales comparison approach to value?**

Response: No. Standards Rule 1-4, states:

> *In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.*
>
> *(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.*

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Additionally, Standards Rule 1-5(b), states:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:*
>
> …
>
> *(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.*

Therefore, ,not only could the subject property potentially be used as a comparable sale, but an analysis of the prior sale must be made in accordance with Standards Rule 1-5. However, appraisers must be aware of any assignment conditions that require minimum numbers of comparable sales to be reported in addition to the sale of the subject property.

147. FIVE-YEAR SALES HISTORY AS AN ASSIGNMENT CONDITION

Question: **My state appraisal board has adopted a regulation requiring appraisers to provide a five-year sales history for the subject property in all assignments. Is this situation addressed in USPAP?**

Response: Yes. In the scenario described, an entity that establishes public policy has a requirement that adds to the requirements in USPAP. Therefore, failure to comply with the regulation would be a violation of the SCOPE OF WORK RULE.

> *Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.*

148. ANALYSIS OF SUBJECT PROPERTY SALES HISTORY

Question: **Is it true that USPAP requires real property appraisers to analyze all sales of the subject property that occurred in the three years prior to the appraisal date, even for one-to-four family dwellings?**

Response: Yes. Standards Rule 1-5, states:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:*
>
> *(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal; and*
> *(b)* ***analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal***
>
> *Comment: See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) for corresponding reporting requirements relating to the availability and relevance of information.* (Bold added for emphasis)

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The three-year time period applies to all real property appraisals.

149. ANALYSIS OF SALES HISTORY FOR COMPARABLE SALES

Question: **I was told that USPAP now requires real property and personal property appraisers to analyze previous sales of comparable properties used in the sales comparison approach to value. Is this true?**

Response: No. Beginning with the 2003 edition of USPAP, changes were made to SR 1-5 and SR 7-5 regarding the analysis of prior sales of the subject property only. USPAP does not require analysis of the sales history of comparable sales. However, there may be applicable laws, regulations or other assignment conditions in certain appraisal assignments that require the appraiser to provide a more detailed analysis than otherwise required by USPAP.

150. SALES HISTORY ANALYSIS FOR DEED IN LIEU OF FORECLOSURE

Question: **I am currently appraising an office building that was transferred 18 months ago via a deed in lieu of foreclosure. Am I required to analyze this transaction?**

Response: Yes. Advisory Opinion 4 states:

> *The intent of Standards Rule 1-5(b) is to encourage the research and analysis of prior sales of the subject property. All sales of the appraised property within the 3 year time period stated in Standards Rule 1-5(b) includes transfers in lieu of foreclosure and foreclosure sales.*

This Advisory Opinion goes on to state:

> *Foreclosure sales and voluntary transfers of title by mortgagor to mortgagee in lieu of foreclosure are transactions grounded in objective necessity. Nevertheless, they are sales because they transfer ownership of and title to property for a valuable consideration.*

151. OBLIGATION TO ANALYZE PRIOR LISTINGS OF SUBJECT PROPERTY

Question: **I know that Standards Rule 1-5(a) requires an appraiser to analyze all current listings of the subject property. Does it also require analysis of *prior* listings of the subject property?**

Response: No. Similar to sales history requirements for comparable sales, this Standards Rule does not require an appraiser to analyze a prior listing history for the subject property. However, in the development of an appraisal, an appraiser is required under Standards Rule 1-1(b), to *not commit a substantial error of omission or commission that significantly affects an appraisal*. If information about a prior listing is known by the appraiser, and that information is relevant to the appraisal problem, it must be considered.

An analysis of the subject's prior listing history may be required by applicable assignment conditions in some assignments.

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152. OBLIGATION TO ANALYZE WITHDRAWN OR EXPIRED LISTINGS

Question: **I was asked to appraise a single-family residence for refinancing. I am aware that the property had been previously listed but did not sell. During my data investigation and analysis, I noted that the owner's "estimate of value" was $375,000. When I looked up the listing history, I found it had been withdrawn from the market at the asking price of $325,000. What are my obligations under USPAP regarding a withdrawn or expired listing of the subject property?**

Response: Standards Rule 1-5(a) states:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:*
>
> *(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal.*

Therefore, there is not a specific requirement in Standards Rule 1-5(a) to consider and analyze a withdrawn or expired listing of the subject property, prior to the date of the appraisal.

However, any prior listing of the subject property (as of the effective date of the appraisal) might be significant in that it indicates the property's availability in the market and the market reaction to that availability. Likewise, agreements of sale and options are generally significant to the appraisal problem in that they involve a "meeting of the minds," relating to the property's value, of the potential buyer and seller.

In the development of an appraisal, an appraiser is required under Standards Rule 1-1(b), to *not commit a substantial error of omission or commission that significantly affects an appraisal.* If information about a withdrawn or expired listing is known by the appraiser and that information is relevant to the appraisal problem, it must be considered.

153. SALES HISTORY ANALYSIS IN A RETROSPECTIVE APPRAISAL

Question: **I have been asked to perform a retrospective appraisal on a piece of real property. The effective date of the appraisal is September 1, 1995. Must I analyze listings of the subject that were current at that time and/or the sales history of the subject?**

Response: Yes. Standards Rules 1-5(a) and (b) state:

> *When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:*
>
> *(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal; and*
>
> *(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.*

If this information is available in the normal course of business, it must be analyzed and reported in conformance with Standards Rule 2-2(a)(viii), 2-2(b)(viii), or 2-2(c)(viii), whichever is applicable.

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154. SALES HISTORY ANALYSIS FOR "CONDITION AND MARKETABILITY" REPORTS

Question: **I have been asked to provide a client with a "condition and marketability" report on a residential property. I am to complete a form used by some lenders and secondary market participants. Since this assignment is part of appraisal practice (because I am providing this service as an appraiser), must I conform with the requirements in Standards Rule 1-5(a), to *analyze all agreements of sale, options, or listings of the subject current as of the effective date of the appraisal; and (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal*?**

Response: No. Standards Rule 1-5 only applies to the development of a real property appraisal. The assignment described in this question is not an appraisal since developing an opinion of value is not part of the assignment. While the requirements of STANDARD 1 are not applicable, USPAP obligations that generally apply to appraisal practice are, including ethical behavior and competent performance.

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APPRAISAL REPORTING – CERTIFICATION AND SIGNATURES

155. REASON FOR SIGNED CERTIFICATION

Question: **Why does USPAP require an appraiser to include a signed certification in the workfile for oral reports and in all written reports?**

Response: A signed certification evidences an appraiser's recognition of his or her ethical obligations. Except for the discipline-specific terms for professional assistance and the fact that STANDARD 10 does not require comment on a personal inspection, the appraiser's certification is the same for all written reports covered by the Standard Rules.

The elements of the certification that apply to development are listed as follows (taken from Standards Rule 2-3 for real property appraisals, as an example):

- *the statements of fact contained in this report are true and correct.*
- *the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.*
- *I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.*
- *I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.*
- *my engagement in this assignment was not contingent upon developing or reporting predetermined results.*
- *my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.*

The element of the certification that applies to development and reporting is:

- *my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.*

The last two items have to do with disclosures relative to inspections and significant assistance:

- *I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)*

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- *no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)*

156. MULTIPLE SIGNATURES ON APPRAISAL REPORTS

Question: **I am a review appraiser for a national mortgage company. I recently received a residential appraisal reported on a commonly used form that has two signatures on the appraiser line (left hand side of the form). Both appraisers also signed the certification. Does this violate *Uniform Standards of Professional Appraisal Practice* (USPAP)?**

Response: This does not violate USPAP. The Comment to Standards Rule 2-3 states, in part:

> *An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.*

Therefore, if both real property appraisers signed the appraisal report, then both must sign the certification. The Comment goes on to say:

> *…any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.*

In this scenario, both real property appraisers will have complete responsibility for the appraisal in its entirety.

157. SIGNATURE AUTHORIZATION

Question: **Can I authorize someone else to sign an appraisal report for me, using my signature? If so, could you identify what steps I must take to do this correctly?**

Response: USPAP does not specifically state that the appraiser can only personally sign a report. It does state, in the definition of signature, that the signature be *"personalized evidence indicating authentication"* and requires the appraiser to have *"sole personal control of affixing the signature."*

Standard Rule 2-3 states: *Each written real property appraisal report must contain a signed certification…*

In the DEFINITIONS section, a "Signature" is defined as:

> *personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.*
>
> *Comment: A signature can be represented by a handwritten mark, a digitized image controlled by a personal identification number, or other media, where the appraiser has sole personal control of affixing the signature.*

Unless specifically contrary to the law of a particular jurisdiction, USPAP allows another person to sign for an appraiser, as long as it is with the appraiser's specific authorization and is clear. One

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solution would be for that other person to sign the appraiser's name and then write their own initials along side the signature, preceded by the word "by" (for example, "by sbk").

158. RESPONSIBILITY OF AN APPRAISER SIGNING AS A "SUPERVISOR"

Question: **I have been told that a supervisor or employer who signs a report is not as responsible as the individual preparing the appraisal and that using a conditional label next to the signature of the supervisor or employer exempts that individual from adherence to USPAP. Is this true?**

Response: No, it is not true if the supervisor or employer is an appraiser. The Comment to Standards Rule 2-3 (as well as similar language in Standards Rules 3-3, 5-3, 6-9, 8-3 and 10-3) specifically states:

> *An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.*
>
> *In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.*

159. BUSINESS ENTITY SIGNING AN APPRAISAL REPORT

Question: **Can a business entity, such as a corporation, sign an appraisal report?**

Response: Yes. There is no prohibition against an entity signing a transmittal letter or the page stating the value conclusion of a report. However, USPAP does require that an individual appraiser(s) sign a certification, see Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3, and 10-3:

> *Each written real property appraisal (personal property appraisal, mass appraisal, or business or intangible asset appraisal, appraisal review, real property appraisal consulting) report must contain a signed certification that is similar in content to the following form*…(See Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3, and 10-3 for the complete text.)

The Comment(s) to these Standards Rules refer to an appraiser(s), a signing appraiser(s), and any appraiser(s). Clearly, this language refers to an individual or individuals, not a corporate or business entity.

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160. DOES USPAP DEFINE SUPERVISORY APPRAISER

Question: **The term "Supervisory Appraiser" is used in many appraisal reports, particularly residential appraisals. Does USPAP define Supervisory Appraiser?**

Response: No. USPAP does not define or otherwise address this term. Supervisory Appraiser is a term that was introduced by the authors of several heavily utilized residential appraisal forms.

However, it should be noted that an appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign the certification.

161. REPORTING SIGNIFICANT REAL PROPERTY APPRAISAL ASSISTANCE

Question: **I am currently working in an appraisal firm as a trainee. As part of my training I contribute significant real property appraisal assistance in appraisal assignments performed by other appraisers in the firm but I do not sign the appraisal report or the certification. I understand that my name must be stated in the certification. Must the certification include a description of my assistance?**

Response: No. A description of your assistance or contribution to the assignment is not required in the certification. However, in accordance with Standards Rule 2-2(a)(vii), (b)(vii), and (c)(vii) the extent of the assistance must be described, summarized or stated (depending on the reporting option used) within the report. This required disclosure could be included within the certification, but it could also be included in some other section of the report.

See AO-31 *Assignments Involving More than One Appraiser* for further guidance.

162. DISAGREE WITH SUPERVISOR ON VALUE CONCLUSION

Question: **I am employed at a firm where my reports are reviewed by a supervisory appraiser. The supervisory appraiser recently asked me to make changes to a report that resulted in a value opinion with which I do not agree. I am not comfortable signing the amended report. What are my obligations under USPAP?**

Response: If the report does not represent your own opinions and conclusions, then you must not sign the report or the certification.

The Comment to Standards Rule 2-3 states: *An appraiser who signs any part of an appraisal report, including a letter of transmittal, must also sign a certification*… which must include a statement similar to:

> *I certify that, to the best of my knowledge and belief…the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are* ***my personal****, impartial, and unbiased professional analyses, opinions, and conclusions.* (Bold added for emphasis)

An appraiser required to make changes that he or she does not agree with would not be reporting his or her own personal analyses, opinions, or conclusions.

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163. MULTI-DISCIPLINE CERTIFICATION – REAL PROPERTY APPRAISER

Question: **I am a real property appraiser who sometimes participates in assignments that include the appraisal of real property, personal property (machinery and equipment), and intangible assets. The value conclusions for each asset type are separately prepared by an appraiser with competency in the asset type. A single report is jointly issued that communicates the assignment results for all of the assets. What is the appropriate wording for the certification in these situations?**

Response: Standards Rule 2-3 states, in part:

> *Each written real property appraisal report must contain a signed certification that is* ***similar*** *in content to the following form:*
>
> *I certify that, to the best of my knowledge and belief:*
>
> - *the reported analyses, opinions, and conclusions … are my personal, impartial, and unbiased professional analyses, opinions, and conclusions…*
> - *my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice…*

The Comment states, in part:

> *In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.* ***In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.*** (Bold added for emphasis)

When reporting assignment results that are separately prepared by appraisers from different disciplines, the certification must clearly define responsibility for all assignment results and report content. The certification language may be altered to indicate which "reported conclusions" each appraiser is certifying to. The certification language is not required to be exactly as presented in USPAP.

One solution would be for each appraiser to sign a separate certification that identifies the assignment results and report content for which they take responsibility. Another solution to this circumstance would be to include a single certification altered to indicate the assignment results and report content certified to by each appraiser.

Whatever solution is adopted, the certification language must identify the assignment results and report content for which the real property appraiser takes responsibility. One example of such language would be:

- the reported **real property** analyses, opinions, and conclusions … are my personal, impartial, and unbiased professional analyses, opinions, and conclusions…
- my **real property** analyses, opinions, and conclusions were developed, and the **real property content** of this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice.*

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Each personal property appraiser must take responsibility for the personal property assignment results and report content. Each business and/or intangible asset appraiser must take responsibility for the business and/or intangible asset assignment results and report content.

164. RELYING ON THE REPORTS OF OTHERS

Question: **I am a business appraiser; I am not a real property appraiser. Sometimes I rely on results of a real property appraisal to determine the value of business equity. The report of the real property value analysis is not contained in my business valuation report, although the real property value conclusion (the dollar amount) is indicated in my report. An example of this would be a real property holding company in which the value of the equity may be significantly dependent on the value of the owned real property. What is the appropriate way to handle such reliance in my business appraisal report?**

Response: The Comment to SR 10-3 states:

> *When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.*

The Conduct section of the ETHICS RULE states:

> *An appraiser must not use or communicate a misleading or fraudulent report…*

The business valuation report should specifically reference the source of the real property value and may incorporate that value conclusion by use of an extraordinary assumption. Disclosure of the extraordinary assumption could be similar to the following:

"The fair market value of the subject interest in XYZ Company is dependent on the market value of the real property owned by the Company, as provided to us. We have in no way attempted to justify or verify the validity of this asset value. If the real property value were different, the fair market value of the subject interest in XYZ Company could be different."

The business appraisal report would contain a certification by the business appraiser(s). A signed certification related to the real property appraisal will be in the report provided by the real property appraiser (or in the workfile in the case of an oral report).

The business appraiser must rely on a real property appraiser because the business appraiser in this scenario is not competent to perform a real property appraisal or to review the real property appraisal.

In deciding that the work of the real property appraiser is competent, the business appraiser might note such things as the other appraiser's:

- declaration in a signed certification that the analysis, opinions and conclusions were developed, and the report was prepared, in conformance with USPAP;
- relevant experience, education, or references; or
- evidence of professional status, such as license, professional designation, or other recognition of professional or academic achievement.

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165. MULTI-DISCIPLINE CERTIFICATION – PERSONAL PROPERTY APPRAISER

Question: **I am a personal property appraiser. My value opinions are sometimes influenced by analysis performed by a business appraiser, such as assistance in determining whether earnings are sufficient to justify the otherwise-determined value in continued use of machinery and equipment. What are the certification requirements in this scenario?**

Response: The personal property report may contain a single certification or two certification statements (one for the personal property appraiser and one for the business appraiser). In either case the certification language should be altered to indicate which "reported conclusions" each appraiser is certifying to. (See FAQ titled **Multi-Discipline Certification – Real Property Appraiser** for a more complete answer.)

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APPRAISAL REPORTING – USE AND FORMAT ISSUES

166. REQUIRED LEVEL OF DETAIL IN A SELF-CONTAINED APPRAISAL REPORT

Question: **A colleague recently told me that she never prepares Self-Contained Appraisal Reports. She believes that it is impossible to write a report that contains all the information and analysis that supports her assignment results. I have heard others express similar thoughts. Is it true that a Self-Contained Appraisal Report must include an exhaustive account of my appraisal process?**

Response: No. USPAP requirements for Self-Contained Appraisal Reports provide flexibility within a framework.

The key term in understanding the level of information in a Self-Contained Appraisal Report is *describe*. As stated in Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*:

> *The Self-Contained Appraisal Report should contain all information* ***significant*** *to the solution of the appraisal problem. (*Bold added for emphasis*)*
>
> *The intended users of the Self-Contained Appraisal Report should expect to find all* ***significant*** *data reported in comprehensive detail.* (Bold added for emphasis)
>
> *Describe is used to connote a comprehensive level of detail in the presentation of information.*

The requirement is to provide all significant information and data, not all information and data. Significance is measured against the needs of the intended use and intended users in the assignment. The Self-Contained Appraisal Report option will contain a comprehensive level of information detail, but it cannot contain the sum total of the appraiser's data, analysis and experience that went into making the judgments required.

A basic requirement for **all** reports is stated in Standards Rule 2-1(b), with similar language in STANDARDS 5, 6, 8 and 10:

> *Each written or oral real property appraisal report must:*
>
> *contain sufficient information to enable the* ***intended users*** *of the appraisal to understand the* ***report*** *properly;* (Bold added for emphasis)

Additionally, a basic requirement for all reports is stated in Standards Rules 2-2(a), with similar language in Standards Rules 2-2(b) and (c) as well as in STANDARDS 5, 8, and 10:

> *The content of a Self-Contained Appraisal Report must be consistent with the* ***intended use*** *of the appraisal…. (*Bold added for emphasis*)*

There are two important points to recognize in these requirements:

(1) An appraiser's reporting obligations are relative to intended users (which include the client) and intended use. Reports are directed to the needs of the intended users and the

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requirements associated with the intended use. Since the reporting needs associated with specific intended users and intended uses vary, report content will vary. USPAP allows for flexibility within report types.

(2) The USPAP requirement is to provide sufficient information to enable the intended users to understand the **report**, not the **appraisal**. It is unreasonable to require that intended users understand the appraisal because this would entail complete documentation of the data and analysis as well as the appraiser's life experience and education that went into making the judgments required in the assignment.

Standards Rules 2-2 (a)(viii) and 8-2(a)(viii) state:

> *describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions;*

The Comment states, in part:

> *The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions...*

This requirement is directed toward addressing the needs of the client and other intended users in understanding the "rationale." The rationale is the basis for the assignment results, but does not include everything done or considered in the appraisal.

167. OWNERSHIP OF APPRAISAL REPORTS

Question: **A property owner has requested a copy of an appraisal report I prepared for a lender. Who owns an appraisal report, its associated research and supporting documentation?**

Response: USPAP does not specifically address who "owns" an appraisal report, the research necessary to produce that report and the report's supporting documentation. According to both the last Comment to the Record Keeping section of the ETHICS RULE and Standards Rule 2-2(c)(viii), an appraiser who provides a Restricted Use Appraisal Report must make available to the client the workfile in support of that report. But, no such requirement is set forth for either Self-Contained or Summary Appraisal Reports. Further, in the case of the Restricted Use Appraisal Report, while the workfile must be made available to the client, the Standards do not require that the client be given possession of the workfile.

By contrast, appraisal reports of all kinds are, by definition …*transmitted to the client*… As indicated in Standards Rule 2-2, and further described in Advisory Opinion 12, *Use of the Appraisal Report Opinions of Standards Rules 2-2 and 8-2*, the decision as to which reporting option is appropriate for any given assignment is reached by both the appraiser and the client. However, once that decision has been competently made, USPAP does not place further responsibility upon the appraiser for the client's use of that report.

An appraiser who receives a request from any party for a copy of an appraisal report must comply with the Confidentiality section of the ETHICS RULE which, states:

> *An appraiser must protect the confidential nature of the appraiser-client relationship.*
>
> *An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.*

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An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee.

168. IDENTIFICATION OF REPORT OPTION USED

Question: **What does USPAP require when identifying which reporting option of STANDARD 2 is used in an appraisal assignment?**

Response: STANDARD 2 allows for three types of appraisal reports: Self-Contained Appraisal Report, Summary Appraisal Report and Restricted Use Appraisal Report.

STANDARD 2 requires that appraisers prominently state which report option is used. In Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*, the ASB advises that *the statement should appear at or near the beginning of the report.*

Although USPAP does not dictate the specific language for identifying the report option used, a sample statement that indicates the report option used is: "This appraisal is communicated in a (Self-Contained, Summary or Restricted Use) Appraisal Report."

169. LABEL DIFFERENT FROM REPORTING OPTIONS

Question: **May I label a real property appraisal report using a term other than, or in place of, Self-Contained, Summary, or Restricted Use Appraisal Report?**

Response: No. The Comment to Standards Rule 2-2 states, in part:

> *An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.*

170. RESTRICTED USE APPRAISAL REPORT AND THIRD PARTIES

Question: **I have been asked by a client to prepare a Restricted Use Appraisal Report that he plans to provide to another intended user. Does USPAP allow me to use this report option in such a circumstance?**

Response: No. The Comment to Standards Rule 2-2 states:

> *When the intended users do not include parties other than the client, a Restricted Use Appraisal Report may be provided.*

In other words, this particular report option may only be used when the client is the only intended user.

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The reason underlying this use restriction is that the client is assumed to have a sufficient level of knowledge to enable him or her to understand a report of this type. If other intended users were to be given such an abbreviated report, they could easily misunderstand it and potentially be misled.

171. APPRAISAL UPDATE REPORTING FORMAT

Question: **I received a request to update an appraisal I previously completed. The original report was issued as a Self-Contained Appraisal Report. Am I required to use the same reporting format in my update**?

Response: No. Advisory Opinion 3, *Update of a Prior Appraisal* states, in part:

> *The new report is not required to have the same level of detail as the original report – i.e., a different reporting option may be used. However, the new report must contain sufficient information to be meaningful and not misleading to the intended users.*

Refer to AO-3 for further guidance.

172. REPORTING APPRAISAL UPDATES

Question: **I recently received an assignment for an update of an appraisal. The original appraisal was reported on a commonly used single-family residential report form. Must I use this same form to report the results of the update assignment?**

Response: No. Using the same form as the original report is not required. The update is a new appraisal assignment, and it may be reported in any format that is acceptable for the intended use and complies with the applicable reporting Standard (STANDARD 2 for a real property assignment). The report must contain sufficient information to be meaningful and not misleading to the intended users, but it is not required to have the same level of detail as the original report.

For additional information, refer to Advisory Opinion 3, *Update of a Prior Appraisal.*

173. *FANNIE MAE UPDATE REPORT FORM 1004D*

Question: **I have been asked to provide an update of a previous appraisal assignment and to report the results on Fannie Mae form 1004D. The form asks me to check "yes" or "no" in response to the question "Has the subject's market value declined since the original appraisal date?"**

Question a: **Does this constitute a new appraisal of the property?**

Question b: **How much of my analysis must I include in the report?**

Response a: Yes. This is a new appraisal with a new effective date. Additional guidance can be found in Advisory Opinion 3, Update of a Prior Appraisal.

Response b: Form 1004D is labeled as a Summary Appraisal Report. Therefore, the appraiser must provide a summary of the analysis conducted in the assignment.

The analysis will vary from assignment to assignment, so the information required in the report will also vary. In some cases it might be possible to summarize the analysis using the three lines

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provided on the form itself. If the space provided is insufficient, then the appraiser must supplement the form.

174. APPRAISAL REPORT CONTENT AND PROPERTY FLIPPING

Question: **Is there anything I can put into a report that would protect me from being entangled in an illegal flipping scheme?**

Response: There are safeguards in USPAP that pertain to reporting. It is good to review the first principle in all the reporting Standards: *to clearly and accurately set forth the appraisal in a manner that will not be misleading.* Providing candid and appropriate disclosures in the report serves to limit the appraiser's liability and inform the client of important issues that qualify the conditions of the appraisal.

Standards Rules 2-2(a) and (b)(viii) provide good examples of appropriate disclosures that may help appraisers avoid costly mistakes and subsequent criticism (Standards Rule 2-2(c)(viii) is similar in language and intent).

> *When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.*

These Standards Rules require that the appraiser either disclose significant information specified in Standards Rule 1-5, (if it is available in the normal course of business) or else disclose what steps were taken to obtain the information in the event that it was not obtained. The first type of disclosure protects the appraiser from *not committing a substantial error of omission*… as required in Standards Rule 1-1(b), when the information is available and the second, if addressed properly, should convince third parties that the appraiser exercised reasonable care in the performance of the assignment.

175. LEGAL DESCRIPTION

Question: **I've been told that I have to report a complete legal description for the subject property in every appraisal I perform. Is this required by USPAP?**

Response: No. USPAP does not require a complete legal description for the subject property to be included in every report, since it is recognized that it is not always possible to do so. However, the reporting standards for real property, personal property, and business appraisals do have similar minimum identification requirements.

In the reporting standards for real property, Standards Rule 2-2(a)(iii), for example, appraisers are required to:

> *describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;*

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> *Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs or the like. The information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.*

Similar requirements for sufficient identification of real estate subjects are also contained in Standards Rules 2-2(b)(iii) and (c)(iii).

For personal property and business or intangible assets, the requirements include similar language to present information sufficient to identify the property or assets (refer to Standards Rules 8-2(a), (b) and (c)(iii) for personal property and to Standards Rules 10-2(a) and (b)(iii) for business appraisals).

176. PROPERTY ADDRESS

Question: **Does USPAP require that an address for the subject property be reported in every real property Summary Appraisal Report?**

Response: No. Standards Rule 1-2(e) states, in part:

> *In developing a real property appraisal, an appraiser must:*
>
> …
>
> *(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
>
> *(i) its location and physical, legal, and economic attributes; …*

Additionally, Standards Rule 2-2(b) states, in part:

> *The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:*
>
> *(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;*
>
> *Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.*

The appraiser must provide information sufficient to *identify the real estate involved in the appraisal*. In some cases an address, particularly a post office box or other rural address may be misleading if no other identifying information such as a legal description is provided. In other cases, an address is sufficient to meet USPAP requirements.

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177. WHY REPORT SCOPE OF WORK

Question: **Why are appraisers required to report the scope of work in an appraisal, appraisal review, or appraisal consulting report?**

Response: Documenting the scope of work provides the intended users with a clear understanding of the extent of the research and analyses performed. It also serves as protection for both the client and the appraiser by detailing things that were, and were not, done in the assignment.

In the SCOPE OF WORK RULE, a Comment states:

> *Proper disclosure is required because clients and other intended users rely on the assignment results. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.*

(Note: other professions, such as engineers, have a long history of requiring the development and reporting of the scope of work in their assignments.)

178. *REPORTING WORK NOT DONE IN AN ASSIGNMENT*

Question: **Does the report need to explain what wasn't done in an assignment?**

Response: Possibly. In addition to the disclosure of research and analyses performed, disclosure of research and analyses not performed might be needed to allow users of the report to understand your scope of work. The report must explain why the cost approach, sales comparison approach or income approach was not developed. It may also be necessary to disclose other research and analysis not performed.

179. *SEPARATE SCOPE OF WORK SECTION IN THE REPORT?*

Question: **Am I required to have a separate section in my reports describing my scope of work?**

Response: No. USPAP does not dictate where information must be included in reports, and the description of the scope of work performed is no exception.

The SCOPE OF WORK RULE states:

> *The report must contain sufficient information to allow intended users to understand the scope of work performed.*

The scope of work performed may be described in one section, or throughout the report.

180. IDENTIFICATION OF INTENDED USERS IN APPRAISAL REPORTS

Question: **Is an appraiser obligated to identify any intended users other than the client of an appraisal report, by name, in the report?**

Response: An intended user must be identified as required by Standards Rules 2-2, 6-2, 8-2 or 10-2 (as applicable), but neither the client nor the appraiser is obligated to identify an intended user by

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name in the report. If identification by name is not appropriate or practical, an appraiser's client and the appraiser may identify an intended user by type. "Intended User" is defined as:

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.*

Refer to STATEMENT No. 9, *Identification of Intended Use and Intended Users* for additional information.

181. IDENTIFICATION OF THE CLIENT IN APPRAISAL REPORTS

Question: **Is an appraiser required to disclose the identity of the client in an appraisal report?**

Response: STATEMENT No. 9 (SMT-9), *Identification of Intended Use and Intended Users* states:

> *Except when specifically requested not to do so as part of the agreement with the client, an appraiser must disclose the identity of the client and any other intended users in an appraisal…report. The purpose of this reporting requirement is to 1) ensure that the client and any other intended users can recognize their relationship to the assignment and report, and 2) ensure that unintended users will not be misled by notifying them that they are neither the client nor an intended user. For example, a statement similar to the following may be appropriate:*
>
> > *This report is intended for use only by (identify the client) and (identify any other intended users by name or type). Use of this report by others is not intended by the appraiser.*

SMT-9 also states:

> *If the client's identity is omitted from an appraisal report, the appraiser must (1) identify the client in the workfile, and (2) provide a notice in the appraisal report that the identity of the client has been omitted in accordance with the client's request…*

Refer to SMT-9, for additional guidance.

182. *DISCLOSURE OF THE INTENDED USER IN A REPORT*

Question: **USPAP requires that each appraisal, appraisal review, or appraisal consulting report state the intended users of the assignment results. How can one determine if the intended user statement in a report is adequate?**

Response: USPAP requires disclosure of the intended users in order to ensure that:

1. The client and any other intended users can recognize their relationship to the assignment and report; and
2. Unintended users will not be misled by "putting them on notice" that they are neither the client nor an intended user.

Therefore, the statement regarding the intended users must be sufficient to accomplish these objectives. The appraiser is not obligated to identify an intended user by name. If identification by name is not appropriate or practical, the appraiser may identify an intended user by type.

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STATEMENT 9, *Identification of Intended Use and Intended Users* provides an example of a statement that may be appropriate for inclusion in a report:

> *This report is intended for use only by (identify the client) and (identify any other intended users by name or type). Use of this report by others is not intended by the appraiser.*

183. *DISCLOSURE OF THE INTENDED USE IN A REPORT*

Question: **USPAP requires that each appraisal, appraisal review, or appraisal consulting report state the intended use of the assignment results. How can one determine if the intended use statement in a report is adequate?**

Response: USPAP requires disclosure of the intended use to avoid misleading parties in possession of an appraisal, appraisal review, or appraisal consulting report. For additional clarity, one might also state that other uses are not intended. The use description provided in the statement must be specific to the assignment.

STATEMENT 9, *Identification of Intended Use and Intended User*, provides an example of a statement that may be appropriate for inclusion in a report:

> *This report is intended only for use in (describe the use). This report is not intended for any other use.*

184. ORAL REPORTS AND RECORD KEEPING

Question: **An attorney hired me to prepare an appraisal. He asked that I not prepare a report but rather discuss my conclusions with him orally. I have done that and he concluded that my opinion will not be helpful to his client and therefore does not want a written report. What are my obligations under USPAP in this situation?**

Response: Under the Record Keeping section of the ETHICS RULE:

> *An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:*
>
> - *the name of the client and identity, by name or type, of any intended users;*
> - *true copies of any written reports, documented on any type of media;*
> - ***summaries of any oral reports or testimony**, or a transcript of testimony, **including the appraiser's signed and dated certification; and***
> - *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.* (Bold added for emphasis)

The reporting of the appraisal conclusions to the attorney is an oral report. A summary of such a report, along with the appraiser's signed and dated certification needs to be included in the workfile.

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185. ORAL APPRAISAL REVIEW REPORTING REQUIREMENTS

Question: **Why did the Appraisal Standards Board add Standards Rule 3-4 to USPAP?**

Response: Standards Rule 3-4, which states: *To the extent that it is both possible and appropriate, an oral appraisal review report must address the substantive matters set forth in Standards Rule 3-3*, was added for two main reasons:

1) It was the Board's opinion, following public input, that STANDARD 3 should mirror STANDARD 2 as closely as possible and, 2) until this change STANDARD 3 did not address the fact that appraisal review reports are frequently given orally, particularly in court testimony settings.

186. WORKFILE CONTENTS FOR AN ORAL REPORT

Question: **What must be in the workfile when an appraiser issues an oral report?**

Response: The Record Keeping section of the ETHICS RULE requires that the workfile include:

- *the name of the client and the identity, by name or type, of any other intended users;*
- *true copies of any written reports, documented on any type of media;*
- ***summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification****; and*
- *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.* (Bold added for emphasis)

The Comment in the Record Keeping section of the ETHICS RULE also states, in part:

> *A workfile must be in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.*

187. APPRAISAL REPORT FORM SOFTWARE

Question: **What should I do if my appraisal form software does not address the most recent changes to USPAP?**

Response: In the previous versions, as well as in the current version of USPAP, appraisers have been required to supplement an appraisal form when the form lacks required elements. This requirement can be found in the Comment to Standards Rule 2-2. The specific text states:

> *The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule*

Appraisers should take the appropriate steps to ensure that their reports comply with the current version of USPAP.

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188. *PAPER COPIES OF ELECTRONICALLY TRANSMITTED REPORTS*

Question: **Are appraisers required by USPAP to retain a paper copy of electronically transmitted appraisal reports?**

Response: No. The Record Keeping section of the ETHICS RULE requires appraisers to prepare and retain written records of appraisal, appraisal review, and appraisal consulting assignments. However, the Comment states:

> *A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy.*

Therefore, a paper copy is not required.

189. APPRAISAL REPORT FORMS COMPLIANCE WITH USPAP

Question: **Fannie Mae and other agencies issue appraisal report forms. Do these forms comply with USPAP?**

Response: It is the position of the ASB that appraisers comply with USPAP, not forms. Each assignment is different, and no form could cover all USPAP requirements for all assignments. Appraisal report forms are simply tools to assist in organizing the reporting of assignment results.

It is the responsibility of the appraiser to properly *develop* an appraisal, and to properly *report* the assignment results. A template or form may or may not adequately report the assignment results. It may be necessary for the appraiser to supplement a form with addenda to comply with USPAP requirements.

190. FANNIE MAE APPRAISAL REPORT FORMS AND USPAP COMPLIANCE

Numerous questions and comments have been presented to the Appraisal Standards Board (ASB) regarding the Fannie Mae appraisal report forms that were revised November 2005. Many of the questions, which are summarized and presented below, are related to Item #23 in the Appraiser's Certification on report Form 1004, the Uniform Residential Appraisal Report. (The statement in Item #23 on Form 1004 also appears in the other Fannie Mae forms.) The first question is included because the answer is central to the issue raised about Item #23.

Question #1: **What is meant by the term Intended User in USPAP?**

Response: *Intended User* is defined in USPAP as*:*

> *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client at the time of the assignment.*

Although the client provides information to the appraiser regarding the Intended Users, it is the appraiser who is responsible for specifying the parties he or she is identifying as Intended Users.

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Knowing the Intended Users is important because USPAP requires that reports contain sufficient information to allow Intended Users to understand the report. Without clear knowledge of the Intended Users in an assignment, an appraiser cannot be certain that the report content is appropriate. Some Intended Users will require more information than others in order to facilitate understanding.

Furthermore, identification of the Intended Users is important in understanding the Intended Use or Uses of the appraisal; different Intended Users may have different Intended Uses for the appraisal.

Question #2: **I have studied the recently issued revised Fannie Mae appraisal report Form 1004. On that form, the lender/client is identified as the Intended User. However, Item #23 in the Appraiser's Certification states:**

> **"The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties."**

I am concerned that Item #23 is not clear, and I wonder if the parties listed in Item #23 could interpret it to mean that they are also Intended Users. To be in compliance with USPAP, what should I do about this item in the Appraiser's Certification?

Response: USPAP requires that each written appraisal report must:

> *…clearly and accurately set forth the appraisal in a manner that will not be misleading.*

Part of satisfying this requirement is clarifying which parties are Intended Users. USPAP requires the appraiser to identify the Intended User(s) and to state in the report who the Intended Users are. (See the definition of Intended User, Standards Rule 1-2(a), and Standards Rule 2-2(b)(i).)

The revised Fannie Mae appraisal report Form 1004 clearly states that the lender/client is the Intended User. However, the language in the Appraiser's Certification Item #23 confuses the matter.

Therefore, in order to clearly and accurately set forth the appraisal in a manner that is not misleading, the revised Fannie Mae report Form 1004 requires supplementation to clarify which parties the appraiser is identifying as Intended Users. As stated in USPAP:

> *An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled…*

Part of not misleading the Intended Users is ensuring that they know who they are.

Question #3: **Does the ASB consider Item #23 in the Appraiser's Certification on report Form 1004 confusing?**

Response: The statement that the parties listed, "…may rely on **this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties**" (Bold added for emphasis) is subject to various interpretations.

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First, from a practical standpoint, there is little distinction between parties who "use" the report and parties who "rely" on the report. It is difficult to determine the difference between those parties given permission to "rely on" the appraisal report (from the Fannie Mae report forms) and those parties identified as "users of" the appraisal report (from the USPAP definition of Intended Users).

Another matter of confusion is the meaning of the word "may" in the phrase "may rely on." One interpretation could be that the appraiser is granting permission. This permission for the parties to "rely" on the report suggests that they are Intended Users. Another interpretation could be that the appraiser is simply acknowledging the possibility that another party might choose to rely on the report, even if that party is not an Intended User. This possibility has always existed; the appraiser cannot control to whom the client provides copies of the report.

Question #4: **What should an appraiser do if the parties listed in Appraiser's Certification Item #23 are determined by the appraiser to be Intended Users? What if the appraiser determines they are not Intended Users?**

Response: If the appraiser intends any of the parties listed in Appraiser's Certification Item #23 to be Intended Users, the report must state that fact, and the appraiser must comply with the USPAP requirements associated with these other Intended Users. For example, further supplementation might be necessary to comply with Standards Rule 2-1(b), requiring that the appraisal report must:

> *…contain sufficient information to enable the intended users of the appraisal to understand the report properly…*

If the appraiser does not intend the parties listed in Appraiser's Certification Item #23 to be Intended Users, the report must be supplemented to clearly explain this. For example, as indicated in USPAP Statement on Appraisal Standards No. 9, a statement similar to the following may be appropriate:

> *This report is intended for use only by (identify the client and any other intended users). Use of this report by others is not intended by the appraiser.*

Question #5: **But how can I supplement the Fannie Mae appraisal report forms? Fannie Mae prohibits supplementation of the certification regarding anything material.**

Response: The ASB cannot comment on Fannie Mae policies. However, USPAP requires that the appraiser supplement an appraisal report form if the form is not adequate. As stated in STANDARD 2 of USPAP:

> *An appraiser* ***must*** *supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in the Standards Rules.* (Bold added for emphasis)

Each assignment is different, and no form could cover all USPAP requirements for all assignments. Appraisal report forms are simply tools to assist in organizing the reporting of assignment results.

It is the responsibility of the appraiser to properly *develop* an appraisal and to properly *report* the assignment results. A template or form may or may not adequately report the assignment results.

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191. STANDARDS, STANDARDS RULES, AND REPORTING AN APPRAISAL

Question: **Which Standards and Standards Rules apply to reporting an appraisal?**

Response: "Reporting an appraisal" is one part of the development and reporting steps. STANDARD 2 and Standards Rules 2-1 through 2-4 apply to reporting a real property appraisal. Standards Rules 6-8 and 6-9 apply to a written mass appraisal report. STANDARD 8 and Standards Rules 8-1 through 8-4 apply to reporting a personal property appraisal. STANDARD 10 and Standards Rules 10-1 through 10-4 apply to reporting a business appraisal.

192. DISCOUNTED CASH FLOW (DCF)

Question: **I am appraising a property that will require a Discounted Cash Flow (DCF). Are there any special requirements in USPAP for this?**

Response: STATEMENT No. 2 (SMT-2), *Discounted Cash Flow Analysis* contains a number of requirements related to performing a DCF in the appraisal of real property. The following outlines the conclusions at the end of this Statement:

- *DCF analysis is an additional tool available to the appraiser and is best applied in developing value opinions in the context of one or more other approaches.*
- *It is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.*
- *Market value DCF analyses should be supported by market-derived data, and the assumptions should be both market- and property-specific.*
- *If using commercial software the appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.*
- *DCF accounts for and reflects those items and forces that affect the revenue, expenses, and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market.*
- *The results of DCF analysis should be tested and checked for errors and reasonableness.*
- *Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal.*

Since Statements have the full weight of a Standards Rule, their requirements must be adhered to.

193. *COMMUNICATING ASSIGNMENT RESULTS WITHOUT A WRITTEN REPORT*

Question: **My clients sometimes want me to communicate assignment results verbally, instead of issuing a written appraisal report. Does USPAP allow me to do this?**

Response: Yes. USPAP defines "report" as follows:

> *any communication, written or* ***oral****, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment. (*Bold added for emphasis*)*

Therefore, verbally communicating assignment results constitutes an oral report under USPAP. The use of an oral report must be appropriate given the intended use of the assignment results, and

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the report must comply with the applicable reporting requirements (i.e. Standards Rules 2-4, 3-4, 5-4, 8-4 and 10-4). The Record Keeping section of the ETHICS RULE also requires that the appraiser's workfile for an oral report include a summary of the oral report and a signed and dated certification.

194. ORAL APPRAISAL REPORTING REQUIREMENTS

Question: **A client has asked me to complete an appraisal of a property, but she does not want me to prepare a written report. Instead, she has asked that I communicate the results of my appraisal orally. Is this allowed under USPAP? If so, what requirements would I have to follow?**

Response: Yes, USPAP allows an appraiser to provide an oral report. Standards Rules 2-4, 3-4, 5-4, 8-4, and 10-4 address the reporting requirements for oral reports. However, every appraisal, appraisal review, or appraisal consulting report must be clearly and accurately set forth in a manner that is not misleading and contain sufficient information to enable intended users to understand the report properly. Thus, the responsibility is on the appraiser to not limit the reporting to such a degree that it would be misleading.

The Record Keeping section of the ETHICS RULE also has requirements related to oral appraisal reports; specifically the requirement to include in the appraiser's workfile:

> *summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification.*

In addition, the Comment to this section states:

> *A workfile must be in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.*

195. CONTENT OF RESTRICTED USE APPRAISAL REPORTS

Question: **I have been asked to provide a Restricted Use Appraisal Report, but I would like to be very descriptive in parts of the report. Does USPAP preclude appraisers from including detailed analysis in a Restricted Use Appraisal Report?**

Response: No. USPAP prescribes the minimum content requirements for all three reporting options, Self-Contained Appraisal Report, Summary Appraisal Report, and Restricted Use Appraisal Report. An appraiser is always free to add to the minimum requirements.

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196. PROVIDING A DRAFT OF A REPORT

Question: **My client has asked that I provide a draft of my appraisal report prior to issuing the report in final form. Is this permitted under USPAP?**

Response: USPAP does not explicitly define or address drafts of reports. When clients, other intended users, and appraisers use the term "draft," they may mean many different things, from preliminary spreadsheets to a written document that contains all that will be in the "final" report except it is labeled as "draft" and does not contain signatures. Report drafts have traditionally been part of certain types of appraisal practice but have never been considered acceptable in other types of appraisal practice.

State-regulated appraisers should be aware of applicable state laws and regulations. Many laws define a "report" as *any communication, written or oral, of an appraisal*.

Whatever a "draft" may be in a particular context, it would always be part of "appraisal practice," because it is a valuation service provided by an appraiser. When performing a service that is considered appraisal practice, but for which there are no applicable Standards Rules, an appraiser must still comply with the portions of USPAP that apply generally to appraisal practice. These include the DEFINITIONS, PREAMBLE, ETHICS RULE except for the Record Keeping section, COMPETENCY RULE, and JURISDICTIONAL EXCEPTION RULE.

The second sentence of the PREAMBLE states: *It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.* Additionally, the ETHICS RULE states: *An appraiser must not communicate assignment results in a misleading or fraudulent manner*. Therefore, if an appraiser communicates with intended users prior to completion of an assignment, the communication must not be misleading.

The purpose of issuing a "draft" cannot be to allow the client to improperly influence the appraiser.

See Advisory Opinion 21, *USPAP Compliance* for further guidance.

197. *DEVELOPING "UNNECESSARY" APPROACH*

Question: **I have a client requesting that the cost approach be included in every appraisal assignment, including those where I feel the cost approach may not yield meaningful results. I am concerned that by complying with the client's request I may be providing a misleading appraisal report. How can I comply with USPAP and satisfy the client at the same time?**

Response: Performing a cost approach that may not yield a meaningful indication of value does not result in a misleading appraisal report if the appraiser properly addresses the applicability and suitability of the approach in the report. Many appraisers address this in the reconciliation by including statements such as, "The cost approach was included solely at the request of the client; it has been given no weight in arriving at the final opinion of value because … ."

See Advisory Opinion 28**,** *Scope of Work Decision, Performance, and Disclosure* for further guidance.

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APPRAISAL REVIEW

198. WHEN DOES STANDARD 3 APPLY?

Question: **I am an appraiser and my practice includes requests to comment on a wide range of valuation work performed by others. Sometimes this work is presented as an appraisal report, appraisal consulting report, consulting report, market data summary, and even as a broker's price opinion. When does STANDARD 3 apply?**

Response: The answer to this question lies in the definition of an "appraisal review:"

> *the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.*

For this question, the key features of an appraisal review are:

- the work under review was performed by an appraiser, and
- the work under review was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

If a service satisfies the definition of appraisal review, STANDARD 3 applies. Assignments involving commenting on the quality of appraisal reports and appraisal consulting reports are appraisal reviews.

Assignments related to consulting reports, market data summaries, and broker's price opinions are not appraisal reviews. Even when the work under examination is performed by an appraiser, evaluating these types of work is not part of an appraisal review.

However, even if the service is not an appraisal review, the portions of USPAP that apply generally to appraisal practice, (i.e., DEFINITIONS, PREAMBLE, the Conduct, Management, and Confidentiality sections of the ETHICS RULE, the COMPETENCY RULE and the JURISDICTIONAL EXCEPTION RULE) would apply.

199. POST-VALUATION DATE INFORMATION IN APPRAISAL REVIEWS

Question: **Can post-valuation date information be used to impeach or impugn appraisals and appraisers?**

Response: No. The Comment to Standards Rule 3-1(c) states:

> *The appraisal review must be conducted in the context of market conditions as of the effective date of the opinion in the work being reviewed.*

For additional guidance, see STANDARD 3 and Advisory Opinion 20, *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value.*

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200. REVIEWER DISAGREES WITH VALUE CONCLUSION

Question: **In performing an appraisal review, a reviewer disagrees with the value conclusion in the original appraisal. What is the correct action the reviewer should take according to USPAP?**

Response: STANDARD 3 addresses the development and reporting of an appraisal review. Standards Rule 3-1 states that the reviewer may express an opinion of a different value from that in the original report. When disagreeing with an appraiser's value conclusion, the reviewer is required to fully develop a value opinion under the applicable development Standard (STANDARD 1, 3, 4, 6, 7 or 9) and clearly set forth the basis for his or her conclusions. Standards Rule 3-2 addresses the reporting of the reviewer's opinion of value, (i.e., an appraisal) within the appraisal review report. The reporting requirements of STANDARD 2, 5, 6, 8 or 10 (as applicable) do not apply.

However, the Comment to Standards Rule 3-1(c) states:

> *When the reviewer's scope of work includes developing his or her own opinion of value, the following apply:*
>
> - *The reviewer's scope of work in developing his or her own opinion of value may be different from that of the work under review.*
> - *The effective date of the reviewer's opinion of value may be the same or different from the date of the work under review.*
> - *The reviewer is not required to replicate the steps completed by the original appraiser. Those items in the work under review that the reviewer concludes are credible and in compliance with the applicable development Standard (STANDARD 1, 3, 4, 6, 7, or 9) can be extended to the reviewer's value opinion development process on the basis of an extraordinary assumption by the reviewer. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer, developed in conformance with STANDARD 1, 3, 4, 6, 7, or 9, as applicable, to produce a credible value opinion.*
> - *The reviewer may use additional information available to him or her that was not available to the original appraiser in the development of his or her value opinion; however, the reviewer must not use such information as the basis to discredit the original appraiser's opinion of value.*

Refer to AO-20, *An Appraisal Review Assignment that Includes the Reviewer's Own Opinion of Value* for additional guidance.

201. REVIEWER CONCURS WITH VALUE CONCLUSION

Question: **I am performing a review of a real property appraisal and my client has asked me to give my opinion of value, even if I agree with the value in the appraisal. Does my concurrence constitute an appraisal opinion? If so, what do I need to do to comply with USPAP?**

Response: Yes. If you concur with the value in the report, it does constitute an appraisal by the reviewer. The Comment to Standards Rule 3-1(a) states:

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If the assignment includes the reviewer developing his or her own opinion of value about the subject property of the work under review, that opinion is an appraisal whether it:

- ***concurs with the opinion of value in the work under review**, as of the date of value in that work or a different date of value; or*
- *differs from the opinion of value in the work under review, as of the date of value in that work or a different date of value.*
  (Bold added for emphasis)

You should be careful to be sure that your scope of work clearly includes the requirement to develop your own opinion of value (i.e., an appraisal).

The Comment to Standards Rule 3-1(c) shows the steps that must be taken when the scope of work includes the reviewer expressing his or her own opinion of value. One of these requirements is that you must satisfy the applicable development Standard. Specifically, whether you concur or disagree with the value in the appraisal being reviewed, you would extend to your development process those items in that appraisal that you conclude are credible and in compliance with STANDARD 1, in this case. This is accomplished on the basis of an extraordinary assumption. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer.

Additional advice is contained in AO-20, *An Appraisal Review Assignment that Includes the Reviewer's Own Opinion of Value*.

202. APPRAISAL REVIEW AND STATE APPRAISER BOARDS

Question: **Is a reviewer permitted by USPAP to file a complaint with a State Appraiser Board without the consent of his or her client?**

Response: It is the opinion of the ASB that a reviewer may, absent any higher precedent law or regulation, file a complaint with a State Appraiser Board without the consent of his or her client.

The Confidentiality section of the ETHICS RULE states:

An appraiser must protect the confidential nature of the appraiser-client relationship.

The Confidentiality section continues:

*An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; **state enforcement agencies** and such third parties as may be authorized by due process of law;...* (Bold added for emphasis)

203. READING APPRAISAL REPORTS

Question: **I recently completed an appraisal and forwarded the report to the client. After receiving the report the client called and stated that they have another appraisal that was recently completed and the values differ significantly. They asked if I would look over the other report and point out the primary differences. Does this assignment constitute an appraisal review?**

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Response: No, in this case the client is not asking you to assess the quality of the other appraisal or your opinion of its conclusions. Since you are only noting the differences in the two appraisals you are not performing an appraisal, appraisal review, or appraisal consulting assignment.

204. REVIEWING TWO APPRAISALS ON THE SAME PROPERTY

Question: **My client, a government agency, has obtained two appraisals of the same real property, and has asked me to review both and reconcile them to a single value. Can I perform this assignment under USPAP?**

Response: Yes, you can perform this assignment under USPAP. The situation you describe constitutes a real property appraisal review assignment. STANDARD 3 addresses the development and reporting of a real property appraisal review assignment. In this case, you would apply the specific appraisal review requirements of Standards Rule 3-1 and Standards Rule 3-2 to both appraisals being reviewed, and provide your own opinion of value in accordance with Standards Rule 3-1(c) and Standards Rule 3-2(d).

In this type of situation, it would be appropriate to include the result of your review of both appraisals and your own appraisal opinion within the same appraisal review report, since these would all have to be addressed in the same report to be understood properly and thus not be misleading. A single signed certification would be provided, in accordance with Standards Rule 3-3.

For additional guidance, refer to Advisory Opinion 20, *An Appraisal Review Assignment that Includes the Reviewer's Own Opinion of Value*.

205. *REVIEW REPORT ON THREE APPRAISAL REPORTS*

Question: **I have been asked to review three appraisal reports and to report my findings in one appraisal review report. Does USPAP permit this?**

Response: Yes. A single appraisal review assignment can include the review of several appraisal reports, with the assignment results presented in one appraisal review report. Similarly, a single appraisal report can provide assignment results for an appraisal that includes several properties.

206. APPRAISAL REVIEW FOR A STATE APPRAISER BOARD

Question: **I am a state-certified appraiser who serves on the appraisal review panel for our state's Appraisal Licensure & Certification Board. The State Administrator has asked me to review an appraisal report. The appraiser that prepared the report is the subject of a complaint that was recently filed. The purpose of the review is to develop and state my opinion as to the quality of the work in comparison to the applicable requirements in USPAP, state law, and regulations. My state does not exempt reviewers who are state licensed or certified appraisers from compliance with USPAP when performing such reviews. Do I have to follow STANDARD 3 in this assignment?**

Response: Yes, under the circumstances you describe, you do have to follow all the applicable requirements of STANDARD 3. In this specific situation, just because the intended user and intended use are

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related to enforcement does not mean such a review assignment would be treated or accomplished any differently.

However, some states have laws or regulations that exempt appraisal review work, of this type, from USPAP. An appraiser performing such an assignment should discuss the assignment with the client and carefully review the applicable state law and regulation to ensure no misunderstanding about whether compliance with USPAP is, indeed, required or whether a jurisdictional exception results in a part or parts of USPAP, such as STANDARD 3, not being applicable.

207. REVIEWING AN APPRAISAL REVIEW REPORT

Question: **An appraiser was recently asked to review another appraiser's appraisal review report. Must the appraiser comply with STANDARD 3 in completing this assignment?**

Response: Yes, the appraiser must comply with STANDARD 3 in this assignment. STANDARD 3 states:

> *In performing an appraisal review, assignment an appraiser acting as a reviewer must develop and report a credible opinion as to the quality of another appraiser's work and must clearly disclose the scope of work performed.*

The Comment to this statement goes on to state, in part:

> *Appraisal review is the act or process of developing and communicating an opinion about the quality of all or part of the work of another appraiser that was performed as part of an appraisal,* ***appraisal review****, or appraisal consulting assignment.* (Bold added for emphasis)

Simply stated, "appraisal review" encompasses more than just the review of another appraiser's appraisal. It is *the act or process of developing and communicating an opinion about the quality of another appraiser's work.* (See the definition of Appraisal Review.)

208. SCOPE OF WORK IN APPRAISAL REVIEW REPORTS

Question: **USPAP requires appraisers to include a description of the scope of work in each appraisal report, the detail of which varies by reporting option. Is there a similar requirement for appraisal review reports?**

Response: Yes. Standards Rule 3-2(c), states

> *In reporting the results of an appraisal review, the reviewer must:*
>
> *state the scope of work used to develop the appraisal review;*

Standards Rule 3-1(c), states, in part:

> *In developing an appraisal review, the reviewer must:*
>
> *determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE;*

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Comment: In making the scope of work decision, the reviewer must identify any extraordinary assumptions necessary in the assignment. An extraordinary assumption may be used in an appraisal review assignment only if:

- *it is required to properly develop credible opinions and conclusions;*
- *the reviewer has a reasonable basis for the extraordinary assumption;*
- *use of the extraordinary assumption results in a credible analysis; and*
- *the reviewer complies with the disclosure requirements set forth in SR 3-2(d) for extraordinary assumptions.*

The appraisal review must be conducted in the context of market conditions as of the effective date of the opinion in the work being reviewed. Information available to the reviewer that could not have been available to the appraiser as of or subsequent to the date of the work being reviewed must not be used by a reviewer in the development of an opinion as to the quality of the work under review.

209. INSPECTION OF SUBJECT PROPERTY

Question: **I am a licensed trainee with approximately six months of experience. My supervisory appraiser recently deemed me competent to perform inspections on my own; however, many of our clients require the supervisory appraiser to physically inspect the property as well. If I do the inspection by myself but take numerous representative photos of the interior of the subject property, may my supervisory appraiser check the box indicating that he "Did Inspect" the interior of the property?**

Response: No. A physical inspection of the interior of the property is not the same as a physical inspection of photographs of the interior of the property. It would be misleading for an appraiser to indicate that a physical inspection was performed when in fact the appraiser viewed photographs of the property. An appraiser who only inspects photographs of a property, but signs a certification indicating that he or she physically inspected the subject property, is in violation of USPAP's prohibition against the communication of a misleading or fraudulent report (Conduct section of the ETHICS RULE).

210. REVIEWING A PORTION OF AN APPRAISAL REPORT

Question: **I was recently asked to review an appraisal report and limit my review to the income approach to value. Is such a limitation acceptable?**

Response: Yes. USPAP does not require the reviewer to review the entire report. Standards Rule 3-1(b) states:

In developing an appraisal review, the reviewer must:

(b) identify the:

(i) subject of the appraisal review assignment,
(ii) effective date of the review,
(iii) property and ownership interest appraised (if any) in the work under review,
(iv) date of the work under review and the effective date of the opinion or conclusion in the work under review, and

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(v) appraiser(s) who completed the work under review, unless the identity was withheld.

*Comment: **The subject of an appraisal review assignment may be all or part of a report, a workfile, or a combination of these**…* (Bold added for emphasis)

211. CHANGING THE VALUE OPINION WITHOUT THE APPRAISER'S CONSENT

Question: **Is it ethical for an appraiser, acting as a reviewer, to change the reported value opinion in the original appraiser's work without the knowledge or consent of the original appraiser?**

Response: No. The reviewer must prepare a separate report. Simply changing the original appraisal report, in any way, without the consent of the original appraiser would be a violation of the Conduct section of the ETHICS RULE that states, in part:

An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.

212. REVIEWER'S OWN OPINION OF VALUE AND SCOPE OF WORK

Question: **In an appraisal review assignment that includes the reviewer's own opinion of value, is the reviewer required to use the same scope of work as the original appraiser?**

Response: No. Standards Rule 3-1(c) states, in part:

In developing an appraisal review, the reviewer must:

(c) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE;

Comment: …When the reviewer's scope of work includes developing his or her own opinion of value, the following apply:

- ***The reviewer's scope of work in developing his or her own opinion of value may be different from that of the work under review.*** (Bold added for emphasis)

For example, the scope of work in the original appraisal may have included an interior and exterior inspection of the subject property, and the scope of work for the appraisal review may include only an exterior inspection or no inspection at all.

213. DISCREDITING THE ORIGINAL APPRAISER'S WORK

Question: **Recently one of my appraisal reports was reviewed. The review report contained information that could not have been available to me at the time I completed my appraisal report. The reviewer used this additional information to discredit my opinion of value. Is this appropriate?**

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Response: No. The Comment to Standards Rule 3-1(c) allows a reviewer to use additional information,

> *available to him or her that was not available to the original appraiser in the development of his or her value opinion; however,* ***the reviewer must not use such information as the basis to discredit the original appraiser's opinion of value****.* (Bold added for emphasis)

214. *REVIEW APPRAISER BIAS*

Question: **An appraiser receives a request to review an appraisal; however, the reviewer has previously appraised the same property. Does the reviewer's prior experience with the property create a bias that then precludes an objective review?**

Response: No. Prior appraisal experience with the subject of the work under review might be considered an asset and may have contributed to the reviewer's selection for the assignment. Before accepting any assignment, an appraiser must be certain that he or she will be able to attest in the certification that the assignment results are impartial and unbiased. If the performance of the prior appraisal assignment creates a predisposition regarding appropriate and reasonable assignment results, the appraiser should decline the appraisal review assignment.

215. EFFECTIVE DATE THAT DIFFERS FROM THE WORK UNDER REVIEW

Question: **In an appraisal review assignment for which the reviewer develops his or her own opinion of value, is it permissible for the reviewer to use an effective date that differs from the work under review?**

Response: Yes. The Comment to Standards Rule 3-1(c) states, in part:

> *The effective date of the reviewer's opinion of value may be the same or different from the date of the work under review.*

216. ADDITIONAL CERTIFICATION IN AN APPRAISAL REVIEW REPORT

Question: **I recently reviewed an appraisal report. As part of the assignment I developed an opinion of value that was different from the value in the appraisal report. I understand that I must provide a signed certification for the review pursuant to Standards Rule 3-3. However, the language in Standards Rule 3-2 seems to suggest that I am also required to prepare an additional certification to comply with Standards Rule 2-3. Are two certifications necessary?**

Response: No, you are not required to provide two certifications in an appraisal review assignment that includes reporting your own value opinion.

This is addressed in the Comment to SR 3-2(d), which states:

> *…****data and analyses*** *provided by the reviewer to support a different value conclusion must match, at a minimum, the reporting requirements for a Summary Appraisal Report for a real property appraisal (Standards Rule 2-2(b)) and a personal property appraisal (SR 8-2(b))…and an Appraisal Report for a business appraisal (SR 10-2(a)).* (Bold added for emphasis)

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The Comment underscores that whenever a reviewer provides a value conclusion different from the value opinion in the report under review, it is only the data and analyses provided by the reviewer that must be consistent with the applicable reporting Standard.

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OTHER SERVICES

217. VALUE OPINION IN AN APPRAISAL CONSULTING ASSIGNMENT

Question: **May an appraiser express his or her own opinion of value in an appraisal consulting assignment, or must the appraiser use an opinion of value developed and reported by another appraiser?**

Response: In an appraisal consulting assignment, an appraiser may develop and report his or her own opinion of value as part of the appraisal consulting assignment. The Comment to STANDARD 4 states, in part:

> *In some assignments, the opinion of value may originate from a source other than the consulting appraiser. In other assignments, the consulting appraiser may have to develop the opinion of value as a step in the analyses leading to the assignment results.*
>
> *An opinion of value or an opinion as to the quality of another appraiser's work cannot be the purpose of an appraisal consulting assignment. Developing an assignment for those purposes is an appraisal or an appraisal review assignment, respectively. Misrepresenting the purpose of an assignment performed under this Standard is a violation of the ETHICS RULE.*

Additionally, if the appraiser develops an opinion of value as part of an appraisal consulting assignment, the appraisal component must be reported in conformance with the applicable sections of STANDARD 2. The Comment to Standards Rule 5-2(g) states, in part:

> *If an opinion of value was developed by the consulting appraiser, the appraisal consulting report must include the information required to comply with Standards Rule 2-2(a) or (b)(ii) through (x). Standards Rule 2-2(c)(ii) through (x) is also permitted if the client is the only intended user of the assignment results.*

218. VALUATION SERVICE INVOLVING ADVOCACY

Question: **A client feels that her property is over assessed by the County. She's asked me to perform a tax consulting service that involves advocacy for her position and I'd like to charge her on a contingency fee basis. This assignment would not include an appraisal. I have two questions: Is this service allowed under USPAP? If not, can I perform this assignment outside of USPAP?**

Response: You cannot perform this assignment under USPAP. An appraiser, in appraisal practice, cannot be an advocate. The Conduct section of the ETHICS RULE states:

> *An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.*
>
> *An appraiser must not advocate* ***the cause or interest of*** *any party or issue.*(Bold added for emphasis)

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Appraisal practice is defined as:

> *valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting.*

Furthermore, none of the certifications in USPAP allow any bias, contingent compensation, or direction in value that favors the cause of the client.

Absent any law or regulation to the contrary, you may complete this assignment outside of USPAP, as long as you are very clear about your role. The ETHICS RULE also states:

> *An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.*

Refer to Advisory Opinion 21, *USPAP Compliance* for further guidance.

219. PURPOSE OF AN APPRAISAL CONSULTING ASSIGNMENT

Question: **Can the purpose of an appraisal consulting assignment be to develop an opinion regarding the quality of another appraiser's work?**

Response: No. STANDARD 4 states, in part:

> *An opinion of value or* ***an opinion as to the quality of another appraiser's work cannot be the purpose of an appraisal consulting assignment****. Developing an assignment for those purposes is an appraisal or an appraisal review assignment, respectively. Misrepresenting the purpose of an assignment performed under this Standard is a violation of the ETHICS RULE.* (Bold added for emphasis)

220. FEASIBILITY STUDIES AND APPRAISAL PRACTICE

Question: **A client recently requested that I perform a feasibility study on a potential retail development. No value conclusions are included in the scope of the work assignment agreed upon with the client, but they have requested that I provide many of the components of what could lead to a value conclusion, such as potential income streams, capitalization rates, cost estimates, etc. I have completed numerous appraisal assignments for this client and I am certain that I was chosen, in large part, because I am an appraiser. Does this assignment fall within appraisal practice? And, must I comply with USPAP in completing the assignment?**

Response: Yes, this assignment would fall under appraisal practice. Appraisal practice is defined as:

> *valuation services performed by an individual acting as an appraiser, including* ***but not limited*** *to appraisal, appraisal review, or appraisal consulting. (*Bold added for emphasis*)*

> *Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal, appraisal review, and appraisal consulting are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review and is required as a component of the analysis in an appraisal consulting assignment. The use of other nomenclature for an appraisal, appraisal review, or*

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> *appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the Uniform Standards of Professional Appraisal Practice.*

The feasibility analysis, described in this question clearly falls within the scope of appraisal practice; however, since it is not an appraisal, appraisal review, or appraisal consulting assignment as defined in USPAP, STANDARDS 1-10 do not apply. Therefore, the applicable sections of USPAP would be the DEFINITIONS, PREAMBLE, ETHICS RULE except the Record Keeping section, COMPETENCY RULE, and JURISDICTIONAL EXCEPTION RULE, as applicable to the assignment.

Refer to Advisory Opinion 21, *USPAP Compliance* for further guidance.

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The Index to words or phrases is not part of the Uniform Standards of Professional Appraisal Practice (USPAP), but is a form of "other communications" issued by the Appraisal Standards Board. Also included in this section is a reference guide illustrating the relationship between the processes used in appraisal, apprasial review, and appraisal consulting and USPAP.

The references are to the words or phrases as they appear in kind or as a topic in the 2008-2009 Edition of USPAP, the *USPAP Advisory Opinions* and the *USPAP Frequently Asked Questions*. The following abbreviations are used in the Index:

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ETHICS RULE ..... ER
COMPETENCY RULE ..... CR
SCOPE OF WORK RULE ..... SWR
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2008-09 USPAP and the Real Property Appraisal Process

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2008-09 USPAP and the Business or Intangible Asset Appraisal Process

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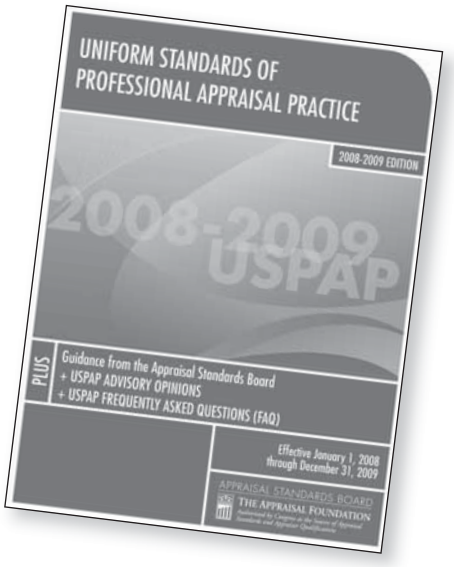

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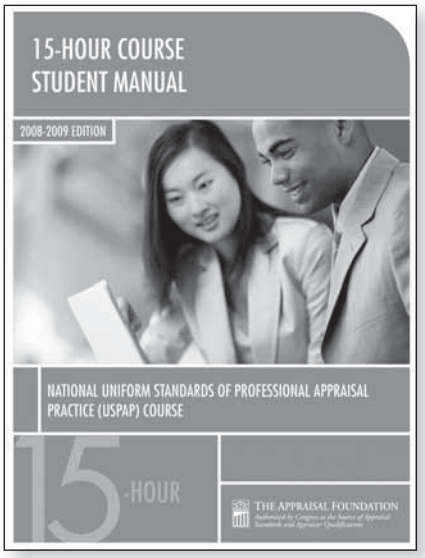

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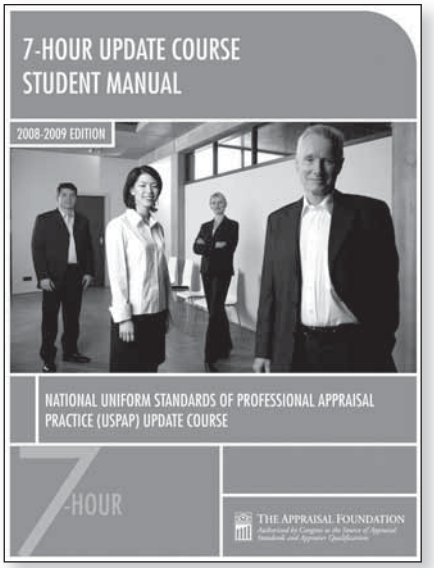

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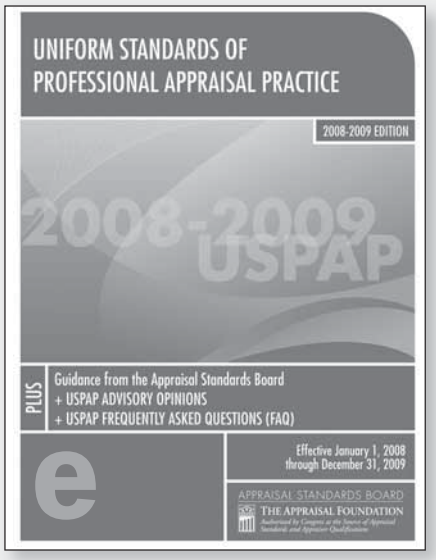

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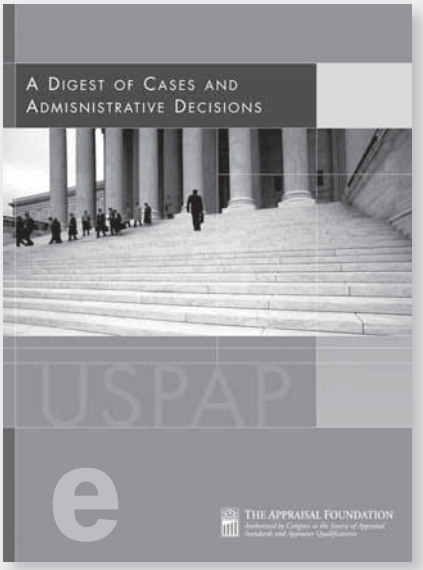

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