



Equipment Appraisers Association of North America

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Preparing for Changes to USPAP, Get Ready for 2010

By Micheal R. Lohmeier, FASA, MAI, SRA

It's that time again when we need to look at changes made by the Appraisal Standards Board ("ASB") to the next edition of the Uniform Standards of Professional Appraisal Practice ("USPAP").

The ASB of The Appraisal Foundation possesses independent authority to develop, amend and interpret USPAP. You can visit The Appraisal Foundation's website at www.appraisalfoundation.org to view the current edition of USPAP, as well as the activities, scheduled meetings and any exposure drafts relating to USPAP. This is an excellent website to have bookmarked on your computers and should be visited monthly for any recent developments. You should routinely review the monthly USPAP Q&As as well as consider subscribing to its Foundation E-news (it's free!!!)

The ASB is currently made up of the following: Sandra Guilfoil (Chair), J. Carl Schultz, Jr. (Vice Chair), Richard L. Borges, II, Jay E. Fishman, Richard Knitter, and Barry J. Shea.

Recall that the primary intention of USPAP is to "promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers" (USPAP 2008-2009 ed., Preamble). On April 3, 2009, the ASB, approved and adopted changes to USPAP that will become effective for its 2010-11 edition. This edition will take effect beginning on January 1, 2010 and anticipated to run a full two years to December 31, 2011. The changes approved by the ASB are meant to improve the "clarity, understanding and enforcement of USPAP" (Appraisal Standards Board Summary of Actions Related to Proposed Changes, April 3, 2009).

This article provides a very condensed abstract of some of the more material changes made. For a complete explanation and their reasoning go to The Appraisal Foundation's website and review the changes in their entirety as well as the related exposure drafts.

Definition Changes

The definition for "assignment" was changed to: "1) an agreement between an appraiser and a client to provide a valuation service; 2) the valuation service that is provided as a consequence of such an agreement." This change stresses that an assignment refers to both the agreement and the agreed upon service.

The Comment section of the definition for "signature" was removed and moved to the ETHICS RULE to address requirements when appraisers affix or authorize the use of their signature.

The definition for "jurisdictional exception" was changed to make it clear that jurisdictional exceptions are created when an appraiser is precluded by applicable laws or regulations from complying with USPAP.

RULE Changes

The ETHICS RULE was rewritten to make it pronouncements more direct.

The Conduct section was reorganized to provide a better concentration on prohibitions. Misleading and fraudulent activities were separated to differentiate between ethical and performance violations.

A new disclosure requirement was added to the ETHICS RULE. The disclosure requirement states

"If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification: any current or prospective interest in the subject property or parties involved; and any services regarding the subject property performed by the appraiser within the prior three years immediately preceding acceptance of the assignment, as an appraiser or in any other capacity. (Emphases added in bold).

The Comment further states

"Disclosing the fact that the appraiser has previously appraised the property is permitted except in the case when an appraiser has agreed with the client to keep the mere occurrence of a prior assignment confidential. If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three year period." (Emphases added in Bold).

This requirement is meant to help prospective clients in better understanding any potential and/or perceived conflicts of interest. This may be a major change in the way many personal property appraisers that provide multiple services (e.g. leasing, inspections, service, valuation, sales, etc...) approach business opportunities. For additional information regarding this requirement see the ASB's April 2009 USPAP Q&A (Vol. 11, No. 4).

Continued from front page:

I've been working with many offices right now on helping them set up sound due diligence assignment protocols to proactively adhere with this requirement as well as build better overall engagement practices. Simple internal email conflict checks and sending out proposals (rather than just the final engagement letters) help out tremendously, as does highlighted language in engagement letters regarding the release of confidential information pertaining to client relationships and assignments involving a property that is the subject of an assignment (whether an appraisal assignment or not).

A warning was added in USPAP against developing assignments with bias to enhance clarity. The term "knowingly" was added to differentiate between deliberate versus erroneous activities.

The Management section was edited to clarify the payment needing to be disclosed in connection to the procurement of an assignment is the amount paid by the appraiser, rather than to the appraiser. New language was further added here to address when an appraiser affixes or authorizes the use of its signature.

The Confidentiality section was cleaned up to clarify who may have access to certain information and information pertaining to the Graham-Leach-Bliley Act of 1999 was moved to a footnote as it provides legislative background only.

The Record Keeping section was edited and the following new language was added "An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to the assignment appropriate access and retrieval." (Emphasis added in bold). The requirement to allow the client access to the workfile for a Restricted Use Appraisal Report was deleted as it was concluded not necessary as every appraisal reports must contain sufficient information to enable the intended users to understand it properly.

The COMPETENCY RULE was largely rewritten and reformatted into three sections to distinguish an appraiser's obligations regarding Being Competent, Acquiring Competency, and when there is a Lack of Competency. The first section provides the foundations for being competent including familiarity with applicable laws and regulations. The second section addresses the requirements of how competency can be attained when the appraiser has determined that it is not competent but wishes to accept the assignment. It further provides the steps necessary to take when the lack of competency is discovered during the course of an assignment. The final portion of the RULE states if an appraiser can not complete an assignment competently than it must withdraw from the assignment.

The JURISDICTIONAL EXCEPTION RULE was also reformatted and specifically identifies four requirements involving a jurisdictional exception including: (1) identify the law or regulation that precludes compliance with USPAP; (2) comply with that law or regulation; (3) clearly and conspicuously disclose in the report the part(s) of USPAP that is voided by the law or regulation; and (4) cite in the report the law or regulation requiring this exception to USPAP compliance.

Changes to STANDARD 3 (Appraisal Review)

This STANDARD has been significantly edited. Standard Rule 3-1 was expanded to include the predispositions of competency and diligence found in other development Standards. Standard Rule 3-2 was expanded to address the identification of assignment elements necessary to identify the appraisal review problem and determine the acceptable scope of work. Edits were made throughout to mirror the form and content of other STANDARDS and update its requirements to current appraisal review practices. Additional language was provided to clarify an appraiser may provide its own opinion when reviewing work related to appraisal, appraisal review, and appraisal consulting assignments.

Be Proactive

As always, I suggest you get prepared now for changes with respects to the USPAP 2010-11 edition. Although they are not effective until January 1, 2010, you can still prepare for the changes today. To make sure you understand why the changes were made, you should review the exposure drafts and comments received by the ASB.

Author Bio

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EAANA NEWS & UPDATES

20th Annual Membership Meeting

The 20th Annual Membership Meeting is scheduled for January 29 & 30, 2010 Please make your plans to attend. We are looking into changing the schedule for the meeting to start on Friday Morning and ending Saturday before lunch. Any feedback would be greatly appreciated. We are also looking for speakers, so if you have any suggestions let us know.

Welcome New Members

Roger Anderson, Arizona
John Langdon, South Carolina
John L. Norton, Illinois
Robert E. Meisinger, Wisconsin

Special Acknowledgement to the following Certified Senior appraisers: **Jerry Dover, John Josko, Rick Volz, Jean Novotny, Sharon Parker, Cliff Henshaw, Ken Miller** for completing all CSA reaccreditation requirements.

Congratulations to Peter Walters, Bob Hileman and Gerry Fangman for taking the initiative to upgrade to **Certified Senior Appraiser**

Kudos to Roger Anderson for taking and passing the EAANA exam! Great job Roger!